

**TITLE 10**

**LAND USE REGULATIONS**

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## CHAPTER 1

**TITLE, PURPOSE, DECLARATION, INTENT**

## SECTION:

- 10-1-1: Title
- 10-1-2: Purpose
- 10-1-3: Declaration
- 10-1-4: Interpretation And Intent

10-1-1: **TITLE:** This title shall be and may be known as the *ZONING ORDINANCE OF FIRTH, IDAHO*, and may be so cited and pleaded. (Ord. 176, 1-10-2007)

10-1-2: **PURPOSE:** The zone boundaries and regulations made in accordance with a Comprehensive Plan designated to promote the health, safety, peace, convenience, and general welfare of the inhabitants of the City to:

- A. Promote the orderly growth and development of the City in accordance with the Master Plan.
- B. Promote economy in the cost of fire and police protection and other governmental services.
- C. Lessen congestion in the streets and reduce the waste of excessive amounts of streets.
- D. Protect the tax base.
- E. Foster industry.
- F. Protect property value.
- G. Avoid undue concentration of population and prevent the overcrowding of land.

- H. Facilitate adequate provisions for transportation, water, sewage, schools and other public requirements.
- I. Provide adequate light and air and foster a wholesome, serviceable and attractive City. (Ord. 176, 1-10-2007)

10-1-3:       **DECLARATION:** In establishing the zones, the boundaries thereof and the regulations applying within each of the zones, due and careful consideration was given, among other things, to the suitability of land for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City. (Ord. 176, 1-10-2007)

10-1-4:       **INTERPRETATION AND INTENT:** It is the intent of the City Council that the regulations and restrictions as set forth in this title shall be so interpreted and construed as to further the purpose of this title and objectives and characteristics of the respective zones. (Ord. 176, 1-10-2007)

## CHAPTER 2

**DEFINITIONS**

## SECTION:

10-2-1: Definitions

10-2-1: **DEFINITIONS:** For the purpose of this title, certain words and terms are defined as follows: words in the present tense include the future and the future includes the present; the singular number includes the plural and the plural the singular; the word lot includes the word plot, tract or parcel of land as the sense may require it; the term erected means constructed, altered, moved or repaired; the words shall and must are always mandatory.

**ACCESSORY BUILDING:** A subordinate building, the use of which is incidental to that of the main building.

**ACCESSORY USE:** A related use which is incidental to the prescribed and permissible use.

**AGRICULTURE:** The growing of soil crops in the customary manner in the open. It shall not include livestock raising activities; nor shall it include retailing of goods on the premises.

**ALLEY:** A public way primarily for utility use and for servicing the property adjacent thereto.

**APARTMENT HOUSE (MULTIPLE DWELLING):** Any building or portion thereof which is designed, built, rented or leased, let or hired out to be occupied or which is occupied as the home or residence of three (3) or more families living independently of each other and doing their own cooking within the premises.

AUTO COURT, MOTOR COURT, MOTEL:	The combination or group of two (2) or more dwelling units occupying a building site or area under one ownership, used for the purpose of furnishing transient living accommodations.
BENCH SEAT:	Calculated as one seat for every eighteen inches (18") of bench.
BOARDING HOUSE:	A building containing not more than one kitchen where, for compensation, meals are provided pursuant to previous arrangements on a daily, weekly or monthly basis in contradistinction to a hotel or a cafe.
BUILDING:	Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.
BUILDING, MAIN:	One or more of the principal buildings upon a lot.
BUILDING OFFICIAL OR INSPECTOR:	Individual or organization designated by the City to perform inspection and related services under this title.
CARPORT:	A structure not completely enclosed by walls for the shelter of automobiles.
CLINIC:	A building used for the diagnosis and treatment of ill, infirm and injured persons, but which building does not provide board, room or regular hospital care and services.
CLUB:	A building used, occupied and operated by an organized association of persons for social, fraternal, religious or patriotic purposes, whose activities are confined to the members and their guests, but shall not include any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.
CONDITIONAL USE:	A use which requires approval of the City Council or Board of Adjustment before the Zoning

Administrator may issue a permit therefor. Generally, those uses which require individual consideration of surrounding conditions and circumstances to carry out the intent and purpose of the zoning plan. A use for which a conditional use permit is required by this title.

CONVALESCENT  
HOME:

Any building or structure used for or occupied by persons recovering from illness or requiring nursing or similar care.

CURB CUT:

A cut in the curb line for the passage of vehicles.

DWELLING:

Any building which is used for residential purposes, except a hotel, tourist court, boarding or rooming house, rest home, childcare home, batching apartment or trailer house and the like.

DWELLING GROUP  
(PLANNED):

Two (2) or more buildings used for dwelling purposes located on one lot and not subdivided into customary streets and lots.

DWELLING UNIT:

One or more rooms in a building designed for or occupied by one family for living or sleeping purposes, and having one kitchen or set of cooking facilities.

FAMILY:

An individual or two (2) or more persons related by blood, marriage or adoption, living together in a dwelling unit.

FLOOR AREA:

The floor area of a building is the sum of the areas of the several floors of the building, including basements, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior walls or from the centerline of walls separating buildings. Covered walkways, open, roofed over areas that are paved, porches and similar spaces shall have an area factor of 0.50. The floor area does not include such features as pipe trenches, exterior terraces or steps, chimneys, roof overhangs, etc.

FRACTIONAL NUMBERS:	In determining the requirements of this title, whenever a fraction of a number or a unit is one-half ( $\frac{1}{2}$ ) or more and whenever a fraction of a number or a unit resulting from a computation is one-half ( $\frac{1}{2}$ ) or more, said fraction shall be considered as a whole number or a unit.
GARAGE, PRIVATE:	A detached accessory building or portion of a main building designed for the parking or temporary storage of automobiles of the occupants of the premises.
GRADE:	The average of the finished ground level at the center of exterior walls of a building.
GROUND FLOOR:	The heated, enclosed shadow line of the building less the garage.
GUEST:	A person staying or receiving services at a hotel, motel, boarding house, rooming house or rest home, or similar use, for compensation.
HEIGHT OF BUILDING:	The height of a building shall be the vertical distance from the grade to top of the building walls. Where the building walls vary in height along a side yard, the height of the building shall be determined by multiplying the length of each section of said wall by its height and dividing the sum derived therefrom by the total length of said wall.
HOME OCCUPATION:	Any occupation or profession which may be conducted within a residential dwelling, or allowed appurtenant building, without in any way changing the appearance or condition of the structures and carried on by persons residing therein. Applications for home occupations may be granted in any residential zoning area of the City.
HOSPITAL:	An institution where the ill or injured human beings are offered treatment of a type recognized by State law, such as medicine and surgery, osteopathy and the like.



HOTEL:	Any building used, rented or hired out to be occupied on a daily or weekly basis for sleeping purposes by guests.
HOUSEHOLD PET:	Animals or fowl customarily permitted in the house and kept for company or pleasure, including dogs, cats, canaries and similar pets.
KENNEL:	Any lot or premises on which three (3) or more dogs over three (3) months old are kept.
LAND USE PLAN:	A Comprehensive Plan adopted and maintained by the City which shows the most appropriate use of land within the City (part of the Master Plan).
LODGING HOUSE (ROOMING HOUSE):	A building where sleeping accommodations are provided for compensation pursuant to previous arrangements on a daily, weekly or monthly basis in contradistinction to a hotel, tourist home or motel.
LOT:	Land occupied or to be occupied by a building or buildings, together with such open spaces as required under this title, and having its principal frontage on a street or an officially approved place. Also, building sites without reference to lots as recorded on official plats.
LOT, CORNER:	A lot situated at a junction of two (2) public streets or situated on a curved street or way whose radius is thirty five feet (35') or less, and where the angle formed by the intersection of the tangent is one hundred five degrees (105°) or less.
LOT, INTERIOR:	A lot other than a corner lot.
LOT, THROUGH:	A lot having frontage on two (2) streets which are parallel, or nearly so.
MANUFACTURED HOME:	As defined in section 10-16A-1 of this title.

MASTER PLAN:	A Comprehensive Plan, or part thereof, which has been adopted by the City Council for the purpose of guiding development in the City, including, but not limited to, a plan or plans of land use, streets, parks and playgrounds, public buildings and grounds, off street parking, neighborhood, conservation, water facilities, sewerage facilities and similar plans.
NONCONFORMING BUILDING:	A building, structure or portion thereof which does not conform to the regulations of this title applicable to the zone or district in which such building is situated, but which existed prior to the effective date hereof.
NONCONFORMING USE:	A use of premises which does not conform to the regulations of this title, but which was in existence on the effective date hereof.
NURSERY (DAYCARE):	A home or building in which children are tended or kept for compensation.
OCCUPANCY, CHANGE OF:	Any change in the character of use of a building or premises, not including change of tenants, proprietors or occupants.
OFF STREET PARKING SPACE:	An area for the parking of automobiles which does not include a public street, but has convenient access to it.
OVERLAY ZONE:	A zone which is superimposed over other zones and in which certain regulations and restrictions apply which supplement or which modify the regulations and restrictions applying in the underlying zones.
PARK AND PLAYGROUND:	An open space which has been dedicated, designed for or used for outdoor recreation activities; including City parks and playgrounds, church or club sponsored parks and playgrounds and the like, but not including outdoor theaters and similar commercial recreational activities.

PARKING SPACE:	Space within a building or parking area exclusive of driveways, ramps, columns, office and working areas, for the parking of motor vehicles not less than twenty feet (20') in length and not less than ten feet (10') in width.
PUBLIC PARKS, SEMI-PUBLIC PARKS:	Parks which are maintained by a public agency. Parks which are provided and maintained by a church, club, lodge or other nonprofit organization.
RESIDENCE COURT:	A group of one-story buildings, connected or detached, facing directly on a street or a common court which opens onto a street.
REST HOME:	A building for the care and keeping of elderly persons. A rest home is not a boarding, lodging or rooming house.
REVERSE FRONTAGE:	Refers to either/or the side yard or the rear yard of any building abutting an arterial street. Access to the arterial from the reverse frontage property is prohibited.
SERVICE STATION:	An automobile service station consisting of a building of less than one thousand six hundred (1,600) square feet of floor area and which does not have more than five (5) gasoline dispensing pumps.
SERVICE STATION, SUPER:	An automobile service station consisting of a building which has a floor area of one thousand six hundred (1,600) square feet or more, or which has six (6) or more gasoline dispensing pumps.
SETBACK:	The shortest distance between the property line and the foundation, wall or main frame of the building and/or any projection thereof, excluding uncovered steps.
SHOPPING CENTER:	An area or tract of land specially set apart and zoned to provide commercial services of various

	types, according to an integrated, approved plan.
STORY:	That portion of a building included between the surface of a floor and the ceiling next above it.
STREET:	A public thoroughfare other than an alley, also referred to as an arterial or collector.
STREET, FRONT:	A street on which the lots of a subdivision of a City block generally front.
STREET, MAJOR:	One of the principal streets in the City is shown and designated on the Master Plan of Firth as a major street.
STREET, MINOR LOCAL:	Any dedicated street serving as the principal means of access to property, which street is not shown on the Master Street Plan of Firth as a major street.
STREET, SIDE:	A street intersecting a front street.
STRUCTURAL ALTERATIONS:	Any change in the supporting members of the building, such as the bearing walls, columns, beams, girders or roof.
TRAILER COURT:	A court opening on a public way equipped with sanitary facilities for the parking of two (2) or more occupied house trailers.
TRAILER HOUSE (DEPENDENT):	A trailer house which does not have a toilet and a bathtub or shower.
TRAILER HOUSE (INDEPENDENT):	A trailer house which has a toilet and a bathtub or shower.
TRAILER HOUSE (MOBILE HOME):	Any vehicle used or so constructed as to permit it being used as a conveyance upon the public streets or highways and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

TRAILER PARK:	A trailer court which has been approved by the Planning and Zoning Commission as a conditional use.
TRAILER SPACE:	A lot or parcel of land in a trailer park or trailer court for the accommodation of a trailer house.
VARIANCE:	A waiver of specific regulations of this title granted by the City in accordance with the provisions set forth in this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same zone.
WHOLESALE:	Sale of goods for resale as distinguished from sale of goods to consumers.
YARD:	An open space on the same lot with a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this title.
YARD, FRONT:	The minimum horizontal distance between the street line and the front line of the building or any projection thereof, excluding steps.
YARD, REAR:	An open, unoccupied space on the same lot as a building, measured from the rear line of the building (exclusive of steps) and the rear lot line, and extending for the entire width of the lot.
YARD, REQUIRED:	The open space around buildings which is required by the terms of this title.
YARD, SIDE:	A yard between the building and the side line of the lot and extending from the street line to the rear of the lot. (Ord. 176, 1-10-2007; amd. 2018 Code)

## CHAPTER 3

**INTERPRETATION, APPLICABILITY, PENALTY**

## SECTION:

- 10-3-1: Interpretation
- 10-3-2: Applicability
- 10-3-3: Effect On Previous Ordinances And Maps
- 10-3-4: Violations Deemed Public Nuisance
- 10-3-5: Responsibility For Violations
- 10-3-6: Penalty

10-3-1: **INTERPRETATION:**

- A. In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for promoting the public health, safety, convenience, comfort and general welfare of the community. When the requirements of this title impose higher requirements than are imposed or required by existing provisions of law or ordinance, the provisions of this title shall govern.
- B. It is the intent of this title not to interfere with or nullify any easement, covenants or agreements which are not in conflict with the provisions of this title. (Ord. 176, 1-10-2007)

10-3-2: **APPLICABILITY:** The provisions of this title are applicable not only to private persons, agencies and organizations, but also to all public agencies and organizations to the full extent that they may be enforceable in connection with the activities of any such public agencies or organizations. (Ord. 176, 1-10-2007)

10-3-3: **EFFECT ON PREVIOUS ORDINANCES AND MAPS:** The existing ordinances covering the zoning of the property within the limits of the City, and all subsequent ordinances amending said ordinance, together with all maps which are a part of such ordinances, be and

the same are hereby superseded, amended, changed and modified to read as set forth herein. Any illegal or unauthorized use of land, buildings or structures and any illegal building or structure which was illegal or unauthorized under the terms of said ordinances, or any subsequent amendment thereto, be, and the same shall remain, illegal and unauthorized unless specifically permitted under the terms of this title. (Ord. 176, 1-10-2007)

10-3-4:       **VIOLATIONS DEEMED PUBLIC NUISANCE:** Any building or structure which has been set up, erected, constructed, altered, enlarged, converted, moved, remodeled or maintained contrary to the provisions of this title, and any use of land or building or premises established, conducted, maintained or operated contrary to the provisions of this title, are hereby declared to be unlawful and opposed to the orderly development of the community and shall therefor be considered a public nuisance. (Ord. 176, 1-10-2007)

10-3-5:       **RESPONSIBILITY FOR VIOLATIONS:** It shall be the duty of all architects, contractors, subcontractors, builders and other persons having to do with the establishment of any use of land or the erection, altering, changing or remodeling of any building or structure to see that a proper permit has been granted before such work is begun. Any such architect, builder, contractor or other person doing or performing any such work without a permit having been issued is in conflict with the requirements of this title in the same manner and to the same extent that the owner of the premises or the persons for whom the use is established, or for whom such buildings are erected or altered, and shall be subject to the penalties herein prescribed for violation. (Ord. 176, 1-10-2007)

10-3-6:       **PENALTY:**

- A.     **Misdemeanor:** Any person, firm or corporation, whether as principal, agent, employee or otherwise, who fails to comply with any notice to correct within the time specified, or who shall erect, construct or reconstruct any building in any zone within the City without first obtaining a permit therefor from the Zoning Administrator, or who fails to maintain or comply with conditions as required herein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this Code. Any person, firm or corporation, whether as principal, agent, employee or otherwise, who shall change the use of any building or other struc-

ture or use of any land, or shall fail to comply with conditions applicable to the use of any land within the City in violation of the provisions of this title, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this Code. (Ord. 176, 1-10-2007; amd. 2018 Code)

- B. Separate Offense: Such person, firm or corporation violating this title, or any part thereof, shall be deemed to be guilty of a separate offense for each and every day during which said violation is committed, continued or permitted by such person, firm or corporation and shall be punishable as provided by law as a separate offense. (Ord. 176, 1-10-2007)



## CHAPTER 4

**ENFORCEMENT AND ADMINISTRATION**

## SECTION:

- 10-4-1: Office Of Zoning Administrator Established
- 10-4-2: Application And Plans Required
- 10-4-3: Building Permits Required
- 10-4-4: Powers And Duties Of Enforcing Officers
- 10-4-5: Permits To Comply With Title
- 10-4-6: Certificate Of Occupancy
- 10-4-7: Construction And Use Stated In Applications, Plans, Permits  
And Certificates Of Occupancy
- 10-4-8: Notice To Correct
- 10-4-9: Failure To Maintain Landscaping; Continuing Obligation

10-4-1: **OFFICE OF ZONING ADMINISTRATOR ESTABLISHED:**  
There is hereby established in the City the Office of Zoning Administrator, which shall be under the jurisdiction of the City Council. The administrators in the Office of Zoning Administration may, with the approval of the Council, be combined with another appointive office or offices of the City. The City Council shall, from time to time, by resolution, establish the duties of the various appointed administrators in the Office of Zoning Administration and designate the duties and functions to be performed by each such appointee. For the purposes of this title, when the term Zoning Administrator is used, it shall refer to that person who has been appointed by the City Council to perform such administration duties and functions to which the particular section of this title is referring. (Ord. 176, 1-10-2007)

10-4-2: **APPLICATION AND PLANS REQUIRED:** Any person, firm or corporation desiring to construct a building in the City or to do any construction or installation of any nature upon any property within the City, excluding therefrom structures or installations appurtenant to private residences, such as patios, driveways, parking pads and similar installations, shall first apply for permit therefor to the Zoning Administrator. All applications for building permits shall be accompanied by a plot plan show-

ing the size and location of the existing building and buildings to be erected or structures or improvements to be constructed. The plot plan shall also show the zone in which a lot or parcel of land is located. (Ord. 176, 1-10-2007)

10-4-3:       **BUILDING PERMITS REQUIRED:** It shall be unlawful to erect, construct, move or structurally alter any building or structure, or any part thereof, or to do any construction or installation of any nature upon any property within the City, excluding structures and installations appurtenant to private residences, such as patios, driveways, parking pads and similar installations, until after a written permit therefor has been issued by the Zoning Administrator acting for and on behalf of the City. (Ord. 176, 1-10-2007)

10-4-4:       **POWERS AND DUTIES OF ENFORCING OFFICERS:** It shall be the duty of the Zoning Administrator, or other designated official, to inspect or cause to be inspected all buildings in the course of construction or repair. He shall enforce all provisions of this title and refer all violations to the City Attorney, entering actions in the court, when necessary; and his failure to do so shall not legalize any violation of such provisions, nor shall the failure of the City Attorney to enter actions in the courts legalize any violation of such provisions. (Ord. 176, 1-10-2007)

10-4-5:       **PERMITS TO COMPLY WITH TITLE:** From the time of the effective date hereof, the Zoning Administrator shall not grant a permit for the construction of any building or structure, or for the moving of the building or structure onto a lot, or for the change in any use of land, building or structure, if such construction, alteration, moving or change in use would be in violation of any of the provisions of this title, nor shall any other officer of the City grant any permit or license for the use of any building or land if such would be in violation of this title. (Ord. 176, 1-10-2007)

10-4-6:       **CERTIFICATE OF OCCUPANCY:**

- A.     Required: It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, erected, altered, changed or converted wholly or partly in its use or structure until a certificate of occupancy to the effect that the building or premises or the part thereof so created, erected, altered, changed or converted

and the proposed use thereof conform to the provisions of this title shall have been issued by the Zoning Administrator.

- B. **Time Limit For Issuance:** It shall be the duty of the Zoning Administrator to issue a certificate of occupancy within ten (10) days after a request for the same shall have been filed in his office by any owner of a building or premises affected by this title, provided said building or premises, or the part thereof so created, erected, altered, changed or converted, and the proposed use thereof, conform with all the requirements herein set forth. (Ord. 176, 1-10-2007)

10-4-7: **CONSTRUCTION AND USE STATED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF OCCUPANCY:** Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorizes only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this title and punishable as provided herein. (Ord. 176, 1-10-2007)

10-4-8: **NOTICE TO CORRECT:** Whenever the Zoning Administrator shall observe any apparent violation or infraction of this title, he shall send a notice to the property owner on whose land the apparent violation occurs, setting forth the nature of the alleged violation, together with a statement of what must be done to correct said alleged violation, and a statement of time in which said alleged violation must be corrected. (Ord. 176, 1-10-2007)

10-4-9: **FAILURE TO MAINTAIN LANDSCAPING; CONTINUING OBLIGATION:** Maintenance of required landscaping is a continuing obligation. In case of failure to maintain landscaping as required by the provisions of this title, or as specifically made applicable thereto by action of the Planning and Zoning Commission or City Council, in connection with the issuance of a permit, such failure or neglect shall be deemed to be a violation of this title and shall be subject to the penalties prescribed for violations. (Ord. 176, 1-10-2007)

CHAPTER 5  
**AMENDMENTS**

SECTION:

- 10-5-1: Title And Map May Be Amended
- 10-5-2: Petition To Planning And Zoning Commission
- 10-5-3: Amendments In Harmony With Land Use Plan
- 10-5-4: Public Hearing Required By City Council; Notice
- 10-5-5: Protest

10-5-1:       **TITLE AND MAP MAY BE AMENDED:** This title, including the map, may be amended, supplemented, changed or modified from time to time, but all proposed amendments shall be submitted first to the Planning and Zoning Commission for its recommendations, which recommendations shall be submitted to the City Council for its consideration. (Ord. 176, 1-10-2007)

10-5-2:       **PETITION TO PLANNING AND ZONING COMMISSION:**  
Persons seeking an amendment of this title or map shall submit to the Planning and Zoning Commission a written petition designating the change desired, the reasons therefor and wherein the proposed amendment would further promote the objectives and purposes of this title, together with such fee as may be established by the City Council. Upon the receipt of the petition, the Planning and Zoning Commission shall consider the request. The Planning and Zoning Commission shall call a public hearing upon such matters as are required to be heard by the Planning and Zoning Commission under law and may call a public hearing on other matters, in the commission's discretion, before submitting its recommendations to the City Council. The Planning and Zoning Commission may also recommend amendments to this title and map to the City Council on its own initiative. (Ord. 176, 1-10-2007)

10-5-3:       **AMENDMENTS IN HARMONY WITH LAND USE PLAN:**  
Before recommending an amendment to this title, it must be

shown that such amendment is reasonably necessary, is in the interest of the public and is in harmony with the Land Use Plan adopted by the City Council. Failure on the part of the Planning and Zoning Commission to make recommendations within thirty (30) days from the date of receipt of the petition by the building official shall be deemed to constitute approval of such proposed amendment, unless a longer period is granted by the City Council. The fee provided herein shall not be returnable. (Ord. 176, 1-10-2007)

10-5-4:       **PUBLIC HEARING REQUIRED BY CITY COUNCIL;**

**NOTICE:** Amendments to this title and map may be adopted only after a public hearing has been held in relation thereto by the Planning and Zoning Commission, with recommendations made by the commission to the City Council. Notice of the time and place of such hearing shall be published in the official newspaper of the City at least fifteen (15) days before the date of the hearing as provided in Idaho Code section 67-6509 and, in addition thereto, in the case of a zoning district boundary change, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered and within five hundred feet (500') of the external boundaries of the land being considered; providing, that the additional area of five hundred feet (500') from the external boundaries is determined as an area that may be impacted by a proposed change in the zoning district boundaries; provided, that such mail notice shall be also with time limits of at least fifteen (15) days prior to the date of the hearing and that an additional notice shall be posted on the premises wherein such change is requested not less than one week prior to the hearing. The City Council, as the Governing Board, may, in its discretion, conduct at least one public hearing in addition to the public hearing conducted by the commission under the same notice and hearing procedures as herein provided. The Governing Board, upon its own hearing and findings, or it determines that it may act upon the recommendation of the Planning and Zoning Commission, may adopt, reject, repeal or amend the proposed zoning or map ordinance amendments. (Ord. 176, 1-10-2007)

10-5-5:       **PROTEST:** In the case of a protest against a change in this title or map, signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change or of those immediately adjacent to the rear thereof, extending three hundred feet (300') from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of at least three-fourths ( $\frac{3}{4}$ ) of all members of the City Council. (Ord. 176, 1-10-2007)

## CHAPTER 6

**PLANNING AND ZONING COMMISSION**

## SECTION:

- 10-6-1: Appointment And Membership
- 10-6-2: Qualifications
- 10-6-3: Term Of Office
- 10-6-4: Organization, Rules And Meetings
- 10-6-5: Powers And Duties
- 10-6-6: Submission Of Building And Zoning Matters

10-6-1: **APPOINTMENT AND MEMBERSHIP:**

- A. Appointment: A Planning and Zoning Commission shall be appointed as provided in Idaho Code title 67, chapter 65.
- B. Membership: The Planning and Zoning Commission shall consist of not less than three (3) nor more than twelve (12) members, who are appointed by the Mayor and confirmed by the Council.
- C. City council to Serve as Planning and Zoning Commission: At such times as may be determined by the City Council that a Planning and Zoning Commission is unnecessary due to a lack of matters or issues to be brought to a separate commission, the City Council shall serve as the Planning and Zoning Commission and directly exercise all powers and authority as authorized by Idaho Code Sec. 67-6504, and the rules set forth in the Firth City Code. (Ord. 176, 1-10-2007; amd. Ord. 177, 1-10-2007; Ord. 205, 1-9-2019)

10-6-2: **QUALIFICATIONS:**

All members of the commission shall reside within the City. However, members of the commission may reside in the City impact area; provided, that the majority of the members of the commission reside within the boundaries of the City. All members shall have resided within Bingham County for a period of two (2) consecutive years immediately preceding their appointment. No elected or appointed officer of the City shall serve as an official member of the Planning and Zoning Commission. (Ord. 177, 1-10-2007)

July 2023

**10-6-3: TERM OF OFFICE:**

Members of the Planning and Zoning Commission shall serve a term of three (3) years. The term of each member shall expire on December 31 of the third year following their appointment, provided the terms of no more than one-third ( $\frac{1}{3}$ ) of the full commission shall expire in any one year. Vacancies in the office of the commission during the term of an appointed member shall be filled by the Mayor and confirmed by the Council for the unexpired term of the incumbent. Members may be removed for cause by a majority vote of the full Council. Members shall be selected without respect to political affiliation and shall serve without compensation. (Ord. 177, 1-10-2007)

**10-6-4: ORGANIZATION, RULES AND MEETINGS:**

The commission shall elect its own Chairperson and create and fill such other offices as necessary. One regular meeting shall be held each month for not less than nine (9) months in each year. A majority of the members of the commission shall constitute a quorum at any meeting. All meetings and records of the commission shall be open to the public. Written rules consistent with this chapter and the laws of the State for the transaction of business of the commission shall be adopted, and a written record of the resolutions, findings and determinations shall be kept. (Ord. 177, 1-10-2007)

**10-6-5: POWERS AND DUTIES:**

- A. Statute Applicability: The Planning and Zoning Commission shall have the powers and duties as provided in Idaho Code title 67, chapter 65. (Ord. 176, 1-10-2007)
- B. General: The Planning and Zoning Commission shall have all powers and duties assigned to it by this title. It shall act in an advisory capacity to the Board of Adjustment when requested by the board. All maps, plats and replats of land which require the approval of the Council shall be submitted first to the Planning and Zoning Commission for its recommendation. The Planning and Zoning Commission also shall perform other duties required under State law or as directed by the Council. (Ord. 177, 1-10-2007)
- C. Reports And Recommendations:
  - 1. It shall be the duty of the Planning and Zoning Commission to make reports and recommendations to the City, the Zoning Administrator and the Board of Adjustment created under this title with respect to the issuance of building permits, conditional use permits, variances, alleged violations of this title and map, and amendments pertaining thereto. (Ord. 176, 1-10-2007)

2. The Planning and Zoning Commission shall examine all proposals, applications and petitions and shall make recommendations to the City Council concerning the zoning of properties within the City and properties to be annexed thereto. The Planning and Zoning Commission shall recommend to the Council changes regarding the City Comprehensive Plan. The commission may suggest changes in this title and shall study and make recommendations for the laying out, widening, extending and locating of streets, roads and highways in the City, the future development, growth and beautification of the City streets, parks, grounds and lands. (Ord. 177, 1-10-2007)

- D. Long Range, Comprehensive Plan And Development: The Planning and Zoning Commission shall submit plans to the Council respecting the long range, Comprehensive Plan for the orderly physical development of the City. The commission may make suggestions for such changes as the commission feels to be desirable in the zoning regulations and shall study and make recommendations for the laying out, widening, extending and locating of streets, roads and highways for the relief of traffic, the future development, growth and beautification of the City in respect to its public buildings, streets, parks, grounds and lands, in order to promote the public health, morals, safety and welfare of the inhabitants thereof. (Ord. 176, 1-10-2007)

10-6-6: **SUBMISSION OF BUILDING AND ZONING MATTERS:** The Zoning Administrator and the City shall submit all applications for conditional use permits, request for variances, and proposed amendments to this title to the Planning and Zoning Commission prior to acting thereupon. (Ord. 176, 1-10-2007)



## CHAPTER 7

**BOARD OF ADJUSTMENT**

## SECTION:

- 10-7- 1: Creation Of Board Of Adjustment
- 10-7- 2: Organization Of Board
- 10-7- 3: Authority Of Board Of Adjustment
- 10-7- 4: Decision On Appeals, Conditional Use Permits
- 10-7- 5: Who May Make Appeals; Application; Fee; Form
- 10-7- 6: Papers And Records Submitted To Board Of Adjustment
- 10-7- 7: Notice Of Hearing
- 10-7- 8: Powers And Duties Of Board Of Adjustment
- 10-7- 9: Vote; Notice Of Decision
- 10-7-10: Further Appeals
- 10-7-11: Authority To Create Separate Board

10-7-1:       **CREATION OF BOARD OF ADJUSTMENT:** There is hereby created a Board of Adjustment, to be composed of the Mayor and members of the City Council, to aid in the administration of this title, with powers and duties as hereinafter set forth. (Ord. 176, 1-10-2007)

10-7-2:       **ORGANIZATION OF BOARD:**

- A.    Rules Adopted: The Board of Adjustment shall adopt rules in accordance with the provisions of this title.
- B.    Meetings: Meetings of the board shall be held at times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such facts and shall keep records of its examinations and other official acts, all of which shall be filed immediately in the Office of the Board of Adjustment and shall be a public record. The Zoning Administrator shall serve as Secretary of the board, but shall have no vote at the meetings of the board. (Ord. 176, 1-10-2007)

10-7-3:       **AUTHORITY OF BOARD OF ADJUSTMENT:** The board shall hear and review appeals from any order, requirement, decision or determination made by the Zoning Administrator and shall have appellate jurisdiction over all decisions and rulings of the Zoning Administrator. The board shall also have original jurisdiction over the issuance of conditional use permits. The board shall also perform such other duties as are provided by this title as may be assigned to the board by the City Council. (Ord. 176, 1-10-2007)

10-7-4:       **DECISION ON APPEALS, CONDITIONAL USE PERMITS:**

- A.     Authority: The Board of Adjustment shall hear and decide appeals from any decision or requirement made by the Zoning Administrator, shall hear and decide applications for conditional use permits and other matters as specified by the terms of this title within forty five (45) days from the date on which the Zoning Administrator receives the appeal or request for a determination in writing from the appellant.
  
- B.     Findings: Every decision of the Board of Adjustment must be based upon findings of fact and every finding of fact must be supported in the records of the proceedings of the board. (Ord. 176, 1-10-2007)

10-7-5:       **WHO MAY MAKE APPEALS; APPLICATION; FEE; FORM:**  
Any citizen or person or any officer or department of the City may appeal to the Board of Adjustment by filing a request in writing on forms furnished by the City, together with a fee as established by the City Council by resolution from time to time; provided, such appeal is made within thirty (30) days from the grant or refusal of a building permit by the Zoning Administrator. No fee shall be required, however, from the City or other public agency. The request to appear before the Board of Adjustment shall be made on the form "Application to Appear Before the Board of Adjustment", a copy of which is on file in the City office. (Ord. 176, 1-10-2007; amd. 2018 Code)

10-7-6:       **PAPERS AND RECORDS SUBMITTED TO BOARD OF ADJUSTMENT:** Upon the filing of the application, the Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers, records and other pertinent data pertaining to the appeal or other matters on which it is required to pass. (Ord. 176, 1-10-2007)

10-7-7: **NOTICE OF HEARING:**

- A. **When Required For Specific Uses:** The Board of Adjustment shall hold a public hearing before granting or denying a conditional use permit for mortuaries and funeral homes, and for cemeteries, crematories, mausoleums and columbariums.
- B. **Public Hearing Required:** The Board of Adjustment shall hold a public hearing before deciding any other matter within its jurisdiction under the provisions of this title. If a public hearing is required hereunder, or ordered by said board, a notice of the time and place of such hearing shall be published in the official newspaper of the City at least fifteen (15) days before the date of the hearing. (Ord. 176, 1-10-2007; amd. 2018 Code)

10-7-8: **POWERS AND DUTIES OF BOARD OF ADJUSTMENT:** The Board of Adjustment shall have the following powers and duties:

- A. **Alleged Error:** The Board of Adjustment shall hear and decide appeals wherein it is alleged that there is error in any order, requirement, decision or determination made by the Zoning Administrator, or other administrative officers, in the enforcement of this title and shall decide questions involving interpretation and determination of zone boundary lines, subject to review and approval by the City Council.
- B. **Variance:**
  - 1. The Board of Adjustment may grant variances from the strict letter of this title where a property owner can show that:
    - a. Because of exceptional narrowness, shallowness or shape of a specific lot or parcel of land; or
    - b. By reason of peculiar topographical features or other special circumstances peculiar to the particular lot or parcel of land, the strict application of the terms of this title would deprive the property owner of privileges commonly enjoyed by other properties in the same zone.
  - 2. Before a variance can be granted, the Board of Adjustment must find upon the evidence before it that:

a. Special circumstances do actually attach to the particular property which do not apply generally to the other properties in the same zone;

b. Because of some special circumstances, the appellant's property is deprived of privileges possessed by other properties in the same zone;

c. The granting of such variance will not adversely affect the Comprehensive Plan of zoning in the City.

d. Adherence to the strict letter of this title will cause difficulties and hardships, the imposition of which is unnecessary in order to carry out the purposes of the zoning plan.

e. The hardship has not been caused by an action of the property owner taken after the effective date of this title.

C. Conditional Use Permits: The Board of Adjustment may grant the following conditional use permits:

1. Dwelling Facing Private Driveway: The Board of Adjustment may authorize a dwelling to face upon a private driveway, subject to the following conditions:

a. The structure in which such dwelling is situated will be at least twenty feet (20') from the nearest other building on the same or adjoining lot.

b. It is readily accessible by emergency vehicles.

c. It has side, front and rear yards at least as great as those required in the RP-A Zone.

d. In the opinion of the Board of Adjustment, the dwelling is located in harmony with the objectives and characteristics of the zone in which the dwelling is located.

2. Flood Channels: The Board of Adjustment may permit buildings to be constructed within seventy five feet (75') from the banks of a natural flood channel, subject to conditions set forth in section 10-14-11 of this title.

3. Temporary Uses: Permit temporary use of certain lands and structures.

a. The Board of Adjustment may permit the temporary use of certain lands and buildings as set forth in section 10-14-22 of this title.

b. The Board of Adjustment may allow and authorize the issuance of a building permit and/or conditional certificate of occupancy for the use of land and/or the erection and use of buildings for a use which the board determines is in harmony with the objectives and characteristics of the zone in which such use is to be located.

c. Such conditional use permit shall be for a limited time and may be renewed in the discretion of the board but shall not survive the change of ownership of the property or of the use. (Ord. 176, 1-10-2007)

d. As a condition to granting any conditional use permit, the board may require the written consent of all property owners who own property contiguous and adjacent to the subject property and may require a notification of all landowners within five hundred feet (500') of the subject property. Notification of the application of the conditional use permit to all property owners within five hundred feet (500') of the subject property with the notice of the hearing date and time thereon, shall be made by the petitioner by first class mail with an affidavit of mailing naming the addressees and the date of mailing. Any such permit shall be granted only after public notice and hearing as provided in Idaho Code section 67-6509. (Ord. 176, 1-10-2007; amd. 2018 Code)

4. Reduce Off Street Parking Requirements In CC-1 Zone: The Board of Adjustment may reduce off street parking requirements in the CC-1 Central Commercial Zone, subject to conditions set forth in subsection 10-22-4B of this title.

5. Permit Off Street Parking To Be Provided On Adjacent Lots: The Board of Adjustment may permit off street parking facilities required in connection with dwellings to be located on adjacent or nearby lots, subject to conditions set forth in subsection 10-22-4A2 of this title.

6. Determine Off Street Parking Requirements For Uses Not Specified: The Board of Adjustment may determine the number of off street parking spaces required for uses not specifically provided in this title, subject to the conditions set forth in subsection 10-22-4E of this title.

7. Authorize Off Street Loading Facilities In CC-1 Zone To Be Provided On Adjacent Or Nearby Lots: The Board of Adjustment may permit required off street loading facilities in the CC-1 Zone to be located on adjacent or nearby lots, subject to conditions set forth in subsection 10-22-19B of this title.

8. Authorize Moving Of Buildings: The Board of Adjustment may authorize the Zoning Administrator to issue a permit for the moving of buildings, subject to conditions as set forth in section 10-18-1 of this title.

9. Authorize Permit For Mortuary And Funeral Home: The Board of Adjustment may authorize the Zoning Administrator to issue a permit for a mortuary or funeral home, subject to conditions set forth in section 10-15-9 of this title.

10. Authorize Permit For Cemetery, Crematory, Mausoleum And Columbarium: The Board of Adjustment may authorize the Zoning Administrator to issue a permit for a cemetery, crematory, mausoleum or columbarium, subject to conditions set forth in section 10-15-6 of this title.

11. Grant Permit For Shooting Range: The Board of Adjustment may grant a permit for the construction of a shooting range in the I&M Zones, provided satisfactory evidence is presented to the board that the safety of the surrounding area will be fully safeguarded.

12. Authorize Permit For Dwelling Groups: The Board of Adjustment shall have the power to authorize the issuance of a permit for a dwelling group (planned), subject to conditions and standards as set forth in section 10-15-1 of this title.

13. Authorize Permit For Parks: The Board of Adjustment shall have the power to authorize the issuance of permits for public and semi-public parks, playgrounds and schools, subject to conditions and standards as set forth in section 10-15-2 of this title. (Ord. 176, 1-10-2007)

14. Authorize Permit For Churches, Clubs And Lodges: The Board of Adjustment shall have the power to authorize the issuance of a permit for churches, clubs, lodges and similar buildings, subject to conditions as set forth in section 10-15-7 of this title. (Ord. 176, 1-10-2007; amd. 2018 Code)

15. Grant Other Conditional Use Permits Authorized By Title: The Board of Adjustment may grant other conditional use permits which are specifically delegated to it by the terms of this title, or as this title may be amended.

In approving or denying a request for a conditional use permit on which the board is requested to pass, evidence must be presented to the board that the objectives and characteristics of this title and the zone in which the development is located shall be complied with.

- D. May Attach Reasonable Conditions: The Board of Adjustment may attach reasonable conditions or requirements to the grant of a variance, exception or conditional or special use permit which the petitioner must comply with as a condition of the grant or approval and may attach a time limit on the exercise or nonexercise of any grant. If the petitioner fails or refuses to comply with any of the conditions within the time specified, the grant or permit shall become null and void.
- E. May Reverse Or Affirm: In performing the duties as set forth herein, the Board of Adjustment is hereby empowered to reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination of the enforcing officer, and may make such order or requirement as ought to be made; provided, however, the Board of Adjustment shall not have power to amend this title nor to permit nor prohibit any actions which would have the effect of amending this title.
- F. Authority Limited: The powers and duties of the Board of Adjustment are limited to administrative matters as herein set forth which shall be strictly construed. It shall not be the function of the Board of Adjustment to grant a request which would have the effect of amending this title or of correcting what it may consider to be an unwise requirement in this title. Nevertheless, the Board of Adjustment shall have administrative duties as set forth in this title and, within the meaning of the provisions of this title, shall perform its duties and shall have the power to perform those acts as herein set forth; and such administrative actions shall not be interpreted as unauthorized amendments to this title. (Ord. 176, 1-10-2007)

10-7-9: **VOTE; NOTICE OF DECISION:** The concurring vote of three (3) members of the board shall be necessary to decide upon any matter upon which it is required to pass. The board shall send written notice of its decision to the appellant, and to all protestants whose names

appear on any record of protest filed with the board pertaining thereto, within five (5) days from the date of said decision. (Ord. 176, 1-10-2007)

10-7-10:       **FURTHER APPEALS:**

- A.     Appeal To City Council: The determination of the Board of Adjustment shall be final unless a written appeal is made to the City Council within fifteen (15) days from the date of the written determination. The written notice of appeal shall be filed with the City Clerk and shall set forth specifically wherein the Board of Adjustment erred in its determination. Upon the receipt of an appeal, the City Council shall refer one copy of the appeal to the Board of Adjustment; and thereupon, the Board of Adjustment shall make a report to the City Council disclosing in what respect the application and facts offered in support thereof met or failed to meet the necessary requirements. The concurring vote of a majority of the members of the City Council shall be required to reverse any order, requirement, decision or determination of the Board of Adjustment.
- B.     Recourse From Decision Of City Council: Any person aggrieved by a decision of the City Council may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction. (Ord. 176, 1-10-2007)

10-7-11:       **AUTHORITY TO CREATE SEPARATE BOARD:** The City Council may, in lieu of acting as Board of Adjustment for the City, appoint a separate board to aid in the administration of this title, with powers and duties as hereinabove set forth. Said board shall consist of five (5) members, each to be appointed by the Mayor, with the consent of the City Council, for a term of four (4) years; provided, that the terms of the members of the first board so appointed shall be such that the term of not more than two (2) members shall expire in any one year. One member of the board shall also be a member of the Planning and Zoning Commission. Any member may be removed for cause by the City Council upon written charges and after a public hearing, if such public hearing is requested. Vacancies shall be filled for the unexpired term of any member whose term is not completed. (Ord. 176, 1-10-2007)



## CHAPTER 8

**ESTABLISHMENT OF ZONES**

## SECTION:

- 10-8-1: City Divided Into Zones
- 10-8-2: Official Zone Map
- 10-8-3: Determination Of Zone Boundaries
- 10-8-4: Application Of Zone Regulations
- 10-8-5: Siting Of Manufactured Homes

10-8-1: **CITY DIVIDED INTO ZONES:** In order to accomplish more fully the objectives and purposes of this title, the City is hereby divided into zones which shall be known by symbols and names as follows:

- RP Residence Park Zone
- RP-A Residence Zone
- R-1 Residence Zone
- R-1A Residence Zone
- R-2 Residence Zone
- R-2A Residence Zone
- R-3 Residence Zone
- R-3A Residence Zone
- RMH Residential Mobile Home Zone
- RE Residence Estate Zone
- RSC-1 Residential Shopping Center Zone

C-1 Limited Business Zone

HC-1 Highway Commercial Zone

CC-1 Central Commercial Zone

GC-1 General Commercial Zone

PB Professional Business Zone

M-1 Manufacturing Zone

I&M-1 Industrial And Manufacturing Zone

I&M-2 Industrial And Manufacturing Zone

O-L Overlay Zones

- A. Residential Zones: The following comprise the City residential zones: RP, RP-A, R-1, R-1A, R-2, R-2A, R-3, R-3A, RMH and RE.
- B. Commercial Zones: The following comprise the City commercial zones: RSC-1, C-1, HC-1, CC-1, GC-1 and PB.
- C. Manufacturing Zone: The following comprise the City manufacturing zone: M-1.
- D. Industrial Zones: The following comprise the City industrial zones: I&M-1 and I&M-2. (Ord. 176, 1-10-2007)

10-8-2: **OFFICIAL ZONE MAP:**

- A. Declaration: The location and boundaries of each of the zones are shown on the Official Zone Map of the City, and said map, with all notations, references and other information shown thereon, is hereby declared to be an official record and part of this title.
- B. Identification; City Seal: The Official Zone Map shall be identified by the signature of the Mayor, attested by the City Clerk, and shall bear the Seal of the City under the following words:

*I hereby certify that this is the Official Zone Map of Firth, Idaho, which was adopted by the City Council of the said City on this \_\_\_\_ day of \_\_\_\_, 20\_\_.*

- C. Location; Filing: The Official Zone Map shall be located in the Office of the Zoning Administrator and shall accurately designate the current boundary lines of the several zones within the City.
- D. Amendments:
  - 1. Whenever amendments are made in zone boundaries or other matter portrayed on the Official Zone Map, said Official Zone Map shall be promptly changed by the Zoning Administrator.
  - 2. No amendment to the Official Zone Map shall become effective, however, until the map has been duly changed in accordance with the amending ordinance and the amending ordinance has been signed by the Mayor and attested to by the City Clerk.
- E. Conflicts: In the event of a conflict between the ordinance and Zone Map, the ordinance shall govern. (Ord. 176, 1-10-2007)

10-8-3:        **DETERMINATION OF ZONE BOUNDARIES:** Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the Zone Map are approximately street or alley lines, said street or alleys shall be construed to be the zone boundaries.
- B. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the zone boundaries, unless otherwise indicated.
- C. Where land has not been subdivided into lots, the zone boundary shall be determined by the use of a scale of measurement shown on the map.
- D. Where other uncertainty exists, the Board of Adjustment shall interpret the map, subject to review by the City Council. (Ord. 176, 1-10-2007)

10-8-4:        **APPLICATION OF ZONE REGULATIONS:** The regulations set by this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided.

- A. Conformance Required: No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- B. Prohibitions: No building or other structure shall hereafter be erected or altered:
1. To exceed the height;
  2. To accommodate or house a greater number of families;
  3. To occupy a greater percentage of lot area;
  4. To have narrower or smaller rear yards, front yards, side yards or other open spaces;
- than herein required or in any other manner be contrary to the provisions of this title, except that encroachment into yards shall be permitted on lots occupied by buildings which were in existence prior to the effective date hereof, but not to an extent greater than the existing encroachment.
- C. Annexations: Every property annexed to the City must also be assigned a zone as a part of the annexation. (Ord. 176, 1-10-2007)

**10-8-5: SITING OF MANUFACTURED HOMES:**

- A. Scope: Manufactured homes, as defined in this title may, in addition to being located upon Manufactured Housing Zoning (RMH), be allowed and sited on all land zones for single-family residential uses upon meeting the placement standards as herein set forth and such use, as provided herein, shall be in addition to manufactured homes on lots within designated mobile home parks or manufactured home subdivisions.
- B. Minimum Requirements: The following minimum requirements shall apply for the approval of manufactured homes located outside of RMH Zone areas:
1. The manufactured home shall be multi-sectional and enclose a space of not less than the minimum square footage allowed in the zone in which it is being placed;

2. The manufactured home shall be placed on an excavated and backfilled permanent perimeter foundation as approved by State regulations and enclosed at the perimeter such that the home is similar in elevation to conventional site built homes. The manufactured home shall have a pitched roof with a standard of three feet (3') in height for each twelve feet (12') in width;
  3. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;
  4. The requirement for parking and garages varies by residential zone. Refer to subsection 10-22-4A of this title for garage and parking requirements.
  5. In addition to the provisions of subsections B1 through B4 of this section, the City shall subject a manufactured home and the lot upon which it is sited to any lot development standard, subdivision standards and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected;
  6. Any manufactured housing placed upon a residential lot, not in a manufactured home zone, shall be of a manufacturing origin dated subsequent to the date of the most recent standards and not having had prior occupancy; or if prior thereto, or having had prior occupancy, shall have a Certificate of Compliance of Rehabilitation as provided in Idaho Code title 44, chapter 25.
- C. Recorded Restrictive Covenants: Nothing in this section shall be construed as abrogating a recorded restrictive covenant. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE A. RP RESIDENCE PARK ZONE**

## SECTION:

- 10-9A-1: General Objectives And Characteristics Of Zone
- 10-9A-2: Use Requirements
- 10-9A-3: Area Requirements
- 10-9A-4: Width Requirements
- 10-9A-5: Location Of Buildings And Structures
- 10-9A-6: Height Of Buildings
- 10-9A-7: Size Of Buildings

**10-9A-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the RP Residence Park Zone is to encourage the creation and maintenance of residential areas within the City which are characterized by large lots at least twelve thousand (12,000) square feet on which single-family dwellings are situated, surrounded by well kept lawns, trees and other plantings. A minimum of vehicular and pedestrian traffic and quiet residential conditions favorable to family living and the rearing of children shall also be characteristic of this zone.
- B. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations shall apply in the RP Residence Park Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9A-2:     **USE REQUIREMENTS:** The following uses shall be permitted in the RP Residence Park Zone:

Agriculture and gardening.

Customary household pet, including, but not limited to, cats, dogs and canaries; but not including the breeding of dogs and cats for sale.

Fences, walls and hedges.

Home occupations.

One-family detached dwellings and the following accessory buildings and structures: private garage and/or carport for the storage of automobiles owned by persons residing on the premises; green houses for private use only; private swimming pools; and arbors. (Ord. 176, 1-10-2007)

10-9A-3:     **AREA REQUIREMENTS:** An area of not less than twelve thousand (12,000) square feet shall be provided and maintained for each one-family dwelling and uses accessory thereto. (Ord. 176, 1-10-2007)

10-9A-4:     **WIDTH REQUIREMENTS:** The minimum width of any building site for a dwelling shall be one hundred (100) linear feet. (Ord. 176, 1-10-2007)

10-9A-5:     **LOCATION OF BUILDINGS AND STRUCTURES:**

- A.     Setback: All buildings shall be set back a minimum distance of thirty feet (30') from any public street or from any granted easement of access, except as herein provided and required under the provisions of this title.
- B.     Side Yards: Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than twenty feet (20'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main

building; provided, that the auxiliary building's drip line remains within the property.

- C. Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of the lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9A-6: **HEIGHT OF BUILDINGS:** No building shall be erected to a height of greater than two (2) stories. Roofs above the square of the building, chimneys, flag poles, television antennas and similar structures not for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9A-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any one-family dwelling shall be not less than one thousand four hundred (1,400) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade is not less than two thousand four hundred (2,400) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) (Ord. 176, 1-10-2007)



## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE B. RP-A RESIDENCE ZONE**

## SECTION:

- 10-9B-1: General Objectives And Characteristics Of Zone
- 10-9B-2: Use Requirements
- 10-9B-3: Area Requirements
- 10-9B-4: Width Requirements
- 10-9B-5: Location Of Buildings And Structures
- 10-9B-6: Height Of Buildings
- 10-9B-7: Size Of Buildings

**10-9B-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objectives in establishing the RP-A Residence Zone is to provide a residential environment within the City which is characterized by smaller lots and somewhat denser residential environment than is characteristic of the RP Residence Park Zone. Nevertheless, this zone is characterized by spacious yards and other residential amenities adequate to maintain desirable single-family residential conditions. The principal uses permitted in this zone shall be one-family dwellings and certain other public facilities needed to promote and maintain stable residential neighborhoods.
- B. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regulations shall apply in the RP-A Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9B-2:     **USE REQUIREMENTS:** The following uses shall be permitted in the RP-A Residence Zone:

Any use permitted in the RP Residence Park Zone.

Churches, when approved by the Board of Adjustment as a conditional use, but not including temporary revival tents or buildings, and not including night lighting for outdoor recreational purposes, except when permitted under the terms of section 10-15-7 of this title.

Dwelling groups (planned), when approved as required in section 10-15-1 of this title.

Public and parochial schools, and public and semipublic use, when approved by the Board of Adjustment as a conditional use, as set forth in section 10-15-2 of this title.

Public utility buildings and structures, when approved as required.

Temporary uses of land and buildings, when approved by the Board of Adjustment. (Ord. 176, 1-10-2007)

10-9B-3:     **AREA REQUIREMENTS:** An area of not less than ten thousand (10,000) square feet shall be provided and maintained for each one-family dwelling and uses accessory thereto. No minimum area shall be required for other main buildings, except as required for conditional uses permitted in the zone. (Ord. 176, 1-10-2007)

10-9B-4:     **WIDTH REQUIREMENTS:** The minimum width of any building site for a dwelling shall be ninety (90) linear feet, measured at the setback line. (Ord. 176, 1-10-2007)

10-9B-5:     **LOCATION OF BUILDINGS AND STRUCTURES:**

- A.     Setback: All buildings shall be set back a minimum distance of thirty feet (30') from any public street or from any granted easement of access, except as herein provided and required under the provisions of this title.
- B.     Side Yards: Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight

inches (8") for each foot of building height, except that no side yard shall be less than ten feet (10'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.

- C. Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of the lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9B-6: **HEIGHT OF BUILDINGS:** No building shall be erected of greater than two (2) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and similar structures not suited for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9B-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any one-family dwelling shall not be less than one thousand two hundred (1,200) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade is not less than two thousand (2,000) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For churches, schools and other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE C. R-1 RESIDENCE ZONE**

## SECTION:

- 10-9C-1: General Objectives And Characteristics Of Zone
- 10-9C-2: Use Requirements
- 10-9C-3: Area Requirements
- 10-9C-4: Width Requirements
- 10-9C-5: Location Of Buildings And Structures
- 10-9C-6: Height Requirements
- 10-9C-7: Size Of Buildings

**10-9C-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-1 Residence Zone is to provide a residential environment within the City which is characterized by somewhat smaller lot width and a somewhat denser residential environment than is characteristic of the RP-A Residence Zone. Also characteristic of this zone are residential amenities adequate to maintain desirable residential neighborhoods. The principal permitted uses in the R-1 Residence Zone shall be one-family dwellings and certain other public facilities which are necessary to promote and maintain stable residential neighborhoods.
- B. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regulations shall apply in the R-1 Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9C-2: **USE REQUIREMENTS:** The following uses shall be permitted in the R-1 Residence Zone:

Any use permitted in the RP Residence Park Zone and in the RP-A Residence Zone.

Cemeteries, when approved by the Board of Adjustment as a conditional use. (Ord. 176, 1-10-2007)

10-9C-3: **AREA REQUIREMENTS:** An area of not less than eight thousand (8,000) square feet shall be provided and maintained for each dwelling. No more than four (4) dwelling units shall be permitted per acre. No minimum area shall be required for other main buildings, except as may be required for conditional uses permitted in the zone. (Ord. 176, 1-10-2007)

10-9C-4: **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot not previously platted or subdivided according to the records of the City shall be eighty (80) linear feet. (Ord. 176, 1-10-2007)

10-9C-5: **LOCATION OF BUILDINGS AND STRUCTURES:**

- A. **Setback:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.
- B. **Side Yards:** Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight inches (8") for each foot of building height, except that no side yard shall be less than eight feet (8'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.
- C. **Rear Yard:** Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no

rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of a lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9C-6: **HEIGHT REQUIREMENTS:** No building shall be erected to a height of greater than two (2) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9C-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any one-family dwelling shall be not less than one thousand (1,000) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade is not less than one thousand five hundred (1,500) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE D. R-1A RESIDENCE ZONE**

## SECTION:

- 10-9D-1: General Objectives And Characteristics Of Zone
- 10-9D-2: Use Requirements
- 10-9D-3: Area Requirements
- 10-9D-4: Width Requirements
- 10-9D-5: Location Of Buildings And Structures
- 10-9D-6: Height Requirements
- 10-9D-7: Size Of Buildings
- 10-9D-8: Special Provisions Regarding Single-Family Attached Dwellings

**10-9D-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-1A Residence Zone is to provide a residential environment within the City which is characterized by somewhat smaller lot width than is characteristic of the RP-A Residence Zone and a somewhat denser residential environment than is characteristic of the R-1 Residence Zone. Also characteristic of this zone are residential amenities adequate to maintain desirable residential neighborhoods. The principal permitted uses in the R-1A Residence Zone shall be one-family dwellings and one structure containing two (2) single one-family dwellings, as ordinarily referred to as townhouses and certain other public facilities which are necessary to promote and maintain stable residential neighborhoods.
- B. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regulations shall apply in the R-1A Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22,

"Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9D-2: **USE REQUIREMENTS:** The following uses shall be permitted in the R-1A Residence Zone:

Any use permitted in the RP Residence Park Zone and in the RP-A Residence Zone and in the R-1 Zone.

Single-family attached dwellings with no more than two (2) single-family units in any one structure and with no more than one structure on any designated lot. (Ord. 176, 1-10-2007)

10-9D-3: **AREA REQUIREMENTS:** For detached dwellings, the minimum requirements of the R-1 Zone as specified in section 10-9C-3 of this chapter apply. For buildings containing two (2) dwelling units, an area of not less than ten thousand (10,000) square feet shall be required. No more than four (4) dwelling units shall be permitted per acre. No minimum area shall be required for other main buildings, except as may be required for conditional uses permitted in the zone. (Ord. 176, 1-10-2007)

10-9D-4: **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot not previously platted or subdivided according to the records of the City shall be one hundred (100) linear feet. (Ord. 176, 1-10-2007)

10-9D-5: **LOCATION OF BUILDINGS AND STRUCTURES:**

A. **Setback:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.

B. **Side Yard:**

1. Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight inches (8") for each foot of building height, except that no side yard shall be less than eight feet (8'). Side yard requirements for accessory buildings



shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.

2. There shall be no side yard setback requirement for the property line between single-family attached dwellings where the dwelling units are attached by party wall or walls. The side yard requirements shall be maintained for the exterior boundaries of any units, which are attached by party walls. All accessory buildings shall comply with the setback requirements set forth above.

- C. Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of a lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9D-6: **HEIGHT REQUIREMENTS:** No buildings shall be erected to a height of greater than two (2) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9D-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any single-family dwelling unit shall be not less than one thousand (1,000) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade is not less than one thousand five hundred (1,500) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

10-9D-8: **SPECIAL PROVISIONS REGARDING SINGLE-FAMILY ATTACHED DWELLINGS:**

- A. **Location Above Another Unit Prohibited:** No single-family attached dwelling shall be located above another dwelling unit, either in whole or in part.
- B. **Pedestrian Access:** Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.
- C. **Common Facilities:**
1. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling, and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines. Common facilities or property are allowed for the following:
    - a. Common party walls constructed in accordance with the International Building Code.
    - b. Foundations supporting attached or party walls.
    - c. Flashing at the termination of the roof covering over any attached walls.
    - d. Roofs.
    - e. Vehicular access to a dedicated street for off street parking facilities or detached garages.
  2. No certificate of occupancy shall be issued for a single-family attached dwelling, unless a common facility or party wall agreement or declaration of condominium, together with a separate legal description for each living unit has been filed with the Bingham County Recorder's Office and a copy provided to the City for each such dwelling unit which shares common facilities with another unit. Such agreement shall include a legal description of the individual dwelling units sharing common facilities and shall allocate responsibility as and between the owners of such lots for the use, maintenance and ownership of all common facilities. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE E. R-2 RESIDENCE ZONE**

## SECTION:

- 10-9E-1: General Objectives And Characteristics Of Zone
- 10-9E-2: Use Requirements
- 10-9E-3: Area Requirements
- 10-9E-4: Width Requirements
- 10-9E-5: Location Of Buildings And Structures
- 10-9E-6: Height Requirements
- 10-9E-7: Size Of Buildings
- 10-9E-8: Lot Coverage
- 10-9E-9: Special Provisions Regarding Single-Family Attached Dwellings

**10-9E-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-2 Residence Zone is to encourage the creation and maintenance of residential areas within the City which are characterized by smaller dwellings, somewhat more compact and denser residential development, and somewhat higher volumes of vehicular and pedestrian traffic than are characteristic of the RP, RP-A, R-1 and R-1A Zones.
- B. The principal permitted uses in the R-2 Residence Zone shall be one-family detached dwellings, buildings containing two (2), three (3), or four (4) zero lot line attached dwelling units, and certain other public facilities which are necessary to promote and maintain stable residential areas.
- C. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regulations shall apply in the R-2 Residence Zone (see also chapters 14,

"Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9E-2:     **USE REQUIREMENTS:** The following uses shall be permitted in the R-2 Residence Zone:

Any use permitted in the RP, RP-A, R-1 and R-1A Zones.

Buildings containing two (2), three (3) and four (4) zero lot line single-family attached dwelling units.

Child daycare centers, as defined in Idaho Code section 39-1201. (Ord. 176, 1-10-2007)

10-9E-3:     **AREA REQUIREMENTS:**

- A.     Minimum Requirements: For detached dwellings, the minimum requirements of the R-1 Zone as specified in section 10-9C-3 of this chapter apply. For buildings containing two (2) dwelling units, the minimum requirements of the R-1A Zone as specified in section 10-9D-3 of this chapter apply. For buildings containing three (3) or four (4) dwelling units, an area of not less than eighteen thousand (18,000) square feet shall be required. No more than eight (8) dwelling units shall be permitted per acre.
- B.     Child Daycare Centers: For child daycare centers, a lot area of at least eight thousand (8,000) square feet shall be required.
- C.     Other Main Buildings: No minimum area shall be required for other main buildings, except as may be required for conditional uses permitted in the zone. (Ord. 176, 1-10-2007)

10-9E-4:     **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot not previously platted or subdivided according to the records of the City shall be one hundred (100) linear feet. (Ord. 176, 1-10-2007)

10-9E-5:      **LOCATION OF BUILDINGS AND STRUCTURES:**

- A.      Setback: All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.
- B.      Side Yards:
1. Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight inches (8") for each foot of building height, except that no side yard shall be less than eight feet (8'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.
  2. There shall be no side yard setback requirement for the property line between single-family attached dwellings where the dwelling units are attached by party wall or walls. The side yard requirements shall be maintained for the exterior boundaries of any units, which are attached by party walls. All accessory buildings shall comply with the setback requirements set forth above.
- C.      Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of a lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9E-6:      **HEIGHT REQUIREMENTS:** No building shall be erected to a height of greater than two (2) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and other similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9E-7:      **SIZE OF BUILDINGS:** The floor area of the first story above grade of any detached one-family dwelling unit shall be not

less than one thousand (1,000) square feet, and of any attached one-family dwelling unit shall be not less than nine hundred (900) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade of any detached one-family dwelling unit shall be not less than one thousand five hundred (1,500) square feet, and of any attached one-family dwelling unit shall be not less than one thousand three hundred (1,300) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

10-9E-8: **LOT COVERAGE:**

- A. **Maximum Lot Coverage:** Lot coverage, including all areas under roofs and paved or concrete surfaces, shall not exceed seventy percent (70%) of the total lot and parking area. The maximum lot coverage of single-family attached dwelling units shall be sixty five percent (65%) for interior lots and fifty percent (50%) for corner lots. The remaining lot area shall be landscaped in accordance with provisions of this title. All landscaping outside of that immediately between any main building and any public street shall be located, designed and developed for the benefit and enjoyment of the residents of the dwelling, including appropriate play areas for children.
- B. **Lot Coverage Exemption:** The landscaped area on a lot will be considered to include such hard surface outdoor recreation facilities as tennis courts, basketball courts, shuffleboard courts and swimming pools; provided, that:
1. The hard surface outdoor recreation facilities make up no more than forty percent (40%) of the required landscaped area; and
  2. Those facilities are available for the use of all residents of the development.
- C. **Required Buffers:** Wherever a development in the R-2 Zone adjoins land zoned RP, RP-A, R-1, R-1A or RMH, or unincorporated land designated for single-family residential use in the City Comprehensive Plan, a minimum ten foot (10') wide landscaped buffer shall be provided. This buffer may be included in the thirty percent (30%) minimum landscaped area required in subsection A of this section. (Ord. 176, 1-10-2007)

10-9E-9: **SPECIAL PROVISIONS REGARDING SINGLE-FAMILY ATTACHED DWELLINGS:**

- A. **Vehicular Access:** All lots upon which a single-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission.
- B. **Location Above Dwelling Unit Prohibited:** No single-family attached dwelling shall be located above another dwelling unit, either in whole or in part.
- C. **Pedestrian Access:** Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.
- D. **Number Of Attached Dwellings Permitted:** No more than four (4) single-family attached dwellings may be attached together.
- E. **Common Facilities:**
1. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines. Common facilities or property are allowed for the following:
    - a. Common party walls constructed in accordance with the International Building Code.
    - b. Foundations supporting attached or party walls.
    - c. Flashing at the termination of the roof covering over any attached walls.
    - d. Roofs.
    - e. Vehicular access to a dedicated street for off street parking facilities or detached garages.

2. No certificate of occupancy shall be issued for a single-family attached dwelling unless a common facility or party wall agreement or declaration of condominium, together with a separate legal description for each living unit has been filed with the Bingham County Recorder's Office and a copy provided to the City for each such dwelling unit which shares common facilities with another unit. Such agreement shall include a legal description of the individual dwelling units sharing common facilities and shall allocate responsibility as and between the owners of such lots for the use, maintenance and ownership of all common facilities. (Ord. 176, 1-10-2007)



## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE F. R-2A RESIDENCE ZONE**

## SECTION:

- 10-9F- 1: General Objectives And Characteristics Of Zone
- 10-9F- 2: Use Requirements
- 10-9F- 3: Area Requirements
- 10-9F- 4: Width Requirements
- 10-9F- 5: Location Of Buildings And Structures
- 10-9F- 6: Height Requirements
- 10-9F- 7: Size Of Buildings
- 10-9F- 8: Lot Coverage
- 10-9F- 9: Special Provisions Regarding Single-Family Attached Dwellings
- 10-9F-10: Vehicular Access For Multiple-Family Attached Dwellings

**10-9F-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-2A Residence Zone is to designate appropriate areas within the City where the residential density is limited to eight (8) families on any given lot. In general, this zone is situated in the central part of the City where the need for rental units is greatest, and along major streets on the borders of neighborhoods.
- B. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regulations shall apply in the R-2A Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9F-2: **USE REQUIREMENTS:** The following uses shall be permitted in the R-2A Residence Zone:

Any use permitted in the RP, RP-A, R-1, R-1A and R-2 Zones.

Foster family care homes.

Residence courts containing not more than eight (8) dwelling units. Apartment buildings containing not more than eight (8) dwelling units. No more than eight (8) such dwelling units are permitted on any designated lot, although the Planning and Zoning Commission may permit such dwelling units to be distributed between more than one building on the lot, provided each such building independently meets the area requirements, location of buildings and structures requirements, height requirements and size of buildings requirements of the zone.

Rest homes for not more than twenty (20) guests. (Ord. 176, 1-10-2007)

10-9F-3: **AREA REQUIREMENTS:**

- A. Minimum Requirements: For detached dwellings, the minimum requirements of the R-1 Zone as specified in section 10-9C-3 of this chapter apply. For buildings containing two (2) dwelling units, the minimum requirements of the R-1A Zone as specified in section 10-9D-3 of this chapter apply. For buildings containing three (3) to eight (8) dwelling units, an area of not less than fourteen thousand (14,000) square feet, plus an additional three thousand (3,000) square feet per dwelling unit for each dwelling unit above three (3) shall be required. No more than twelve (12) dwelling units shall be permitted per acre.
- B. Child Daycare Centers: For child daycare centers, the minimum requirements of the R-2 Zone as specified in section 10-9E-3 of this chapter apply.
- C. Rest Homes: For rest homes, an area of at least six thousand (6,000) square feet shall be provided, plus two (2) square feet of lot area for each square foot of floor space in the building in excess of one thousand (1,000) square feet. (Ord. 176, 1-10-2007)

10-9F-4: **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot for each building containing one dwelling unit shall be as specified in section 10-9C-4 of this chapter. The minimum width of any building site or residential building lot for each building containing two (2) to eight (8) dwelling units shall be as specified in section 10-9D-4 of this chapter. The minimum width of any building site or lot for each child daycare center shall be as specified in section 10-9E-4 of this chapter. The minimum width of any building site or lot, not previously platted or subdivided according to the records of the City, for use as a rest home or similar main building shall be eighty feet (80'), plus five feet (5') of additional width for each one hundred (100) square feet of floor area devoted to bedrooms for the accommodation of guests or roomers. (Ord. 176, 1-10-2007)

10-9F-5: **LOCATION OF BUILDINGS AND STRUCTURES:**

- A. **Setback:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.
- B. **Side Yards:**
1. Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than six inches (6") for each foot of building height, except that no side yard shall be less than seven feet, six inches (7'6"). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.
  2. There shall be no side yard setback requirement for the property line between zero lot line single-family attached dwellings where the dwelling units are attached by a party wall or walls. The side yard requirements shall be maintained for the exterior boundaries of any units, which are attached by party walls. All accessory buildings shall comply with the setback requirements set forth above.
- C. **Rear Yard:** Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided that the auxiliary building's drip

line remains within the property, except where an alley is located at the rear of a lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9F-6:     **HEIGHT REQUIREMENTS:** No building shall be erected to a height of greater than twenty five feet (25'). Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9F-7:     **SIZE OF BUILDINGS:** The floor area of the first story above grade of any detached single-family dwelling unit shall be not less than one thousand (1,000) square feet, and of any attached single-family dwelling unit (those with zero lot lines) shall be not less than nine hundred (900) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade of any detached single-family dwelling unit shall be not less than one thousand five hundred (1,500) square feet, and of any attached single-family dwelling unit shall be not less than one thousand three hundred (1,300) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For attached multiple-family dwellings and other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

10-9F-8:     **LOT COVERAGE:**

- A.     Maximum Lot Coverage: Lot coverage, including all areas under roofs and paved or concrete surfaces, shall not exceed seventy percent (70%) of the total lot and parking area. The maximum lot coverage of single-family attached dwelling units shall be sixty five percent (65%) for interior lots and fifty percent (50%) for corner lots. The remaining lot area shall be landscaped in accordance with provisions of this title. All landscaping outside of that immediately between any main building and any public street shall be located, designed and developed for the benefit and enjoyment to the residents of the dwelling, including appropriate play areas for children.

- B. Lot Coverage Exemption: The landscaped area on a lot will be considered to include such hard surface outdoor recreation facilities as tennis courts, basketball courts, shuffleboard courts and swimming pools; provided, that:
1. The hard surface outdoor recreation facilities make up no more than forty percent (40%) of the required landscaped area; and
  2. Those facilities are available for the use of all residents of the development.
- C. Required Buffers: Wherever a development in the R-2A Zone adjoins land zoned RE, RP, RP-A, R-1, R-1A or RMH, or unincorporated land designated for single-family residential use in the City Comprehensive Plan, a minimum ten foot (10') wide landscaped buffer and a minimum six foot (6') high site obscuring fence shall be provided. This buffer may be included in the thirty percent (30%) minimum landscaped area required in subsection A of this section. If an open space of at least thirty feet (30') is provided between all buildings (whether main or auxiliary) and the adjacent zone, the requirement of a fence can be waived. Said open space shall include some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. (Ord. 176, 1-10-2007)

10-9F-9: **SPECIAL PROVISIONS REGARDING SINGLE-FAMILY ATTACHED DWELLINGS:** These provisions apply to single-family attached dwellings (those with zero lot lines) only.

- A. Vehicular Access: All lots upon which a single-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission.
- B. Location Above Dwelling Unit Prohibited: No single-family attached dwelling shall be located above another dwelling unit, either in whole or in part.
- C. Pedestrian Access: Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.

D. Number Of Attached Dwelling Permitted: No more than eight (8) single-family attached dwellings may be attached together.

E. Common Facilities:

1. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines. Common facilities or property are allowed for the following:

a. Common party walls constructed in accordance with the International Building Code.

b. Foundations supporting attached or party walls.

c. Flashing at the termination of the roof covering over any attached walls.

d. Roofs.

e. Vehicular access to a dedicated street for off street parking facilities or detached garages.

2. No building permit shall be issued for the construction of a single-family attached dwelling unless a common facilities or party wall agreement or declaration of condominium has been filed with the Bingham County Recorder's Office for each such dwelling unit which shares common facilities with another unit. Such agreement shall include a legal description of the lots sharing common facilities and shall allocate responsibility as between the owners of such lots for the use, maintenance and ownership of all common facilities. (Ord. 176, 1-10-2007)

**10-9F-10: VEHICULAR ACCESS FOR MULTIPLE-FAMILY ATTACHED DWELLINGS:** All lots upon which a multiple-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE G. R-3 RESIDENCE ZONE**

## SECTION:

- 10-9G- 1: General Objectives And Characteristics Of Zone
- 10-9G- 2: Use Requirements
- 10-9G- 3: Area Requirements
- 10-9G- 4: Width Requirements
- 10-9G- 5: Location Of Buildings And Structures
- 10-9G- 6: Height Requirements
- 10-9G- 7: Size Of Buildings
- 10-9G- 8: Lot Coverage
- 10-9G- 9: Special Provisions Regarding Single-Family Attached Dwellings
- 10-9G-10: Vehicular Access For Multiple-Family Attached Dwellings
- 10-9G-11: Landscaping

**10-9G-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-3 Residence Zone is to designate appropriate areas within the City for rental dwelling units, multiple-family dwellings and similar buildings where living accommodations for groups may be located. This zone is characterized by a variety of dwelling types having widely varying forms and shapes, with somewhat denser residential environment and a greater movement of vehicular traffic than is characteristic of the R-2A Residence Zone. In general, this zone is situated where the need for rental units is greatest, along major streets and on the borders of neighborhoods where quiet, tranquil conditions are not as necessary as they are in the interior of low density residential neighborhoods.
- B. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regu-

lations shall apply in the R-3 Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-9G-2: **USE REQUIREMENTS:** The following uses shall be permitted in the R-3 Residence Zone:

Any use permitted in the RP, RP-A, R-1, R-1A, R-2 and R-2A Zones.

Boarding houses, lodging houses, rooming houses and rest homes.

Incidental retailing of goods and services, such as newspapers, magazines or tobacco, for the convenience of people living in apartment buildings, provided the facilities therefor shall be located within the main building; and provided, that no sign or display shall be used for advertising the retail services offered within the building which can be seen from a public street. Provided further, that the floor area devoted to the retailing of goods and services shall not exceed ten (10) square feet for each dwelling unit contained within the main building. (Ord. 176, 1-10-2007)

10-9G-3: **AREA REQUIREMENTS:**

- A. Minimum Requirements: For detached dwellings, the minimum requirements of the R-1 Zone as specified in section 10-9C-3 of this chapter apply. For buildings containing two (2) dwelling units, the minimum requirements of the R-1A Zone as specified in section 10-9D-3 of this chapter apply. For buildings containing three (3) or more dwelling units, an area of not less than twelve thousand seven hundred fifty (12,750) square feet, plus an additional two thousand seven hundred fifty (2,750) square feet per dwelling unit for each dwelling unit above three (3) shall be required. No more than sixteen (16) dwelling units shall be permitted per acre.
- B. Child Daycare Centers: For child daycare centers, the minimum requirements of the R-2 Zone as specified in section 10-9E-3 of this chapter apply.
- C. Rest Homes: For rest homes, the minimum requirements of the R-2A Zone as specified in section 10-9F-3 of this chapter apply.



- D. Boarding Houses: An area of not less than five thousand (5,000) square feet shall be provided and maintained for boarding houses and lodging and rooming houses.
- E. Other Buildings: There shall be no area requirements for other buildings, except that which is required for off street parking space and yards. (Ord. 176, 1-10-2007)

10-9G-4: **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot for each building containing one dwelling unit shall be as specified in section 10-9C-4 of this chapter. The minimum width of any building site or residential building lot for each building containing two (2) or more dwelling units shall be as specified in section 10-9D-4 of this chapter. The minimum width of any building site or lot for each child daycare center shall be as specified in section 10-9E-4 of this chapter. The minimum width of any building site or lot, for use as a rest home shall be as specified in section 10-9F-4 of this chapter. The minimum width of any building site or lot for boarding houses and lodging and rooming houses not previously platted or subdivided according to the records of the City shall be eighty feet (80') as measured from the building setback line. (Ord. 176, 1-10-2007)

10-9G-5: **LOCATION OF BUILDINGS AND STRUCTURES:**

- A. Setback: All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.
- B. Side Yards:
  - 1. Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight feet (8'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.
  - 2. There shall be no side yard setback requirement for the property line between zero lot line single-family attached dwellings where the dwelling units are attached by a party wall or walls. The side yard

requirements shall be maintained for the exterior boundaries of any units, which are attached by party walls. All accessory buildings shall comply with the setback requirements set forth above.

- C. Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of not less than twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of the lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9G-6: **HEIGHT REQUIREMENTS:** No building shall be erected to a height of greater than three (3) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and other similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9G-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any detached single-family dwelling unit shall be not less than one thousand (1,000) square feet, and of any attached single-family dwelling unit (those with zero lot lines) shall be not less than nine hundred (900) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade of any detached single-family dwelling unit shall be not less than one thousand five hundred (1,500) square feet, and of any attached single-family dwelling unit shall be not less than one thousand three hundred (1,300) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For attached multiple-family dwellings and other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

10-9G-8: **LOT COVERAGE:**

- A. Maximum Lot Coverage: Lot coverage, including all areas under roofs and paved or concrete surfaces, shall not exceed seventy percent (70%) of the total lot and parking area. The maximum lot coverage of single-family attached dwelling units shall be sixty five

percent (65%) for interior lots and fifty percent (50%) for corner lots. The remaining lot area shall be landscaped in accordance with provisions of this title. All landscaping outside of that immediately between any main building and any public street shall be located, designed and developed for the benefit and enjoyment of the residents of the dwelling, including appropriate play areas for children.

- B. Lot Coverage Exemption: The landscaped area on a lot will be considered to include such hard surface outdoor recreation facilities as tennis courts, basketball courts, shuffleboard courts and swimming pools; provided, that:
1. The hard surface outdoor recreation facilities make up no more than forty percent (40%) of the required landscaped area; and
  2. Those facilities are available for the use of all residents of the development.
- C. Required Buffers: Wherever a development in the R-3 Zone adjoins land zoned RE, RP, RP-A, R-1, R-1A, R-2A or RMH, or unincorporated land designated for single-family residential use in the City Comprehensive Plan, a minimum ten foot (10') wide landscaped buffer and a minimum six foot (6') high site obscuring fence shall be provided. This buffer may be included in the thirty percent (30%) minimum landscaped area required in subsection A of this section. If an open space of at least thirty feet (30') is provided between all buildings (whether main or auxiliary) and the adjacent zone, the requirement of a fence can be waived. Said open space shall include some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. (Ord. 176, 1-10-2007)

10-9G-9: **SPECIAL PROVISIONS REGARDING SINGLE-FAMILY ATTACHED DWELLINGS:** These provisions apply to single-family attached dwellings (those with zero lot lines) only.

- A. Vehicular Access: All lots upon which a single-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission.

- B. Location Above Dwelling Unit Prohibited: No single-family attached dwelling shall be located above another dwelling unit, either in whole or in part.
- C. Pedestrian Access: Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.
- D. Common Facilities:
1. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines, and sanitary sewer service lines. Common facilities or property are allowed for the following:
    - a. Common party walls constructed in accordance with the International Building Code.
    - b. Foundations supporting attached or party walls.
    - c. Flashing at the termination of the roof covering over any attached walls.
    - d. Roofs.
    - e. Vehicular access to a dedicated street for off street parking facilities or detached garages.
  2. No certificate of occupancy shall be issued for a single-family attached dwelling unless a common facility or party wall agreement or declaration of condominium, together with a separate legal description for each living unit has been filed with the Bingham County Recorder's Office and a copy provided to the City for each such dwelling unit which shares common facilities with another unit. Such agreement shall include a legal description of the individual dwelling units sharing common facilities and shall allocate responsibility as and between the owners of such lots for the use, maintenance and ownership of all common facilities. (Ord. 176, 1-10-2007)

10-9G-10

10-9G-11

10-9G-10: **VEHICULAR ACCESS FOR MULTIPLE-FAMILY ATTACHED DWELLINGS:** All lots upon which a multiple-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission. (Ord. 176, 1-10-2007)

10-9G-11: **LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE H. R-3A RESIDENCE ZONE**

## SECTION:

- 10-9H- 1: General Objectives And Characteristics Of Zone
- 10-9H- 2: Use Requirements
- 10-9H- 3: Area Requirements
- 10-9H- 4: Width Requirements
- 10-9H- 5: Location Of Buildings And Structures
- 10-9H- 6: Height Requirements
- 10-9H- 7: Size Of Buildings
- 10-9H- 8: Lot Coverage
- 10-9H- 9: Special Provisions Regarding Single-Family Attached Dwellings
- 10-9H-10: Vehicular Access For Multiple-Family Attached Dwellings
- 10-9H-11: Landscaping

**10-9H-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the R-3A Residence Zone is to establish an area within the City in which the primary use of the land is for residential purposes. Characteristic of this zone is a greater amount of automobile traffic, greater density and a wider variety of dwelling types and uses than is characteristic of the R-3 Residence Zone. The R-3A Zone is essentially residential in character; therefore, all uses must be developed and maintained in harmony with residential uses. Also, while a greater volume of automobile and pedestrian traffic is characteristic of this zone, attractive lawns, shrubs and trees, both on the street and around the buildings, is also characteristic of this zone.
- B. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations

shall apply in the R-3A Residence Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

**10-9H-2: USE REQUIREMENTS:** The following uses shall be permitted in the R-3A Residence Zone:

Any use permitted in the RP, RP-A, R-1, R-1A, R-2, R-2A and R-3 Residence Zones.

For property zoned R-3A prior to April 1, 2004, only, with no subsequent change to another zone: office buildings for professional persons, such as doctors, dentists, accountants, attorneys, architects.

Mortuaries, funeral parlors, subject to approval of Board of Adjustment.

Off street parking lots.

Other uses which have been ruled by the City Council to be similar to the uses listed in this section. (Ord. 176, 1-10-2007)

**10-9H-3: AREA REQUIREMENTS:**

- A. Minimum Requirements: For detached dwellings, the minimum requirements of the R-1 Zone as specified in section 10-9C-3 of this chapter apply. For buildings containing two (2) dwelling units, the minimum requirements of the R-1A Zone as specified in section 10-9D-3 of this chapter apply. For buildings containing three (3) or more dwelling units, an area of not less than twelve thousand two hundred (12,200) square feet, plus an additional two thousand two hundred (2,200) square feet per dwelling unit for each dwelling unit above three (3) shall be required. No more than twenty (20) dwelling units shall be permitted per acre.
- B. Child Daycare Centers: For child daycare centers, the minimum requirements of the R-2 Zone as specified in section 10-9E-3 of this chapter apply.

- C. Rest Homes: For rest homes, the minimum requirements of the R2-A Zone as specified in section 10-9F-3 of this chapter apply.
- D. Boarding Houses: For boarding houses, and lodging and rooming houses, the minimum requirements of the R-3 Zone as specified in section 10-9G-3 of this chapter apply.
- E. Other Buildings: There shall be no area requirements for other buildings, except that which is required for off street parking space and yards. (Ord. 176, 1-10-2007)

10-9H-4: **WIDTH REQUIREMENTS:** The minimum width of any building site or residential building lot for each building containing one dwelling unit shall be as specified in section 10-9C-4 of this chapter. The minimum width of any building site or residential building lot for each building containing two (2) or more dwelling units shall be as specified in section 10-9D-4 of this chapter. The minimum width of any building site or lot for each child daycare center shall be as specified in section 10-9E-4 of this chapter. The minimum width of any building site or lot, for use as a rest home shall be as specified in section 10-9F-4 of this chapter. The minimum width of any building site or lot for boarding houses and lodging and rooming houses shall be as specified in section 10-9G-4 of this chapter. (Ord. 176, 1-10-2007)

10-9H-5: **LOCATION OF BUILDINGS AND STRUCTURES:**

- A. Setback: All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of vehicular access, except as herein provided and required under the provisions of this title.
- B. Side Yard:
  1. Subject to subsection A of this section, there shall be a side yard on each side of a main building of not less than eight feet (8'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that subject to subsection A of this section, no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.



2. There shall be no side yard setback requirement for the property line between zero lot line single-family attached dwellings where the dwelling units are attached by a party wall or walls. The side yard requirements shall be maintained for the exterior boundaries of any units, which are attached by party walls. All accessory buildings shall comply with the setback requirements set forth above.

- C. Rear Yard: Subject to subsection A of this section, for main buildings, there shall be a rear yard of at least twenty five feet (25'). Subject to subsection A of this section, for accessory buildings, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of the lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9H-6: **HEIGHT REQUIREMENTS:** No building shall be erected to a height of greater than three (3) stories. Roofs above the square of the building, chimneys, flag poles, television antennas, church towers and other similar structures not used for human occupancy are excluded in determining height. (Ord. 176, 1-10-2007)

10-9H-7: **SIZE OF BUILDINGS:** The floor area of the first story above grade of any detached single-family dwelling unit shall be not less than one thousand (1,000) square feet, and of any attached single-family dwelling unit (those with zero lot lines) shall be not less than nine hundred (900) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade of any detached single-family dwelling unit shall be not less than one thousand five hundred (1,500) square feet, and of any attached single-family dwelling unit shall be not less than one thousand three hundred (1,300) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See section 10-2-1 of this title for the definition of "grade".) For attached multiple family dwellings and other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

10-9H-8: **LOT COVERAGE:**

- A. **Maximum Lot Coverage:** Lot coverage, including all areas under roofs and paved or concrete surfaces, shall not exceed seventy percent (70%) of the total lot and parking area. The maximum lot coverage of single-family attached dwelling units shall be sixty five percent (65%) for interior lots and fifty percent (50%) for corner lots. The remaining lot area shall be landscaped in accordance with provisions of this title. All landscaping outside of that immediately between any main building and any public street shall be located, designed and developed for the benefit and enjoyment of the residents of the dwelling, including appropriate play areas for children.
- B. **Lot Coverage Exemption:** The landscaped area on a lot will be considered to include such hard surface outdoor recreation facilities as tennis courts, basketball courts, shuffleboard courts and swimming pools; provided, that:
1. The hard surface outdoor recreation facilities make up no more than forty percent (40%) of the required landscaped area; and
  2. Those facilities are available for the use of all residents of the development.
- C. **Required Buffers:** Wherever a development in the R3-A Zone adjoins land zoned RE, RP, RP-A, R-1, R-1A, R-2A or RMH, or unincorporated land designated for single-family residential use in the City Comprehensive Plan, a minimum ten foot (10') wide landscaped buffer and a minimum six foot (6') high site obscuring fence shall be provided. This buffer may be included in the thirty percent (30%) minimum landscaped area required in subsection A of this section. If an open space of at least thirty feet (30') is provided between all buildings (whether main or auxiliary) and the adjacent zone, the requirement of a fence can be waived. Said open space shall include some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. (Ord. 176, 1-10-2007)

10-9H-9: **SPECIAL PROVISIONS REGARDING SINGLE-FAMILY ATTACHED DWELLINGS:** These provisions apply to single-family attached dwellings (those with zero lot lines) only.

- A. **Vehicular Access:** All lots upon which a single-family attached dwelling is located shall have vehicular access to and frontage upon

a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission.

B. Location Above Dwelling Unit Prohibited: No single-family attached dwelling shall be located above another dwelling unit, either in whole or in part.

C. Pedestrian Access: Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.

D. Common Facilities:

1. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines. Common facilities or property are allowed for the following:

a. Common party walls constructed in accordance with the International Building Code.

b. Foundations supporting attached or party walls.

c. Flashing at the termination of the roof covering over any attached walls.

d. Roofs.

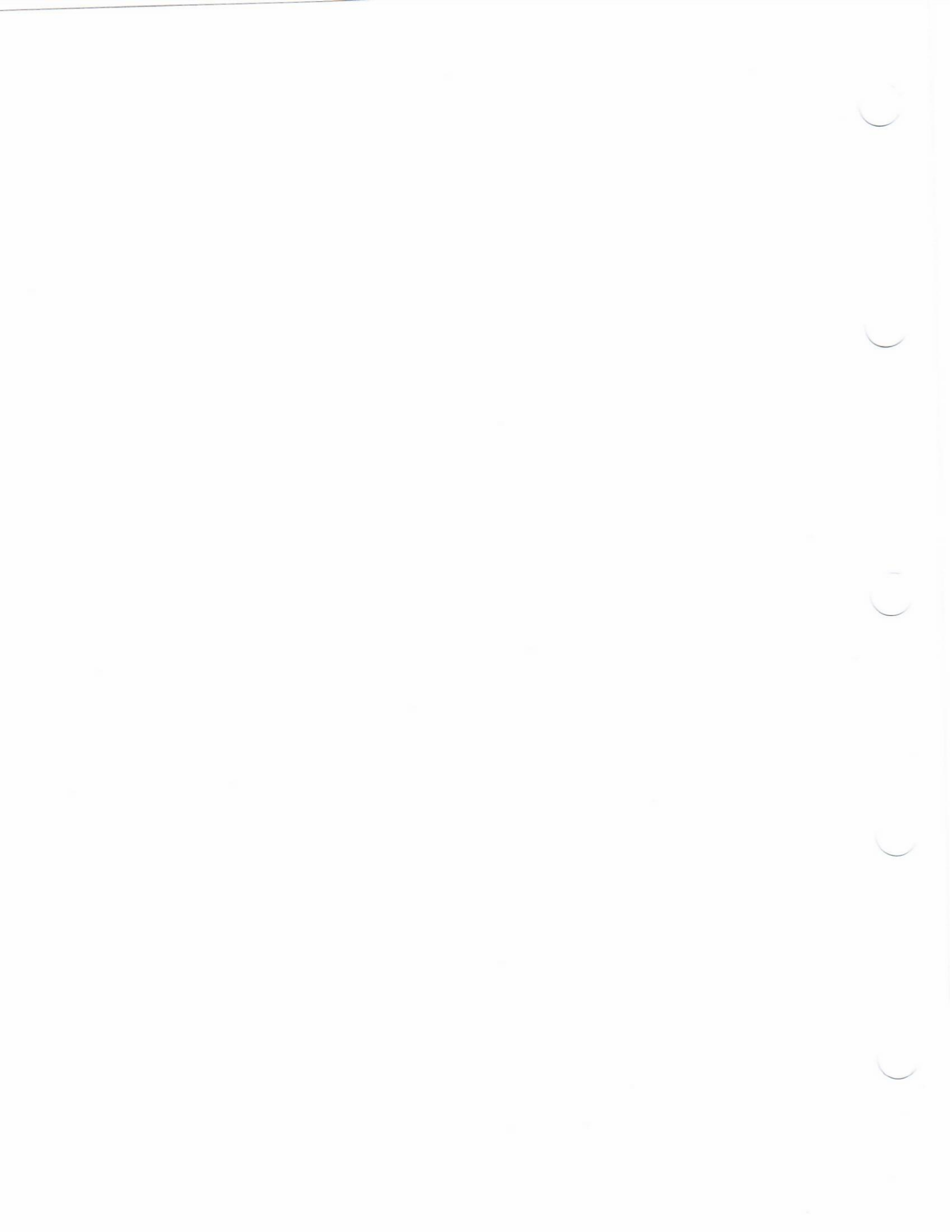
e. Vehicular access to a dedicated street for off street parking facilities or detached garages.

2. No certificate of occupancy shall be issued for a single-family attached dwelling unless a common facility or party wall agreement or declaration of condominium, together with a separate legal description for each living unit has been filed with the Bingham County Recorder's Office and a copy provided to the City for each such dwelling unit which shares common facilities with another unit. Such agreement shall include a legal description of the individual dwelling units sharing common facilities and shall allocate responsi-

bility as and between the owners of such lots for the use, maintenance and ownership of all common facilities. (Ord. 176, 1-10-2007)

10-9H-10: **VEHICULAR ACCESS FOR MULTIPLE-FAMILY ATTACHED DWELLINGS:** All lots upon which a multiple-family attached dwelling is located shall have vehicular access to and frontage upon a dedicated street or upon a granted easement of access of not less than twenty five feet (25') in width and of a distance from the public dedicated street of no longer than approved by the Planning and Zoning Commission. (Ord. 176, 1-10-2007)

10-9H-11: **LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)



CHAPTER 9  
RESIDENTIAL ZONES

**ARTICLE I. RMH RESIDENTIAL MOBILE HOME ZONE**

SECTION:

- 10-9I-1: Zone Established
- 10-9I-2: General Objectives And Characteristics Of Zone
- 10-9I-3: Use Requirements
- 10-9I-4: Siting And Location
- 10-9I-5: Construction Conformance

10-9I-1: **ZONE ESTABLISHED:** There is hereby established in the City an RMH Residential Mobile Home Zone. (Ord. 176, 1-10-2007)

10-9I-2: **GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:** The objective in establishing the RMH Residential Mobile Home Zone is to provide an environment within the City which is characterized by the somewhat denser residential environment than is characteristic of the other residential zones. A manufactured home court/mobile home park or travel trailer court are special residential facilities specifically designed to accommodate mobile homes or other moveable dwellings and to do so in a manner that will provide a living environment of sustained desirability for the occupants and which will protect the integrity and characteristics of the area surrounding the RMH Residential Mobile Home Zone. It is the intent of the travel trailer provisions to provide safe, sanitary and attractive facilities for the tourist or temporary resident to park a travel trailer or camper while visiting or temporarily residing in the City. (Ord. 176, 1-10-2007)

10-9I-3: **USE REQUIREMENTS:** The following uses shall be permitted in the RMH Residential Mobile Home Zone:

Any use permitted in the R-1 Residence Zone.

Manufactured home parks/mobile home parks, when approved.

Travel trailer courts, when approved. (Ord. 176, 1-10-2007)

10-9I-4:        **SITING AND LOCATION:**

- A.    **Manufactured Homes:** A manufactured home on an individual lot may be located on any lot or lands zoned for single-family residential uses, including manufactured housing subdivisions and manufactured home parks/mobile home parks.
- B.    **Mobile Homes:** A "mobile home", as defined in section 10-16A-1 of this title, shall be located in a manufactured home park/mobile home park.
- C.    **Travel Trailers:** A travel trailer may be located in a travel trailer court.
- D.    **Mobile Homes Temporary Placement On Residential Lot:** Mobile homes shall not be stored or occupied, except on a temporary basis of a short duration, on any residential lot within the City, other than in a manufactured home park/mobile home park or travel trailer park.
- E.    **Travel Trailers Temporary Placement On Residential Lot:** Travel trailers shall not be occupied except on a temporary basis of not to exceed thirty (30) days on any residential lot not located within a manufactured home park/mobile home park or travel trailer park. (Ord. 176, 1-10-2007)

10-9I-5:        **CONSTRUCTION CONFORMANCE:** Any portion of or appendage or any habitation, shelter, cabana, add on or storage facility, as permitted herein, shall conform with the requirements of this title and the International Building Code, as determined by the Zoning Administrator. (Ord. 176, 1-10-2007)

## CHAPTER 9

## RESIDENTIAL ZONES

**ARTICLE J. RE RESIDENCE ESTATE ZONE**

## SECTION:

- 10-9J-1: General Objectives And Characteristics Of Zone
- 10-9J-2: Use Requirements
- 10-9J-3: Area Requirements
- 10-9J-4: Width Requirements
- 10-9J-5: Location Of Buildings, Structures And Animal Areas And Enclosures
- 10-9J-6: Height Of Buildings
- 10-9J-7: Size Of Buildings

**10-9J-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the RE Residence Estate Zone is to encourage the creation and maintenance of residential areas in the City for single-family residential use, with spacious landscaping surrounding the residence or other main building occupied by humans, and lots sufficiently large to permit the limited keeping of animals. This zone shall be granted in lieu of the overlay zone for the keeping of animals.
- B. In order to accomplish the objectives and purposes of this title and to promote the characteristics of the zone, the following regulations shall apply in the RE Residence Estate Zone (see also chapters 14, "Supplementary Regulations To Zones", 15, "Special Provisions Applying To Specific Uses", 19, "Subdivision Regulations", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)



10-9J-2:     **USE REQUIREMENTS:** The following uses shall be permitted in the RE Residence Estate Zone:

Any use permitted by title 5, chapter 1 of this Code, regarding keeping or maintaining animals.

Any use permitted in the RP Residence Park Zone, RP-A Residence Zone and R-1 Residence Zone.

Feeding, resting or loafing areas, and pens, corrals, runs or other open air animal, livestock or fowl enclosures more restrictive in nature than a pasture, and barns, stables, coops, sheds or other buildings for animals, livestock and/or fowl.

No animal, livestock or fowl may be fed, maintained, pastured or kept in or on any part of the landscaped area surrounding the dwelling or other main building occupied by humans.

Pasturage is allowed on any part of the lot outside of the landscaping area surrounding the dwelling or other main building occupied by humans. (Ord. 176, 1-10-2007)

10-9J-3:     **AREA REQUIREMENTS:**

- A.    A lot with an area of not less than one acre (43,560 square feet) shall be provided and maintained for each one-family dwelling or other main building and uses accessory thereto. No lot may be less than one acre.
- B.    An area of not less than twelve thousand five hundred (12,500) square feet shall be used for the dwelling or other main building occupied by humans, and for landscaping surrounding the dwelling or other main building. The landscaping surrounding the dwelling or other main building occupied by humans shall minimally include the minimum required front yard, minimum required side yards and minimum required rear yard. (Ord. 176, 1-10-2007)

10-9J-4:     **WIDTH REQUIREMENTS:** Any building site for a dwelling or other main building must be wholly contained on one or more whole lots. The minimum width for any lot shall be one hundred twenty five feet (125'). (Ord. 176, 1-10-2007)

10-9J-5:     **LOCATION OF BUILDINGS, STRUCTURES AND ANIMAL AREAS AND ENCLOSURES:** All buildings and structures, all feeding, resting or loafing areas, and all pens, corrals, runs or other open air animal, livestock or fowl enclosures more restrictive in nature than a pasture, shall meet the most restrictive combination of the following:

- A.     Setback: A minimum distance of fifty feet (50') from any public street or from any granted easement of access, except as herein provided and required under the provisions of this title.
- B.     Front Yard: There shall be a front yard of not less than fifty feet (50').
- C.     Side Yards: There shall be a side yard on each side of any building or structure, any feeding, resting or loafing area, and any pen, corral, run or other open air animal, livestock or fowl enclosure more restrictive in nature than a pasture, of not less than twenty feet (20'). Side yard requirements for accessory buildings shall be the same as for main buildings, except that no side yard shall be required for accessory buildings not occupied by animals which are located more than twelve feet (12') in the rear of the main building; provided, that the auxiliary building's drip line remains within the property.
- D.     Rear Yard: There shall be a rear yard behind any main building, and between the rear property line and any building or structure, feeding, resting or loafing area, and any pen, corral, run or other open air animal, livestock or fowl enclosure more restrictive in nature than a pasture, of not less than twenty five feet (25'). For accessory buildings not occupied by animals, no rear yard shall be required; provided, that the auxiliary building's drip line remains within the property, except where an alley is located at the rear of a lot, in which case a three foot (3') rear yard is required. (Ord. 176, 1-10-2007)

10-9J-6:     **HEIGHT OF BUILDINGS:** No buildings shall be erected to a height of greater than thirty feet (30'). Roofs above the square of the building, chimneys, flag poles, television antennas and similar structures not for human occupancy are excluded in determining height. In addition to International Building Code requirements, any building where the eaves of the roof, or for roofs without eaves the top of the building walls, is greater than twenty five feet (25') above the average natural grade of the land, must be reviewed by the Fire Marshal, and approved by City Council. (Ord. 176, 1-10-2007)

10-9J-7:     **SIZE OF BUILDINGS:** The floor area of the first story above grade of any one-family dwelling shall be not less than one thousand five hundred (1,500) square feet, excluding garage space and open porches and carports. For dwellings containing more than one story above grade, the floor space of the first story above grade may be reduced below this level, provided the total floor area of all stories located above grade is not less than two thousand six hundred (2,600) square feet. (Only those stories which are more than 50 percent above grade shall be considered to be above grade. See chapter 2 of this title for the definition of "grade".) For other buildings, there shall be no minimum floor area requirements. (Ord. 176, 1-10-2007)

## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE A. RSC-1 RESIDENTIAL SHOPPING CENTER ZONE**

## SECTION:

- 10-10A-1: General Objectives And Characteristics Of Zone
- 10-10A-2: Use Requirements
- 10-10A-3: Area Requirements
- 10-10A-4: Frontage Width Requirements
- 10-10A-5: Location Requirements
- 10-10A-6: Height Requirements
- 10-10A-7: Size Of Buildings
- 10-10A-8: Special Provisions

**10-10A-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing the RSC-1 Residential Shopping Center Zone is to encourage shopping facilities which supply residential needs. Inasmuch as this zone is usually surrounded by dwellings, it shall be characterized by a harmonious grouping of stores, shops and professional buildings surrounded by lawns, trees and shrubs planted and maintained in harmony with the surrounding residential areas. The architecture, exterior and roofing of all buildings shall be harmonious with and similar or comparable in material, appearance and color to the predominant material, appearance and color of dwellings in the community, and particularly of those dwellings surrounding the development. Clean parking lots and attractively maintained business buildings shall also be characteristics of this zone.
- B. In general, each new RSC-1 Residential Shopping Center Zone should be located at least one mile from any other zone where business is permitted. However, new non-RSC-1 Business Zones may be located at any distance from an RSC-1 Zone.

- C. In order to accomplish the objectives and purposes of this title, the following regulations shall apply in the RSC-1 Residential Shopping Center Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-10A-2: **USE REQUIREMENTS:** Only the following uses shall be permitted in the RSC-1 Residential Shopping Center Zone:

A store selling or offering any combination of the uses listed in this section.

Antique shops.

Any use permitted in the PB Professional Business Office Zone.

Appliance sales, service and repair shops.

Art galleries, museums and athletic clubs.

Automobile supply shops.

Bakeries and confectionery; on site retail only.

Banks and financial institutions.

Beds and breakfasts with a conditional use permit.

Book stores.

Camera and photo supply shops.

Cellular and wireless phone dealerships.

Cleaners, dry cleaners, laundries (excluding cleaning, dry cleaning and laundry plants), and pressers, alterers and repairers of wearing apparel.

Clothing stores.

Clubs and fraternal societies.

Computer sales, service and maintenance.

Copy centers.

Craft shops.

Dairy product stores.

Delicatessens.

Drug stores and pharmacies.

Dry goods stores.

Electronic device repair shops.

Florist shops.

Food catering services.

Furniture repair shops.

Garden supply stores.

Gift shops.

Grocery stores.

Hair salons, barbershops, beauty parlors.

Hobby supply stores.

Jewelry stores.

Laundromats.

Music studios and other music related businesses.

Paint and wallpaper stores.

Pawnshops.

Pet shops.

Restaurants, excluding the sale and/or offering of liquor, beer or wine, and any seating limited to less than thirty (30) people.

Service stations (excluding super service stations) and convenience stores.

Shoe sales and shoe repair shops.

Sporting goods stores.

Stationery stores.

Variety stores.

Video outlets.

Other uses ruled by the City Council to be similar to the above listed uses and in harmony with the objectives and characteristics of this zone. (Ord. 176, 1-10-2007)

10-10A-3: **AREA REQUIREMENTS:** There shall be no minimum or maximum lot size requirements for any individual lot within the RSC-1 Zone, except as required for setback and off street parking space. (Ord. 176, 1-10-2007)

10-10A-4: **FRONTAGE WIDTH REQUIREMENTS:** There shall be no maximum or minimum frontage width requirements for any individual lot in the RSC-1 Residential Shopping Center Zone. (Ord. 176, 1-10-2007)

10-10A-5: **LOCATION REQUIREMENTS:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or granted easement of vehicular access, except as herein provided and required under the provisions of this title. All buildings' drip lines must remain within the property. All buildings must be set back a minimum of ten feet (10') from any property line dividing the property from a residential zone. (Ord. 176, 1-10-2007)

10-10A-6: **HEIGHT REQUIREMENTS:** No building may be less than one story in height (that is, no basement only buildings are permitted). In addition to International Building Code requirements, any building where the eaves of the roof, or for roofs without eaves where the top of the building walls are greater than twenty five feet (25') above the

average natural grade of the land, must be reviewed by the Fire Marshal and approved by the City Council. (Ord. 176, 1-10-2007)

10-10A-7: **SIZE OF BUILDINGS:** The total floor space of all buildings within an RSC-1 development shall not exceed ten thousand (10,000) square feet. (Ord. 176, 1-10-2007)

10-10A-8: **SPECIAL PROVISIONS:**

- A. Landscaping: Landscaping shall be as set forth in section 10-14-23 of this title.
- B. Storage: All storage and activities, except loading and unloading and automobile parking and refueling, shall be conducted entirely within a building, provided that Christmas trees and other seasonal items may be stored and sold outside a building.
- C. Maintenance Of Premises: No dust, odor, smoke, vibration or intermittent light, glare or noise shall be permitted which is discernable beyond the premises, except from normal movement of automobile traffic.
- D. Off Street Parking Space: Off street parking shall be provided, as required in this title, and shall be hard surfaced.
- E. Prohibited Uses, Buildings: Residential buildings, churches, schools and industrial uses and buildings shall not be permitted in any RSC-1 Zone.
- F. Lighting: All lighting shall be indirect or shielded and so designed as to reflect away from adjoining residences. Parking lots must be safely lit during nighttime business hours, but no direct lighting may extend outside the property boundaries. (Ord. 176, 1-10-2007)



## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE B. C-1 LIMITED BUSINESS ZONE**

## SECTION:

- 10-10B-1: General Objectives And Characteristics Of Zone
- 10-10B-2: Use Requirements
- 10-10B-3: Area Requirements
- 10-10B-4: Width Requirements
- 10-10B-5: Location Of Buildings And Structures
- 10-10B-6: Special Provisions

**10-10B-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The C-1 Limited Business Zone has been established as a district in which the primary use of the land is for retail stores and service establishments which supply residential needs of the people living in the surrounding area. This zone is usually located at specific locations along major streets and is characterized by buildings having a wide variety of architectural forms and shapes.
- B. The objectives in establishing this zone are to:
  - 1. Encourage the development and continued use of the land within the zone for business purposes.
  - 2. Promote the development of serviceable and convenient retail and service facilities.
  - 3. Provide appropriate areas for the development of business uses within the City and to prevent the scattering of business uses into surrounding zones.

4. Prohibit industrial uses within the zone and to discourage any other use which tends to thwart or militate against the continued use and development of the land within the zone for its primary purpose.

- C. In order to accomplish the objectives and purposes of this title, the following regulations shall apply in the C-1 Limited Business Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-10B-2: **USE REQUIREMENTS:** The following uses shall be permitted in the C-1 Limited Business Zone:

Any use permitted in the RSC-1 Residential Shopping Zone.

Appliance shops and appliance service establishments.

Bakeries.

Businesses and establishments with vehicular drive-in and drive-through pick up facilities.

Signs identifying the buildings and signs advertising products sold on the premises.

Other uses ruled by the City Council to be similar to the above listed uses and in harmony with the objectives and characteristics of this zone. (Ord. 176, 1-10-2007)

10-10B-3: **AREA REQUIREMENTS:** There shall be no lot area requirements for commercial buildings and structures constructed in accordance with the City Building Code, except as may be required in section 10-14-9 of this title. There shall be no area requirements for other main buildings, except that which is required for off street parking and yards. (Ord. 176, 1-10-2007)

10-10B-4: **WIDTH REQUIREMENTS:** There shall be no lot width requirements for commercial buildings and structures constructed in accordance with the City Building Code. (Ord. 176, 1-10-2007)

**10-10B-5: LOCATION OF BUILDINGS AND STRUCTURES:**

- A. **Setback:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street or from any granted easement of access, except as herein provided and required under the provisions of this title.
- B. **Side Yards:** There shall be no side yards required. (Ord. 176, 1-10-2007)

**10-10B-6: SPECIAL PROVISIONS:**

- A. **Off Street Parking:** Off street parking shall be provided, as required in this title, and shall be hard surfaced.
- B. **Storage:** All merchandise, equipment and other materials, except seasonal merchandise, such as nursery stock, fruits and vegetables, and vehicles in running order, shall be stored within an enclosed building.
- C. **Offensive Conditions:** No dust, odor, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises, except for normal movement of automobile traffic.
- D. **Landscaping:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)

## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE C. HC-1 HIGHWAY COMMERCIAL ZONE**

## SECTION:

- 10-10C-1: General Objectives And Characteristics Of Zone
- 10-10C-2: Use Requirements
- 10-10C-3: Area, Width, Location, Height And Size Requirements
- 10-10C-4: Special Provisions

**10-10C-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The HC-1 Highway Commercial Zone has been established as a district in which the primary use of the land is for retail stores and service establishments to serve the traveling public. This zone is usually located at specific locations along highways leading into the City, and is characterized by buildings set back from the right-of-way line and having a wide variety of architectural forms and shapes.
- B. The objectives in establishing this zone are to:
  - 1. Encourage the development and continued use of the land within the zone for business purposes.
  - 2. Promote safety on the highway.
  - 3. Maintain maximum use of high right-of-way for travel purposes.
  - 4. Prohibit uses which tend to thwart or militate against the continued use and development of the land within the zone for its primary purpose.
- C. In order to accomplish the objectives and purposes of this title and to promote the essential characteristics of this zone, the following regu-

lations shall apply in the HC-1 Highway Commercial Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-10C-2: **USE REQUIREMENTS:** The following uses shall be permitted in the HC-1 Highway Commercial Zone:

Amusement enterprises, such as merry-go-rounds, penny arcades, etc., by conditional use permit.

Any use permitted in the RSC-1 Residential Shopping Center Zone and in the C-1 Limited Business Zone.

Billboards by conditional use permit (refer to chapter 21 of this title for regulations).

Commercial garages, but not including the storage of wrecked or dismantled automobiles.

Drive-in eating establishments.

Machinery sales establishments by conditional use permit.

Motels.

New car lots by conditional use permit.

Public garages and public parking lots for pay.

Radio and TV studios, but excluding antenna towers greater than thirty feet (30') in height above the average terrain.

Retail establishments with incidental wholesaling, but excluding establishments, the principal activity of which is a storage warehouse.

Super service stations by conditional use permit.

To serve liquor by the drink, and beer and wine by the drink, at retail upon premises as a secondary use only wherein the primary operation of the premises is as a restaurant/cafe in the business of preparing, serving and dispensing food and beverages wherein such premises does not have an age restriction imposed by any chapter within Idaho Code title 23.

Used car lots by conditional use permit.

Other uses ruled by the City Council to be similar to the above listed uses, and in harmony with the objectives and characteristics of this zone. (Ord. 176, 1-10-2007)

10-10C-3: **AREA, WIDTH, LOCATION, HEIGHT AND SIZE REQUIREMENTS:** No requirements, except that all buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

10-10C-4: **SPECIAL PROVISIONS:**

- A. **Objectionable Conditions:** No dust, odor, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises, except for normal movement of automobile traffic.
- B. **Landscaping:** Landscaping shall be as set forth in section 10-14-23 of this title.
- C. **Storage:** All merchandise, equipment and other materials, except seasonal merchandise, such as nursery stock, fruits and vegetables, and vehicles in running order, shall be stored within a solid structure fenced site obscuring enclosure (i.e., vinyl or block fencing). (Ord. 176, 1-10-2007)

## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE D. CC-1 CENTRAL COMMERCIAL ZONE**

## SECTION:

- 10-10D-1: Objectives And Characteristics Of Zone
- 10-10D-2: Use Regulations
- 10-10D-3: Area, Frontage, Location, Height And Size Requirements
- 10-10D-4: Special Provisions

**10-10D-1: OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objectives in establishing the CC-1 Central Commercial Zone is to create and maintain a dominant shopping and financial center. For this reason, the zone has been located where the street pattern makes the business buildings readily accessible to all parts of the City and surrounding region, and where business and shopping activities can be carried on with maximum convenience. The CC-1 Central Commercial Zone is characterized by clean, well lighted streets, ample pedestrianways and vehicular parking lots for the convenience and safety of the public. Attractive, inviting and well maintained shops, stores, offices and other buildings are also characteristic of this zone.
- B. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations shall apply in the CC-1 Central Commercial Zone. (Ord. 176, 1-10-2007)

**10-10D-2: USE REGULATIONS:** The following uses shall be permitted in the CC-1 Central Commercial Zone:

Air conditioning service establishments.

Amusement enterprises, such as penny arcades, carousels, swimming pools and dance halls.

Antique shops.

Any use permitted in the RSC-1, C-1 and HC-1 Zones.

Appliance stores.

Assembly of appliances from previously prepared parts.

Auction houses.

Auto body and fender shops.

Auto painting.

Automobile supply shops and service stations.

Bakeries (wholesale and retail).

Boat sales and repair.

Broadcasting studios.

Building supply stores, except material sales yards and accessory storage buildings.

Canvas products sales and fabrication (on site, retail only).

Catering services (food).

Clubs and fraternal societies.

Engraving, printing.

Furniture stores.

Garages (commercial, but not including the storage of more than 10 wrecked or dismantled automobiles).

Glass cutting and installation.

Hotels, motels.



Laundries.

Offices and office buildings.

Parking lots and structures.

Pawnshops.

Plumbing and carpenter shops and similar craft shops.

Public buildings and public utility buildings and facilities and structures.

Signs (commercial off premises) by conditional use permit.

Taxi stands, bus depots, heliport and passenger railroad stations.

Upholstery stores and repair shops.

Wholesale establishments with stock on premises, but excluding establishments, the principal activity of which is a storage warehouse.

Other uses similar to the foregoing uses, which are ruled by the City Council to be in harmony with the intent of this zone. (Ord. 176, 1-10-2007)

10-10D-3: **AREA, FRONTAGE, LOCATION, HEIGHT AND SIZE REQUIREMENTS:** No requirements, except that all buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

10-10D-4: **SPECIAL PROVISIONS:**

- A. Off Street Parking: All off street parking spaces shall be hard surfaced.
- B. Storage: All merchandise, equipment and other material, except for seasonal items on a temporary basis, such as nursery stock, and except for vehicles in running order, shall be stored within an enclosed building or within a sight obscuring enclosure.

- C. Offensive Conditions: No dust, odor, smoke, vibrations, glare or noise shall be emitted which is discernible beyond the premises, except from normal movement of automobile traffic.
- D. Landscaping: Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)

## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE E. GC-1 GENERAL COMMERCIAL ZONE**

## SECTION:

- 10-10E-1: General Objectives And Characteristics Of Zone
- 10-10E-2: Use Requirements
- 10-10E-3: Area, Frontage, Location, Height And Size Requirements
- 10-10E-4: Landscaping

**10-10E-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The GC-1 General Commercial Zone has been established as a district in which the primary use of the land is for heavy commercial establishments and for nonnuisance industries. The objectives in establishing this zone are to:
  - 1. Designate the most appropriate land within the City for retail and wholesale establishments and to prevent the scattering of commercial uses into surrounding zones.
  - 2. Encourage the construction of and continued use of the land for commercial and industrial buildings.
  - 3. Discourage the use of the land for dwellings and for nuisance industries or any other use which would thwart or substantially interfere with the use of the land for its primary purpose.
- B. This zone is characterized by a mixture of businesses, warehouses, craft shops and manufacturing and industrial enterprises, which are incidental to retail and wholesale establishments. Since the zone permits such a wide variety of uses, owners and developers of property should bear in mind that many of the protective features

which zoning normally affords are largely nonexistent and should develop and maintain their property in recognition thereof.

- C. Representative of the uses within this zone are retail and wholesale establishments, plumbing, carpentry and other craft shops, warehousing, equipment yards and equipment sales yards.
- D. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations shall apply in the GC-1 General Commercial Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

**10-10E-2: USE REQUIREMENTS:** The following uses shall be permitted in the GC-1 General Commercial Zone:

Any use permitted in the RSC-1, C-1 and HC-1 Limited Business Zone and in the CC-1 Central Commercial Zone.

Assembling and the sale of farm equipment, mining machinery, vehicles and similar articles, but excluding junkyards and auto wrecking yards.

Building materials storage yards.

Food preparation plants, the operation of which is not obnoxious by reason of emission of odors, smoke or noise.

Glass cutting and installation.

Large animal practice veterinary hospitals.

Milk distribution stations, creameries, bottling works and similar businesses.

Plumbing and carpenter shops and similar craft shops.

Radio and TV studios, with antenna towers greater than thirty feet (30') in height above the average terrain permitted.

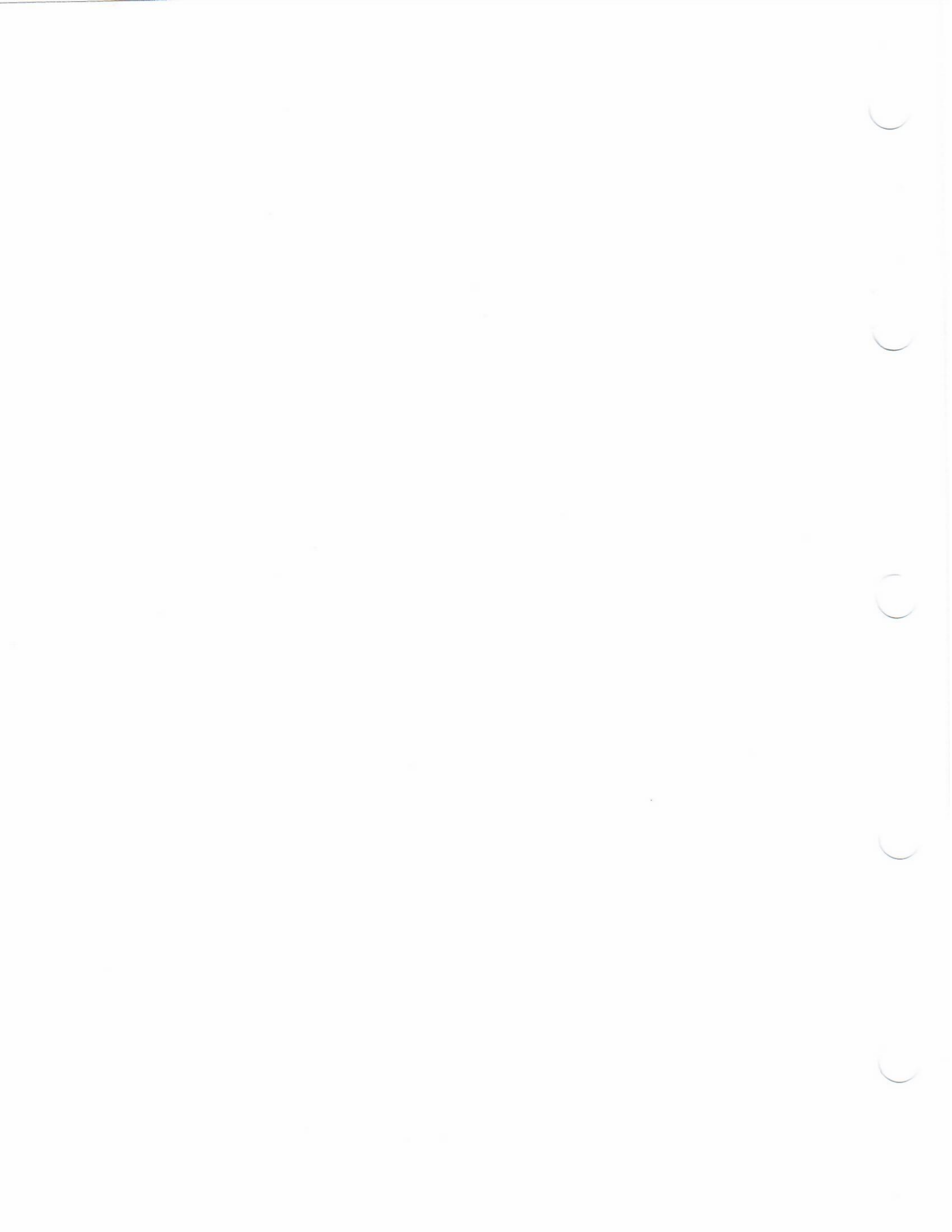
Service establishments, such as dyeing, cleaning or laundry plants, printing plants, machine shops, blacksmith shops.

Wholesale distributing houses and warehouses.

Other uses ruled by the City Council to be similar to the foregoing uses; provided, that such other uses are not inconsistent with the objectives and characteristics of this zone. (Ord. 176, 1-10-2007)

10-10E-3: **AREA, FRONTAGE, LOCATION, HEIGHT AND SIZE REQUIREMENTS:** No requirements, except that all buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

10-10E-4: **LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)



## CHAPTER 10

## COMMERCIAL ZONES

**ARTICLE F. PB PROFESSIONAL BUSINESS ZONE**

## SECTION:

- 10-10F- 1: Establishment Of Zone
- 10-10F- 2: General Objectives And Characteristics Of Zone
- 10-10F- 3: Use Requirements
- 10-10F- 4: Area Requirements
- 10-10F- 5: Width Requirements
- 10-10F- 6: Location Of Buildings
- 10-10F- 7: Height Requirements
- 10-10F- 8: Size Of Buildings
- 10-10F- 9: Supplementary Regulations
- 10-10F-10: Landscaping

10-10F-1: **ESTABLISHMENT OF ZONE:** There is hereby established within the City and within the zoning laws of the City, a Professional Business Zone, known as a PB Zone. (Ord. 176, 1-10-2007)

10-10F-2: **GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The objective in establishing a PB Professional Business Zone is to provide for business, professional governmental and Municipal offices, cultural facilities, church and school offices and structures and certain other type uses of a semicommercial nature. This zone is characterized by a relatively high traffic volume and a wide variety of office type buildings.
- B. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations shall apply in the PB Professional Business Zone. (Ord. 176, 1-10-2007)

10-10F-3: **USE REQUIREMENTS:** Only the following uses shall be permitted in this zone:

Business and professional offices, including incidental storage, but excluding wholesale and retail shops or markets.

Directional signs not to exceed two (2) square feet; also signs advertising parking space, providing the signs advertising such use shall not exceed eight (8) square feet and shall not be constructed to a height greater than four feet (4').

Government offices, excluding those where storage of materials or equipment is a primary purpose.

Medical and dental clinics and offices.

Mortuaries and funeral parlors subject to approval of Planning and Zoning Commission.

Nonflashing signs advertising the services performed within the structure as permitted by the ordinances of the City.

Nonprofit community halls and lodges, fraternal and benevolent meeting halls and church or school offices and structures.

Off street parking lots in conjunction with permitted uses.

Small animal practice veterinary hospitals.

Other uses which have been ruled by the City Council to be similar to the uses hereinabove listed. (Ord. 176, 1-10-2007)

10-10F-4: **AREA REQUIREMENTS:** No area requirement, except that which is required for off street parking and yards are established for the PB Zone. (Ord. 176, 1-10-2007)

10-10F-5: **WIDTH REQUIREMENTS:** The minimum width of any building site for a main building shall be fifty (50) linear feet, measured at the building setback line, except that the minimum width of lots for mortuaries or funeral parlors shall be one hundred feet (100'). (Ord. 176, 1-10-2007)



**10-10F-6: LOCATION OF BUILDINGS:**

- A. **Setback:** All buildings shall be set back a minimum distance of thirty feet (30') from the property line adjacent to any public street, except as herein provided and required under the provisions of this title.
- B. **Side Yards:** For main buildings, there shall be side yards of not less than six feet (6'). Side yard requirements for accessory buildings shall be the same as for the main buildings, except that no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building.
- C. **Rear Yard:** Ten feet (10') for all buildings, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

**10-10F-7: HEIGHT REQUIREMENTS:** There shall be no height requirements, except as limited by yard requirements. (Ord. 176, 1-10-2007)

**10-10F-8: SIZE OF BUILDINGS:** There shall be no requirements as to the size of buildings. (Ord. 176, 1-10-2007)

**10-10F-9: SUPPLEMENTARY REGULATIONS:** Chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title, shall apply to the PB Zone. (Ord. 176, 1-10-2007)

**10-10F-10: LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)

## CHAPTER 11

## MANUFACTURING ZONES

**ARTICLE A. M-1 MANUFACTURING ZONE**

## SECTION:

- 10-11A-1: General Objectives And Characteristics Of Zone
- 10-11A-2: Use Requirements
- 10-11A-3: Area Requirements
- 10-11A-4: Width Requirements
- 10-11A-5: Location Requirements
- 10-11A-6: Height Requirements
- 10-11A-7: Size Requirements
- 10-11A-8: Special Provisions

**10-11A-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The M-1 Manufacturing Zone has been established as a district in which the primary use of the land is for manufacturing purposes.
- B. This zone is characterized by relatively flat, open land, conveniently located close to transportation, public utilities and other facilities necessary for successful manufacturing operations. This zone is also characterized by building and off street parking lots situated among spacious lawns, trees, shrubs and other landscape features. Most distinguishing about the characteristics of this zone, however, is the attractively designed buildings and parklike appearance of the grounds surrounding the buildings.
- C. Representative of the uses within this zone are manufacturing establishments, office buildings, educational buildings and research laboratories.
- D. As a means of attracting manufacturing establishments into this zone, regulations designed to encourage and maintain an attractive

parklike environment has been adopted. Also, dwellings and other uses, which tend to thwart or prevent the use of land for manufacturing purposes, have been excluded.

E. The objectives in establishing the M-1 Zone are to:

1. Provide space for certain types of manufacturing establishments, which require location among spacious landscaped surroundings, free from smoke, noise, fumes, vibrations, etc.

2. Broaden the tax base.

3. Encourage new industry to locate within the City to the end that the economic and social well being of the City and its inhabitants may be enhanced thereby.

F. In order to accomplish the objectives and purposes of this title and to promote the characteristics of this zone, the following regulations shall apply in the M-1 Manufacturing Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-11A-2: **USE REQUIREMENTS:** The following uses shall be permitted in the M-1 Zone:

Assembling of material from previously prepared parts.

Buildings accessory to and incidental to uses permitted in the zone.

Manufacturing, processing and fabricating establishments, except those in which explosives or other dangerous materials are used.

Office buildings and parking lots incidental to uses otherwise permitted in the zone.

Parking lots.

Research laboratories, excluding activities hazardous to explosion or fire.

Other uses similar to the foregoing uses, which are ruled by the City Council to be in harmony with the intent of this zone. (Ord. 176, 1-10-2007)

10-11A-3: **AREA REQUIREMENTS:** No single M-1 Zone shall contain less than thirty (30) acres; however, there shall be no requirements for individual buildings or lots, except that the area shall be sufficient to provide for setbacks, landscaping and off street parking. (Ord. 176, 1-10-2007)

10-11A-4: **WIDTH REQUIREMENTS:** There shall be no requirements for individual buildings or lots. (Ord. 176, 1-10-2007)

10-11A-5: **LOCATION REQUIREMENTS:** All buildings shall be set back a minimum distance of thirty feet (30') from any public street, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

10-11A-6: **HEIGHT REQUIREMENTS:** No requirements. (Ord. 176, 1-10-2007)

10-11A-7: **SIZE REQUIREMENTS:** No requirements. (Ord. 176, 1-10-2007)

10-11A-8: **SPECIAL PROVISIONS:**

- A. **Maintenance Of Premises:** The entire lot shall be kept free from refuse, debris and waste material; and all such refuse, debris and waste material shall be kept in approved containers and stored so that the containers cannot be seen from any public street. No dust, odors, smoke, vibrations, intermittent lights, glare, noise, fumes, ash or sound shall be emitted which is discernible beyond the premises except that which arises due to normal traffic movement.
- B. **Use Within Building:** All storage and activities, except loading and unloading and automobile parking, shall be conducted within a building.
- C. **Landscaping:** Landscaping shall be as set forth in section 10-14-23 of this title.

- D. Use Of Setback Space: The required setback space shall not be used for automobile parking, but shall be landscaped and maintained with lawns and trees and shrubs, except for permitted driveways.
- E. Lot Coverage: All buildings on any lot shall not occupy more than thirty percent (30%) of the total area of any lot. (Ord. 176, 1-10-2007)

## CHAPTER 12

## INDUSTRIAL ZONES

**ARTICLE A. I&M-1 INDUSTRIAL AND MANUFACTURING ZONE**

## SECTION:

- 10-12A-1: General Objectives And Characteristics Of Zone
- 10-12A-2: Use Requirements
- 10-12A-3: Area Requirements
- 10-12A-4: Width Requirements
- 10-12A-5: Location Requirements
- 10-12A-6: Height Requirements
- 10-12A-7: Size Of Buildings
- 10-12A-8: Landscaping

**10-12A-1: GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The I&M-1 Industrial and Manufacturing Zone has been established as a district in which the primary use of the land is for manufacturing, fabricating, processing and warehousing establishments. This zone is characterized by relatively flat land peculiarly suited for industrial uses because of the proximity to railroad tracks and streets and the availability of utilities necessary for successful industrial use. While much of the land within this zone is currently devoted to agriculture and other open land uses, it is intended that manufacturing and industrial uses shall be directed into this zone as the needs arise.
- B. Representative of the uses within this zone are manufacturing and fabrication and processing, storage, warehousing and wholesale distribution and railroad trackage, switchyards and terminal facilities. Uses which give rise to excessive noise, vibration, smoke, odor or dust, fumes or danger of explosion have been excluded from this zone. As a means of attracting manufacturing and industrial establishments into this zone, certain regulations concerning the external

appearance of building and structures and the maintenance and use of land have been adopted. Also, dwellings and other uses, which tend to thwart or prevent the use of the land for its primary purposes have been excluded from this zone. The objectives in establishing the I&M-1 Zone are to:

1. Provide space for manufacturing and industrial uses within the City in appropriate locations and to discourage uses which tend to thwart the use of land for industrial purposes from locating within this zone.
  2. Encourage the expansion of industrial establishments already existing within the zone.
  3. Encourage new industry to locate within the zone to the end that the economic well being of the City and its inhabitants shall be enhanced thereby.
  4. Prevent the encroachment of industrial uses into nonindustrial zones.
  5. Prevent the commingling of incompatible uses and the attending depreciation of property values and the unwholesome social conditions resulting therefrom.
- C. In order to accomplish the objectives and purposes of this title and to encourage the most appropriate use of land within this zone, the following regulations shall apply in the I&M-1 Industrial and Manufacturing Zone (see also chapters 14, "Supplementary Regulations To Zones", and 22, "Parking And Loading Requirements", of this title). (Ord. 176, 1-10-2007)

10-12A-2: **USE REQUIREMENTS:** Land within the I&M-1 Zone may be devoted to any use, with the following guidelines and exceptions:

- A. **Outdoor Shooting Ranges:** Outdoor shooting ranges shall be first approved as a conditional use by the Board of Adjustment.
- B. **Sexually Oriented Businesses:** Sexually oriented businesses shall be allowed; provided, that no business be located within two thousand five hundred feet (2,500') of any religious institution, school, public park or building or residentially zoned property.

C. **Prohibited Uses:** The following uses shall be prohibited in the I&M-1 Zone:

All residential uses, except the residence of a caretaker of industrial plant; apartment houses, trailer courts and tourist courts, cement, lime, gypsum, rock wool or plaster of paris manufacture; acid manufacture; explosive manufacture and storage; glue manufacture; fat rendering; distillation of bones and organic fertilizer manufacture; petroleum refining and refining of crank case oil; rubber manufacture; milling or smelting of ores; garbage dumps or dead animal reduction; stock yards, feed yards or slaughter of animals; amusement enterprises, provided that outdoor theaters shall be permitted; beer parlors, bowling alleys, clubs and fraternal societies, dance halls, nightclubs, pool and billiard halls, dancing and music schools, gymnasium and physical culture establishments, hotels and hospitals for human care. (Ord. 176, 1-10-2007)

10-12A-3: **AREA REQUIREMENTS:** There shall be no area requirements, except that an area sufficient to accommodate off street parking, loading and unloading and vehicular access shall be provided and maintained. (Ord. 176, 1-10-2007)

10-12A-4: **WIDTH REQUIREMENTS:** No requirements. (Ord. 176, 1-10-2007)

10-12A-5: **LOCATION REQUIREMENTS:** All buildings shall be set back a minimum distance of thirty feet (30') from any public street, except as herein provided and required under the provisions of this title. (Ord. 176, 1-10-2007)

10-12A-6: **HEIGHT REQUIREMENTS:** No requirements. (Ord. 176, 1-10-2007)

10-12A-7: **SIZE OF BUILDINGS:** No requirements. (Ord. 176, 1-10-2007)

10-12A-8: **LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)



CHAPTER 12

INDUSTRIAL ZONES

**ARTICLE B. I&M-2 INDUSTRIAL AND MANUFACTURING ZONE**

SECTION:

- 10-12B-1: General Objectives And Characteristics Of Zone
- 10-12B-2: Use Requirements
- 10-12B-3: Landscaping

10-12B-1: **GENERAL OBJECTIVES AND CHARACTERISTICS OF ZONE:**

- A. The I&M-2 Industrial and Manufacturing Zone has been established as a district in which the primary use of the land is for the selling of livestock.
- B. In order to accomplish the objectives and purposes of this title, the following regulations shall apply in the I&M-2 Industrial and Manufacturing Zone. (Ord. 176, 1-10-2007)

10-12B-2: **USE REQUIREMENTS:** The following uses shall be permitted in the I&M Zone:

Any use permitted in the I&M-1 Industrial and Manufacturing Zone.

Livestock auctions and activities related to the handling, transporting and selling of livestock. (Ord. 176, 1-10-2007)

10-12B-3: **LANDSCAPING:** Landscaping shall be as set forth in section 10-14-23 of this title. (Ord. 176, 1-10-2007)

CHAPTER 13  
**OVERLAY ZONES**

SECTION:

- 10-13-1: Animal Overlay (AO-)
- 10-13-2: Planned Transition Overlay (PT-)
- 10-13-3: Conditional Use Permit Overlay (CUP-)

10-13-1: **ANIMAL OVERLAY (AO-):** Regulations pertaining to use, area, width, location of buildings and structures, height and size, and special provisions, shall be the same as in the underlying basic zones, except that in the Animal Overlay (AO-), allowing the pasturing of livestock shall follow the provisions specified in section 5-1-5 of this Code regarding the keeping of livestock. (Ord. 176, 1-10-2007; amd. 2018 Code)

10-13-2: **PLANNED TRANSITION OVERLAY (PT-):**

A. General Objectives And Characteristics:

1. The objectives in establishing the Planned Transition Overlay (PT-) are to provide for an orderly transition from one zoning classification to another. Normally the transition will involve transitioning from one type of zone to another (for example, from residential to commercial), or from a zone that has many development restrictions to a less restrictive zone (for example, from a low density residential zone to a high density residential zone). Usually transitioning will be used along arterial streets that have developed along residential neighborhoods causing problems with traffic and noise for existing residential properties.

2. To accomplish the transition, each area will be addressed on an individual basis, and conditions will be included in the development plan such that the new usage will have the least amount of impact on neighboring properties.

- B. **Overlay Symbols And Names:** The symbol for each Planned Transition Overlay granted shall be PT-, followed by the symbol of the zone being transitioned to. The name shall be "Planned Transition-" followed by the name of the zone being transitioned to. Examples follow (but are not limited to):

Symbol	Name
PT-R-3A	Planned Transition - R-3A Residence Zone
PT-PB	Planned Transition - Professional Business Zone
PT-RSC-1	Planned Transition - Residential Shopping Center Zone

- C. **Use, Area, Width, Location, Height And Minimum Lot Size:** The determination of these items would be done by review of the area being proposed for transitioning. Allowed uses would be those allowed in the zone that the overlay is transitioning to. Lot area, width, location and height would be recommended at the review process based on existing buildings and lot sizes, and the requirements of the zone being transitioned to. Maximum height of new buildings would be determined to maintain harmony with the adjoining properties. Generally, each building location would be required to meet the requirements of the zone being transitioned to.

- D. **Development Standards:** The following development standards shall be required of all properties being transitioned. Additional standards may be addressed as necessary during the review and public hearing process to include items specific to the transitioning properties and the surrounding neighborhood. Additional standards shall be included in the development plan of the transition area.

1. **Lighting:** All lighting shall be directed to avoid direct glare on adjacent properties. If necessary, lighting shall be shielded to protect adjacent properties. A lighting plan shall be submitted with the required site plan.

2. **Sidewalks:** In areas that do not currently have sidewalks or in the case of sidewalk disrepair, sidewalk, curb and gutter shall be installed or replaced as necessary.

3. **Parking:** Parking shall meet the standards of the zone being transitioned to.

4. Landscaping: The minimum landscaping requirements in section 10-14-23 of this title shall be met. Whenever practical, existing trees shall be saved.

5. Access To Public Roads: Driveways shall be minimized throughout the area being transitioned. Access shall be reviewed during the review and public hearing process. Existing driveways that are not part of the final development plan shall be removed and replaced with curb, gutter and sidewalk.

E. Development Plan: A development plan shall be prepared which addresses specific issues in regards to the area being proposed for the transition overlay. The development plan shall be reviewed by the Planning and Zoning Commission and a recommendation shall be made to the City Council. After approval by the City Council, the development plan shall be recorded as part of the subdivision. The following list of items should be reviewed and included in each new transition overlay development plan as necessary:

1. Zone to be transitioned to.
2. Minimum lot size and frontage. This could have a requirement to combine specific lots during the transition phase.
3. Once a building permit has been issued on a specific property, building or lot within a transition zone, as part of the Planned Transition Overlay, the development plan relating to the transition shall be completed on said property within eighteen (18) months from the date of issuance of said permit prior to a certificate of occupancy being granted. Completion must include all required elements of the transition development plan, including, but not limited to, street accesses, parking, landscaping, platting and conversions of all remaining buildings on said property. Extension requests must be submitted in writing to the Zoning Administrator prior to the deadline. The extension request will be submitted for staff review and approval or denial. In the event the extension request is for more than an additional three (3) months, the request shall be submitted to the Board of Adjustment for review and approval or denial.
4. Number of accesses to public streets to be allowed in the transitioning area shall be combined to comply as close as possible with the access management plan. Consideration should be made to combine as many accesses as possible to still allow access to the public street and the transitioning properties.

5. Buffering adjacent properties from the new usage. A buffer plan will be determined to protect the neighboring residences where the transition takes residential to higher density residential, or to a nonresidential use. Buffering will include the type of fence and/or additional landscaping, beyond what is required in the zone being transitioned to.

6. Additional items may be included that may be specific to a given area or transition proposal.

- F. Final Zone Change: After completion and final inspections for compliance to the development plan, the transition shall be considered complete. The Transition PT Overlay shall be accepted, the overlay designation shall be removed and the new overlay zone shall officially be shown as the zone that was transitioned to on the zoning map for the City.
- G. Plat Required: As each property is developed to meet the standards of the transition overlay, said property shall be platted to meet the existing platting requirements of the City. In the event multiple lots are required to meet the development plan of the overlay, said lots shall be combined and platted as one lot.
- H. Public Hearing Required: Prior to the placement of an overlay and transition zoning, there shall be a public hearing held before the Planning and Zoning Commission. The Planning and Zoning Commission shall make a recommendation to the City Council either to approve or deny the proposed transition overlay and the transition zone. All requirements of the public hearing process in regards to notice and publications shall be followed for this public hearing. (Ord. 176, 1-10-2007)

**10-13-3: CONDITIONAL USE PERMIT OVERLAY (CUP-):**

- A. General Objectives And Characteristics: The objectives in establishing the Conditional Use Permit Overlay is to provide for location of permanently issued conditional use permits. Normally the CUP Overlay designation will show the location and existing zoning for churches and schools.
- B. Overlay Symbols And Names: The symbol for the designation of this overlay shall be CUP-, and the name shall be "Conditional Use Permit Overlay-". Following each CUP designation shall be the zoning

that the property has been granted. Examples follow (but are not limited to): (Ord. 176, 1-10-2007)

Symbol	Name
CUP-R-1	Conditional Use Permit - R-1 Residence Zone
CUP-C-1	Conditional Use Permit - C-1 Limited Business Zone

(Ord. 176, 1-10-2007; amd. 2018 Code)

- C. Public Hearing; Approval: After the required public hearing for a conditional use permit and upon approval of the Governing Body, the CUP- designation shall be placed on the zoning map with the appropriate overlay designation. (Ord. 176, 1-10-2007)

## CHAPTER 14

**SUPPLEMENTARY REGULATIONS TO ZONES**

## SECTION:

- 10-14- 1: Effect Of Supplementary Regulations
- 10-14- 2: Yard Space For One Building Only
- 10-14- 3: Sale Or Lease Of Required Space
- 10-14- 4: Sale Or Use Of Lots Below Minimum Space Requirements
- 10-14- 5: Yards To Be Unobstructed; Exceptions
- 10-14- 6: Area Of Accessory Buildings
- 10-14- 7: Additional Height Allowed For Public Buildings
- 10-14- 8: Clear View Of Intersecting Streets And Ways
- 10-14- 9: Effect Of Street Plan
- 10-14-10: Dwelling Sites To Abut Upon Public Street; Exceptions
- 10-14-11: Flood Channels And Watercourses
- 10-14-12: Swimming Pools
- 10-14-13: Concessions In Public Parks And Playgrounds
- 10-14-14: Sewage Disposal
- 10-14-15: Storage Of Junk And Debris Not Permitted In Residential Zones
- 10-14-16: Trailers
- 10-14-17: Storage Of Commercial Vehicles In Residential Zones Prohibited
- 10-14-18: Basement Houses Prohibited
- 10-14-19: Exceptions To Front And Side Setback Requirements
- 10-14-20: Advertising Signs In Residential Zones
- 10-14-21: Prohibition Of Uses
- 10-14-22: Temporary Uses Of Land And Structures
- 10-14-23: Landscaping

10-14-1: **EFFECT OF SUPPLEMENTARY REGULATIONS:** The regulations herein set forth in this chapter qualify or supplement, as the case may be, the regulations within zones appearing elsewhere in this title. (Ord. 176, 1-10-2007)

10-14-2: **YARD SPACE FOR ONE BUILDING ONLY:** No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with provisions of this title shall be considered as providing a yard or open space for any other building, nor shall any yard or any other required open space on an adjoining lot be considered as providing the yard or open space whereon a building is to be created or established. (Ord. 176, 1-10-2007)

10-14-3: **SALE OR LEASE OF REQUIRED SPACE:** No space needed to meet the width, yard, area coverage, parking or other requirements of this title for a lot or building may be sold or leased apart from such lot or building unless other space so complying is provided. (Ord. 176, 1-10-2007)

10-14-4: **SALE OR USE OF LOTS BELOW MINIMUM SPACE REQUIREMENTS:** No parcel of land which has less than the minimum width or area requirements for the zone in which it is located may be cut off from a larger part of land for the purpose, whether immediate or future, of building or development as a lot. No residential lot or parcel under eight thousand (8,000) square feet shall be considered as a buildable lot or parcel in the City. Any residential lot or parcel under eight thousand (8,000) square feet shall be designated as "nonbuildable" on any plat being recorded for the City. Except for public and community utilities, no structure shall be placed on any undersized lot within the City without first being consolidated with an adjacent lot under the same ownership. (Ord. 176, 1-10-2007)

10-14-5: **YARDS TO BE UNOBSTRUCTED; EXCEPTIONS:** Every part of a required yard shall be open to the sky and unobstructed, except for permitted accessory buildings and for projection of sills, cornices, belt courses, etc., as follows:

- A. Belt courses, sills and lentils or other ornamental features may project not more than eighteen inches (18") into front, rear and side yards.
- B. Cornices, eaves and gutters may project into any front yard, side yard or rear yard not more than one-third ( $\frac{1}{3}$ ) of the width of the minimum required side yard for the lot on which the building is to be erected.



- C. Unwalled and unroofed porches, terraces, balconies and steps may extend into any side yard not more than one-third ( $\frac{1}{3}$ ) of the width of the minimum required side yard. (Ord. 176, 1-10-2007)

10-14-6: **AREA OF ACCESSORY BUILDINGS:** No accessory building or group of accessory buildings in a residential zone shall cover more than thirty percent (30%) of the rear yard. (Ord. 176, 1-10-2007)

10-14-7: **ADDITIONAL HEIGHT ALLOWED FOR PUBLIC BUILDINGS:** Public buildings, public utility buildings, public and parochial schools and churches may be erected to any height, provided the building is set back from the required building setback lines at least one foot (1') for each additional foot of building height above the maximum height or otherwise permitted in the zone in which the building is located. (Ord. 176, 1-10-2007)

10-14-8: **CLEAR VIEW OF INTERSECTING STREETS AND WAYS:** For the purpose of ensuring reasonable visibility and safety in the residential districts and in the business districts which require buildings to be set back from the right-of-way line, the triangle of land formed on any corner lot by drawing a line between the points on the two (2) lot lines which points are each thirty feet (30') from the intersection of said lot lines shall be free from structures, except as otherwise permitted in this section; and any triangle of land formed along any side street by drawing a line between a point on the side lot line (which point is 15 feet from an alley or driveway which abuts the side street) and a point on the near side of such alley or driveway (which point is 15 feet from the side yard line) shall be free from structures, except as otherwise permitted in this section. Trees in such triangles shall be trimmed below at least seven feet (7') above the curb to provide clear visibility up to that height; and shrubs, fences and walls therein shall not exceed two feet (2') in height. (Ord. 176, 1-10-2007)

10-14-9: **EFFECT OF STREET PLAN:**

- A. Scope: The establishment of planned street widths and building setback lines is necessary in order to ensure that there will be adequate amounts of light and air to provide adequate visibility when entering or leaving the streets, to provide a proper setting for buildings away from the noise and fumes of traffic, to promote safety, to reduce congestion and to provide space for landscaping,

both now and in the future when all streets and highways have been widened to their ultimate width.

- B. **City Council To Establish:** The City Council, after holding a public hearing on a proposal to establish the width of any street or group of streets, may establish said street widths; and such width determination shall be used in calculating the required yards and buildings setback lines set forth in this title.
- C. **Measuring Depth Of Front, Side Yards:** Whenever a front or side yard is required for a building abutting on a street to be widened or constructed, as designated by the City Council, the depth of such front or side yard shall be measured from the planned street line; and no structure or building or any portion thereof shall be erected within the building setback lines. (Ord. 176, 1-10-2007)

10-14-10: **DWELLING SITES TO ABUT UPON PUBLIC STREET; EXCEPTIONS:** At least one side of each lot used as a dwelling site shall abut upon a street which has been deeded, dedicated or abandoned to the public for street purposes, and the length of such abutting side shall be at least as great as the width required for dwelling sites in the zone in which said building site is located. Except in dwelling groups (planned) or except where approved by the Board of Adjustment, every dwelling site shall face or front upon a public street. (Ord. 176, 1-10-2007)

10-14-11: **FLOOD CHANNELS AND WATERCOURSES:** No building or structure, fence or other obstruction may be constructed within any natural waterway which has been designated as a floodway by the City Council, and no such waterway may be otherwise reduced in effectiveness in any manner by the dumping of garbage or other refuse or earth or by leveling or by obliteration. All applications for permits to construct buildings within seventy five feet (75') of the banks of such designated natural flood channels shall be submitted to the Board of Adjustment. The Board of Adjustment may grant such a permit for a building or structure as a conditional use, subject to the following conditions:

- A. Adequate measures are taken to ensure the uninterrupted flow of water during floods.
- B. Adequate measures are taken to protect the building or structure from damage due to floods.

- C. Flood damage hazard to surrounding land and improvements will not be increased as a result of the construction of a building or structure for which a permit is requested.
- D. All structures will be located in accordance with the plan of flood drainage adopted by the City Council. (Ord. 176, 1-10-2007)

10-14-12: **SWIMMING POOLS:** Swimming pools not completely enclosed within a building having solid walls shall be set back at least five feet (5') from the property lines and shall be completely surrounded by a fence of at least five feet (5') in height. There shall be no openings larger than thirty six (36) square inches, except for gates, which shall be equipped with self-closing and self-latching devices. (Ord. 176, 1-10-2007)

10-14-13: **CONCESSIONS IN PUBLIC PARKS AND PLAYGROUNDS:** Concessions, including, but not limited to, amusement devices, recreational buildings and refreshment stands, shall be permitted on a public park or playground when approved by the City Council. (Ord. 176, 1-10-2007)

10-14-14: **SEWAGE DISPOSAL:** Where domestic sewage disposal facilities are to be used, which are not connected to a public sewer, approval of such facilities shall be obtained from the City before a building permit shall be issued therefor. Provided, however, that this provision shall in no way abrogate other ordinances or laws requiring connections to public sewers. (Ord. 176, 1-10-2007)

10-14-15: **STORAGE OF JUNK AND DEBRIS NOT PERMITTED IN RESIDENTIAL ZONES:** No yard or other open space surrounding an existing building in any residential zone, or which is hereafter provided around any building in any residential zone, shall be used for the storage of junk, debris or obsolete vehicles; and no land shall be used for such purposes, except as specifically permitted herein. (Ord. 176, 1-10-2007)

10-14-16: **TRAILERS:** No occupied trailer house shall be permitted in the City, except when located in an approved trailer court, or except when used as a caretaker's dwelling incidental to the use of a lot for

commercial or industrial purposes, or in connection with the construction of a structure on the lot. No unoccupied house trailer or mobile home shall be parked or allowed to remain in any required front yard or side yard which faces on a street in any residential zone. (Ord. 176, 1-10-2007)

10-14-17:     **STORAGE OF COMMERCIAL VEHICLES IN RESIDENTIAL ZONES PROHIBITED:** The storage of commercial automobiles and the storage of trucks and construction equipment such as bulldozers, graders, cement mixers, compressors, etc., shall not be permitted on any lot in any residential zone; provided, that construction equipment may be stored on a lot during the construction of a building thereon, but not to exceed one year. (Ord. 176, 1-10-2007)

10-14-18:     **BASEMENT HOUSES PROHIBITED:** Basement houses shall not be permitted in any district or zone within the City limits. (Ord. 176, 1-10-2007)

10-14-19:     **EXCEPTIONS TO FRONT AND SIDE SETBACK REQUIREMENTS:**

- A.     Requirement: Where lots comprising forty percent (40%) or more of the frontage of any block on any street are structurally developed, no building hereafter erected or structurally altered in said block shall project beyond the average front yard setback so established.
- B.     Exception: No setback requirement shall be more than the setback established for the subject zone, and it is further provided that the front of no building which is to be located between two (2) existing buildings, not exceeding one hundred fifty feet (150') apart, will be required to set back further than the average of the two (2) existing buildings. (Ord. 176, 1-10-2007)

10-14-20:     **ADVERTISING SIGNS IN RESIDENTIAL ZONES:** Except as otherwise provided in this title, no advertising signs of any kind shall be allowed in any residential zone, except signs pertaining to the sale or lease of residential property, and except for a nameplate. Signs pertaining to the sale or lease of residential property shall not exceed six (6) square feet. Nameplates or signs used in connection with a home occupation shall not exceed two hundred twenty six (226) square inches. (Ord. 176, 1-10-2007)

10-14-21: **PROHIBITION OF USES:** Uses of land which are not expressly allowed therein, except that the provisions of this title shall not apply to properties or land owned by the State, and by the United States government. Nevertheless, the provisions of this title are applicable not only to private persons, agencies and organizations, but also to all public agencies and organizations to the full extent that they may be enforceable in connection with the activities of any such public agencies or organizations. (Ord. 176, 1-10-2007; amd. 2018 Code)

10-14-22: **TEMPORARY USES OF LAND AND STRUCTURES:**

- A. Permitted; Validity: Upon written application showing proof of need, the Board of Adjustment may authorize the issuance of a building permit and/or temporary certificate of occupancy for the use of land and/or the erection and use of buildings for a temporary use; provided, that any such building permit shall be valid for a period of not to exceed one year, and such temporary certificate of occupancy shall be valid for a period of one year, subject to renewal at the discretion of the Board of Adjustment for not more than two (2) successive periods.
- B. Included Temporary Uses: Temporary uses shall include only non-commercial concrete batching plants, both incidental and necessary to construction within the immediate area; temporary buildings or yards for construction materials and/or equipment both incidental and necessary to construction within the immediate area; provided, that no retail or wholesale outlet is maintained in connection therewith; temporary offices used in conjunction with the construction operations within the immediate area, or the sale of property within a project. (Ord. 176, 1-10-2007)

10-14-23: **LANDSCAPING:** The purpose of the landscaping requirements in this title shall be to bring relief from heat, noise and glare through proper placement of green plants and trees and to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings.

- A. Landscaping Defined: "Landscaping" shall mean some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. In addition, the combination or design may include rock and such structural features as fountains, pools, art works, screens, walls, fences or benches, but such objects alone shall not meet the requirements

of this title. The selected combination of objects for landscaping purposes shall be arranged in a harmonious manner.

- B. Landscaping And Screening Required: In zones requiring landscaping, there shall be a landscaped strip of lawn, shrubbery and/or trees provided and maintained along the entire length of any street within the zone. A landscaping width of thirty feet (30') for all developments abutting any arterial street shall be required. Developments abutting a collector street shall provide a fifteen foot (15') buffer along the collector. Developments having frontage on both an arterial and a collector or local street shall provide the above landscaping requirements on both streets. The landscaping plan shall show the location and species of all plants, along with plans for sprinkler irrigation and other landscape features. Additional landscaping may be required as determined by the Planning and Zoning Commission or the Governing Board.
- C. Maintenance: Required landscape areas shall be maintained in a neat, clean, orderly and healthful condition. This is meant to include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants, when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a suitable permanent method for watering or sprinkling of plants. This watering system shall consist of sprinklers or hose bibs to ensure a sufficient amount of water for plants within the landscaped area.
- D. Screening Requirements: Screening shall be provided between residential and nonresidential zones. Screening shall consist of evergreen shrubs closely spaced, walls, fences or berms to be maintained at a minimum height of six feet (6') unless otherwise specified. In some cases, the requirement of the "park landscape strip" buffer may be required.
- E. Plot Plan Required: Where landscaping is required in this title, a plot plan showing the proposed landscaping development, water system and use of the property shall be submitted to the Zoning Administrator. The same plot plan used to show parking layout or other requirements for the issuance of a building permit may be used, providing all proposed landscaping is adequately detailed on said plot plan. The Zoning Administrator may disapprove such plans if he determines that they are not consistent with the purposes of this title. (Ord. 176, 1-10-2007)
- F. Nonconforming Status: Any use of property which, on the effective date hereof, or any subsequent amendment thereto, if nonconform-

ing only as to the regulations relating to landscaping, may be continued in the same manner as if the landscaping was conforming. However, such may not be increased in intensity except in accordance with the requirements of this title unless suitable substitutions are made which would meet the requirements of this title. (Ord. 176, 1-10-2007; amd. 2018 Code)

- G. Time To Complete: In zones requiring landscaping, no certificate of occupancy shall be granted until landscaping has been installed in accordance with the approved landscape plan for such property. Where the Board of Adjustment determines it is warranted, an exception to this requirement may be granted, subject to such terms and conditions as imposed by the Board of Adjustment to assure completion of installation of all required landscaping by a later, specified date. (Ord. 176, 1-10-2007)

## CHAPTER 15

**SPECIAL PROVISIONS APPLYING TO SPECIFIC USES**

## SECTION:

- 10-15- 1: Planned Unit Developments; Dwelling Group (Planned)
- 10-15- 2: Public And Semipublic Parks, Playgrounds And Schools
- 10-15- 3: Gasoline Pumps
- 10-15- 4: Flammable Liquid Storage
- 10-15- 5: Accessory Buildings
- 10-15- 6: Cemeteries, Crematories, Mausoleums And Columbaria
- 10-15- 7: Clubs, Lodges, Churches And Similar Buildings
- 10-15- 8: Home Occupations
- 10-15- 9: Mortuaries And Funeral Homes
- 10-15-10: Public Utilities And Facilities
- 10-15-11: Circuses And Carnivals
- 10-15-12: Fences
- 10-15-13: Hospitals
- 10-15-14: Corner Lot Setbacks

**10-15-1: PLANNED UNIT DEVELOPMENTS; DWELLING GROUP (PLANNED):****A. Intent:** The intent of this section is to:

1. Encourage the construction of rental units within the City under conditions and requirements that will ensure the development of residential environments of sustained desirability and stability.
2. Permit large scale development of housing within any residential or commercial zone which is characterized by a harmonious grouping of attractive buildings situated on spacious surrounding and landscaped with well kept lawns, trees and shrubs.
3. Permit more flexibility in the location of buildings on the land, the grouping of open spaces and the number of dwelling units in one building. (Ord. 176, 1-10-2007)



- B. Permitted; Compliance: The owner or owners of a tract of land may construct a dwelling group (planned) thereon upon compliance with the regulations and restrictions as hereinafter set forth, and upon approval of such dwelling group (planned) by the Board of Adjustment, the regulations and restrictions of the zone in which the development is located, as applied to the land covered by the development shall be constructed in accordance with the approved plan. (Ord. 176, 1-10-2007; amd. 2018 Code)
- C. Approval Necessary; Plan Required: Before a permit shall be issued for a building within a dwelling group (planned), the overall plan of the development must be submitted to and approved by the Board of Adjustment as a conditional use. Before granting approval, the Board of Adjustment shall satisfy itself that all other requirements as set forth in this title for dwelling groups (planned) are met.
- D. Application For Permit: The application for a permit to construct a dwelling group (planned) shall be submitted in five (5) copies to the Zoning Administrator, who shall transmit one copy of the same to the City Engineer and to the Utility Department, for checking and recommendations. After the return of the plans from the City Engineer and Utility Department, the Zoning Administrator shall submit the application, together with the plans, to the Planning and Zoning Commission, with his recommendations. The Planning and Zoning Commission, after careful study and deliberation, shall submit said plans together with its recommendations to the Board of Adjustment for final action. Said plans shall show the following information:
1. Topography, including contours, at no greater interval than two feet (2').
  2. Proposed street systems and plans for utilities and water and sewerage facilities.
  3. Proposed lot layout.
  4. Proposed reservations for parks, playgrounds, school sites and other open spaces.
  5. Types of dwellings and site locations therefor.
  6. Principal materials to be used in buildings and off street parking surface.
  7. Proposed locations of garages and parking spaces.

8. Location and extent of walks, hedges or other buffers between off street parking spaces and adjacent buildings.
  9. Drawings and elevations of dwellings and other buildings.
  10. Locations of and treatment around garbage and trash facilities.
  11. A perspective drawing of the entire development, showing the layout of buildings, roadways and other principal features in sufficient detail to give the Planning and Zoning Commission and Board of Adjustment a satisfactory concept of the development.
  12. Tables showing total number of acres in the proposed development and percentage designated for each of the proposed dwelling types and other nonresidential uses, including off street parking, streets, parks, playgrounds, schools and churches.
  13. Tabulations on the overall density for residential use and any other data that the Planning and Zoning Commission and Board of Adjustment may require.
- E. Standards And Requirements: The development shall conform to the following standards and requirements:
1. The area proposed shall be in one ownership or, if in several ownerships, the applications for the permit shall be filed jointly by all of the owners of the property included in the plan.
  2. The plan shall cover the area as proposed and approved by the Planning and Zoning Commission and the Board of Adjustment.
  3. The number of dwelling units per acre shall be limited as follows: Not more than five (5) dwelling units per acre in the RP-A Zone; not more than six (6) dwelling units per acre in the R-1 Zone; not more than seventeen (17) dwelling units per acre in the R-2 Zone; not more than thirty seven (37) dwelling units per acre in the R-2A Zone. In other zones in which dwellings are permitted, the number of dwelling units per acre shall not be restricted. The buildings may be clustered, and individual lot sizes may be reduced below the requirements of the zone in which the development is located, provided the total number of dwelling units does not exceed the number permitted in the zone per acre, multiplied by the number of acres in the development. The remaining land not contained in individual lots shall be set aside for parks and playgrounds.

4. Not less than ten percent (10%) of the gross area of the project shall be set aside for the use of the occupants for parks and playgrounds; provided, that for parks and playgrounds, which are less than two (2) acres in area, the developer shall construct the park and playground facilities in accordance with plans approved by the Board of Adjustment. Land covered by vehicular roads and land which would otherwise be needed to comply with the minimum yard requirements around buildings shall not be included in computing required area for parks and playgrounds.
5. All buildings, when completed, shall be served by public sewer and public water supply.
6. No single building shall contain more than twelve (12) dwelling units, except that buildings may contain an unlimited number of units in zones which permit apartment houses.
7. No building shall exceed two (2) stories or twenty feet (20') in height, whichever is higher, except that in zones which permit apartment houses, no height requirements shall apply.
8. The minimum distance between two (2) buildings facing each other shall be two and one-half ( $2\frac{1}{2}$ ) times the average height of the two (2) buildings, but not less than fifty feet (50').
9. The front of a residential building shall not face the rear of another building.
10. Where the front of one building faces the side of another building, the minimum distance between the two (2) buildings shall be three (3) times the average height of the two (2) buildings.
11. No two (2) residential buildings shall have any point less than twenty feet (20') apart.
12. Wherever the land containing dwelling group (planned) is adjacent to or on the opposite side of a street from a residential district, then for such portion of the development adjacent or across the street from such residential district, all yard and setback regulations pertaining to the adjacent or opposite district shall also apply to said portion of the dwelling group (planned) development.
13. All areas not covered by buildings or by off street parking spaces or driveways shall be planted into lawn, trees and shrubs and other-

wise landscaped and maintained in accordance with good landscape practice.

14. The required front yard and side yard which faces on a public street shall not be used for automobile parking space, but shall be landscaped and maintained with lawns, trees and shrubs, except for permitted driveways.

15. All off street parking spaces and driveways shall be hard surfaced.

16. The developer is encouraged to obtain a trained and experienced land planner, engineer, architect or landscape architect to prepare plans for all dwelling groups (planned) to enable the expeditious processing of such developments.

17. In addition to dwellings, the development may include public schools, churches, public or semipublic recreation buildings and other necessary and related community facilities.

18. The Planning and Zoning Commission shall review the plan to determine its compliance with any portion of the Master Plan that shall have been adopted, including, but not limited to, plans for parks, playgrounds, public utilities, streets and schools. In considering approval of the development, the Planning and Zoning Commission, among other things, shall make sure that such development will constitute a residential environment of sustained desirability and stability; that it will not produce a volume of traffic greater than if the land were developed as otherwise permitted in the zone; that requirements for utilities, off street parking, traffic circulation and other public requirements will be adequately met. The Board of Adjustment shall carefully weigh the findings and recommendations of the Planning and Zoning Commission before acting thereon.

19. Report from the City Engineer on the traffic volumes which can be anticipated or projected as a result of a dwelling group (planned) shall be obtained from the City Engineer and submitted with the application in order to facilitate proper consideration of the development.

20. Property development standards in excess of the minimum standards set forth in this title may be imposed as conditions of approval where it is determined that they are necessary to ensure that a planned unit development will mesh harmoniously with adjoining or nearby uses of property.

F. Guarantees:

1. Adequate guarantees must be provided for permanent retention and maintenance of open space of the residual open land area resulting from the application of these regulations.

2. Two (2) possible methods of owning and maintaining the open space may be required:

a. The City may require the developer to furnish and record protective covenants which will guarantee retention and property maintenance of the open land area; or

b. The City may require the creation of a corporation granting beneficial rights to the open space to all owners or occupants of land within the development.

3. In the case of private reservation, the open space to be reserved shall be protected against building development by conveying to the City a part of the condition for project approval, an open space easement over such open areas restricting the area against any future building or use, except as is consistent with that of providing landscaped, open space for the aesthetic and recreational satisfaction of the residences. Buildings or uses for noncommercial, recreational or cultural purposes compatible with the open space objectives may be permitted only with the express approval of the City, following approval of building site and operational plans by the Planning and Zoning Commission.

4. The developer will be required to develop and maintain all open spaces, unless part of, or all of, it is contiguous to and is made part of an existing park.

5. The care and maintenance of such open reservations shall be ensured by the developer, by establishing a private association or corporation responsible for such maintenance, which shall levy the cost thereof as an assessment on the property owner within the dwelling group (planned). Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the City and made a part of the conditions of the plan approval.

6. Subsequent amendments may be made to the plan or use of the land upon approval of the City Council and by petition of two-thirds ( $\frac{2}{3}$ ) of the property owners within the development; provided, however, that any such change or addition to the plans or use of

land shall first be submitted to the Planning and Zoning Commission for its review and recommendation, before submitting the same to the Board of Adjustment.

7. Failure to comply with the conditions and regulations as herein established, and as specifically made applicable to a dwelling group (planned), shall be cause for termination of the approval of the project and shall be deemed to be a violation of this title. (Ord. 176, 1-10-2007)

10-15-2: **PUBLIC AND SEMIPUBLIC PARKS, PLAYGROUNDS AND SCHOOLS:**

- A. Intent: The intent of this section is to:
1. Foster the appropriate location and layout of public parks and playgrounds.
  2. Harmonize the various features and facilities of parks and playgrounds with the surrounding area, so as to produce sound, stable residential neighborhoods.
  3. Foster a coordination of public recreational facilities on the part of the City, the school districts and other public and semipublic agencies.
- B. Approvals Necessary; Plan Required: Before a permit for the construction of a public or semipublic park, playground or school shall be issued by the Zoning Administrator, the overall plan of said park, playground or school shall be prepared and submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall thereafter make a recommendation to the Board of Adjustment, which shall act thereupon. The Planning and Zoning Commission may also act on its own initiative in preparing and recommending plans for parks and playgrounds.
- C. Application For Permit: An application for approval of a permit shall be accompanied by plans showing the general layout and location of roadways, entrances and exits, walks, paths and buildings and structures; the general layout and location of landscaped areas, play area, play apparatus area, hard surfaced areas, off street parking, drainage, water supply, sewerage and other features of design.

D. Standards And Requirements:

1. Trees, shrubs, grass and other forms of landscaping shall be provided in sufficient quantities to ensure a park like appearance.
2. Facilities involving lights shall be so located, and the lights shall be designed and located so that glare and discomfort will not be unreasonably detrimental to surrounding residences.
3. Off street parking areas and other facilities which attract or are intended to accommodate spectators shall be screened or located so that the detrimental effects of noise and traffic on any surrounding residential area will be kept to a minimum.
4. The entire layout and design of the park and playground shall be so arranged as to harmonize with the objectives and characteristics of the zone in which the park and playground are located.
5. Adequate ingress and egress shall be provided for both vehicles and pedestrians which the park, playground or school is intended to serve. (Ord. 176, 1-10-2007)

10-15-3: **GASOLINE PUMPS:**

- A. **Setback:** Gasoline pumps shall be set back not less than twenty feet (20') from any street line to which the pump island is at right angles, and fourteen feet (14') from any street line to which the pump island is parallel, and not less than twelve feet (12') from any residential zone boundary line. If the pump island is set on an angle on the property with respect to the street, it shall be so located that automobiles stopping for service will not extend over the property line. In no case shall gasoline pumps be set closer than fourteen feet (14') from any street line.
- B. **Canopies:** Canopies, when supported by a column, may be located within the setback but not closer to a street than fourteen feet (14'). Projection within fourteen feet (14') from a street shall be deemed to be a marquee. (Ord. 176, 1-10-2007)

10-15-4: **FLAMMABLE LIQUID STORAGE:** No flammable liquid may be stored unless and until said storage is found to be in compliance with the Fire Prevention Code and approved by the Firth Fire District. No flammable liquids shall be stored in aboveground tanks which

exceed five hundred (500) gallons capacity, except in the I&M-1 and I&M-2 Zones. (Ord. 176, 1-10-2007)

10-15-5: **ACCESSORY BUILDINGS:** The location and use of accessory buildings shall be governed by the following regulations:

A. Attachments: Attachments to main buildings are restricted as follows:

1. An accessory building which encroaches on any part of a required yard or open space shall not be attached to any main building.

2. An accessory building which conforms to all of the yard and open space requirements established for a main building may be attached to a main building, provided such attachment is by means of a foundation wall or roof conforming to all provisions of the Building Code.

3. Where an accessory building is attached to a main building, it shall be considered as part of the main building, and its use and location shall be governed by the requirements of this title applicable to main buildings. (Ord. 176, 1-10-2007)

10-15-6: **CEMETERIES, CREMATORIES, MAUSOLEUMS AND COLUMBARIA:**

A. Conditional Use Permit Required: No cemetery, crematory, mausoleum or columbaria shall be established or enlarged until a valid conditional use permit has first been granted by the Board of Adjustment. The Board of Adjustment may require that the application for said conditional use permit include maps, names and addresses, etc., for an area within a radius of two thousand feet (2,000') of the exterior boundaries of the cemetery, and such other information as it deems necessary. Said required information shall include proof of compliance with State law dealing with development and maintenance of cemeteries.

B. Additional Filing Fee: The Board of Adjustment may also require an additional filing fee based on an estimate of the cost involved in processing said application. (Ord. 176, 1-10-2007)

10-15-7: **CLUBS, LODGES, CHURCHES AND SIMILAR BUILDINGS:**  
No club, lodge, church or similar use shall be established until



a valid conditional use permit has first been granted by the Board of Adjustment. Premises used for the meeting place and related facilities of any club, lodge, fraternal order or similar organization shall comply with the following regulations:

- A. Adjoining Residential Zone: Where such uses are located in or adjoining a residential zone, all buildings, except accessory buildings, shall be located not less than twenty feet (20') from any side or rear lot line adjoining such residential zone.
- B. Nonpermitted Commercial Uses: If such uses are located in a zone which does not permit commercial uses, there shall be no external evidence of any commercial activity. Any retail sales on the premises shall be for members or guests only and shall be carried on as an activity which is minor and incidental to the major function of the organization.
- C. Traffic: In the opinion of the Board of Adjustment, preferably after consultation with the Planning and Zoning Commission, traffic safety, with respect to exits and entrances, shall be fully maintained. (Ord. 176, 1-10-2007)

10-15-8: **HOME OCCUPATIONS:** The term "home occupation" shall mean any occupation or profession which may be conducted within a residential dwelling, or allowed appurtenant building, without in any way changing the appearance or condition of the structures and carried on by persons residing therein. Applications for home occupations may be granted in any residential zoning area of the City. Before the City Council shall issue a permit for a home occupation, the following conditions must be met:

- A. Employees: No employment of help, other than the members of the residing family.
- B. Floor Space Used: No more floor space than the equivalent of twenty five percent (25%) of the building shadow line (excluding garage and open patios, etc.) area of the dwelling shall be used in the home occupation.
- C. Excessive Traffic: The use shall not generate excessive pedestrian or vehicular traffic.

- D. Storage; Commercial Vehicles: No storage of materials or supplies outdoors, and no use of commercial vehicles for delivery of materials to and from the premises.
- E. Signs, Advertising: No signs or advertising shall be permitted on the premises, except one nameplate, not exceeding two hundred twenty six (226) square inches.
- F. Residential Character Maintained: In no way shall the appearance of the building be so altered, or the occupation conducted in such a manner, as to cause the premises to deviate from its residential character, either by color, materials or construction, or by lighting, signs, sound or noise vibrations, etc.
- G. Excessive Utility, Facility Usage: There shall be no use of utilities or community facilities beyond that reasonable to the use of the property for residential purposes.
- H. Acknowledgement By Applicant: The applicant shall sign a statement that he is aware of all requirements and conditions under which approval of the home occupation is given and that if any of said requirements or conditions are violated, approval shall become null and void. Said statement shall become a part of the Certificate of Occupancy. (Ord. 176, 1-10-2007)

10-15-9: **MORTUARIES AND FUNERAL HOMES:** A conditional use permit shall be required for the establishment or enlargement of a mortuary or funeral home. In establishing the requirements for such uses, the Board of Adjustment shall consider, among other criteria, the following:

- A. Major Street Location: Whenever possible, such uses shall be located on a major street.
- B. Inhibit Development Of Nearby Properties: Such uses should be so located as to not inhibit or deter proper development of nearby properties.
- C. Size Of Site: The site should be of ample size to allow for the makeup of funeral processions, as well as to provide the required off street parking and loading facilities and landscaping.
- D. Vehicular Access: The design of vehicular access to and from the site should conform to accepted traffic engineering practices so as to

minimize traffic congestion on the adjoining streets. (Ord. 176, 1-10-2007)

10-15-10: **PUBLIC UTILITIES AND FACILITIES:** This section applies only to nongovernmental public utilities and facilities. Power substations, sewer lift stations, water pumping plants and similar public facilities shall be permitted in any zone in the City; provided, however, that a conditional use permit shall be issued therefor, after a public hearing is held thereon by the City Council after such notice as the Council shall order. Reasonable development standards may be imposed which are necessary to carry out the objectives and characteristics of the zone in which the facilities are located, as follows:

- A. Vehicular Traffic: The activity to be carried on must not generate an amount of vehicular traffic that will be detrimental to values in surrounding area.
- B. Lighting: Lights which may be used must be directed away from surrounding residential area.
- C. Harmonious Development: In the opinion of the City Council, the development will be in harmony with the objectives of this title and with the characteristics of the zone in which the development is located. (Ord. 176, 1-10-2007)

10-15-11: **CIRCUSES AND CARNIVALS:** A circus or carnival may be permitted on a temporary basis in any zone, but only after a valid conditional use permit has first been issued by the City Council. (Ord. 176, 1-10-2007)

10-15-12: **FENCES:** No fence, wall, hedge or other sight obscuring object or structure which is more than three feet (3') in height shall be constructed or allowed to exist above said height within fifteen feet (15') of any front lot line along any street. This section shall not be construed to permit any structure, shrub, hedge or sight obscuring object to exist in violation of section 10-14-8 of this title. (Ord. 176, 1-10-2007)

10-15-13: **HOSPITALS:** Hospitals may be permitted in any zone, but only after a valid conditional use permit has first been issued by the City Council. (Ord. 176, 1-10-2007)

10-15-14: **CORNER LOT SETBACKS:**

- A. Requirements: Corner lot setbacks shall comply with the requirements of section 10-14-8 of this title which relates to the clear view of intersecting streets and ways, and section 10-14-19 of this title which relates to the exceptions to front and side yard setback requirements.
- B. Accessory Buildings: In addition, setback requirements for accessory buildings from internal lot lines of corner lots shall be the same as the setback requirements for the adjacent lots which share the common interior lot line or as required for similar lots within the same zone. (Ord. 176, 1-10-2007)

## CHAPTER 16

MANUFACTURED HOMES, MOBILE HOME PARKS,  
MANUFACTURED HOME PARKS, TRAVEL  
TRAILER PARKS**ARTICLE A. DEFINITIONS**

## SECTION:

10-16A-1: Definitions

10-16A-1: **DEFINITIONS:** The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

COUNCIL: City Council of the City of Firth.

MANUFACTURED HOME: A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies

with the standards established under 42 USC section 5401 et seq.

**MOBILE HOME:**

A factory assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

**MOBILE HOME PARK/  
MANUFACTURED  
HOME PARK:**

These terms are used interchangeably and shall have the same meaning and refer to the same type of improvements. Idaho Code refers to both terms where the purposes of this chapter are to be deemed to have the same meaning and interpretation. For the purposes of this chapter and for locating within a mobile home park or manufactured home park, manufactured homes which are not to be placed upon a permanent foundation shall qualify as tenants of such parks, the ownership of which shall be in a single entity.

**RMH ZONE:**

A zone established for the accommodation and utilization of manufactured housing parks/mobile home parks and travel trailer parks.

**TRAVEL TRAILER:**

Shall mean and include all living accommodation units which are capable of unrestricted highway use and not placed upon any foundation. The term shall include, but not be limited to, travel trailers, motor home units, campers mounted on automotive vehicles and camping tents.

**TRAVEL TRAILER  
PARK:**

The location designed for the accommodation of travel trailers, as defined in this section, to provide safe, sanitary and attractive facilities for the use of travel trailers.

**ZONING  
ADMINISTRATOR:**

The person who has been appointed by the City Council to perform administration duties and functions to the administration and enforcement

of this title, and the planning and zoning ordinances of the City of Firth. (Ord. 176, 1-10-2007; amd. 2018 Code)

## CHAPTER 16

MANUFACTURED HOMES, MOBILE HOME PARKS,  
MANUFACTURED HOME PARKS, TRAVEL  
TRAILER PARKS**ARTICLE B. MANUFACTURED HOUSING  
OUTSIDE OF RMH ZONE**

## SECTION:

- 10-16B-1: Siting Of Manufactured Housing
- 10-16B-2: Application Requirements
- 10-16B-3: Minimum Requirements

10-16B-1: **SITING OF MANUFACTURED HOUSING:** Manufactured homes may be sited on individual lots for all lots and lands zoned for single-family residential uses, except for lands falling within an area defined as a historic district under Idaho Code section 67-4607. Manufactured homes on individual lots zoned for single-family residential uses shall comply with the requirements set forth in this chapter. (Ord. 176, 1-10-2007)

10-16B-2: **APPLICATION REQUIREMENTS:**

- A. Application: Applications for approval of manufactured housing in individual lots shall be submitted to the Zoning Administrator on a standard prescribed form. In addition to such information as is generally required for building permits and is necessary for administration purposes, such applications shall also include all information necessary to determine the manufactured home's conformity with construction and safety standards and minimum requirements.
- B. Additional Information; Inspection; Issuance Of Permit: Applicant shall sign the application and provide any additional information necessary to verify such structure does meet the standards prior to moving the structure to the building site. The building inspector,



following issuance of a building permit and upon inspection of the site for the attachment of the structure to a foundation base, shall verify in writing that all standards of this title have been met, as certified in the signed application form.

- C. Exemptions: The applications and permits under this article shall be exempt from the provisions requiring the Board of Adjustment to authorize the issuance of a permit for moving of buildings which fall within the provisions of this chapter, and shall be exempt from the provisions regarding the moving of buildings for buildings which fall within the scope of this chapter, and shall be exempt from the provisions providing for the submission of all applications for building permits to the Planning and Zoning Commission if the permit falls within the provisions of this article. (Ord. 176, 1-10-2007)

10-16B-3: **MINIMUM REQUIREMENTS:** The following minimum requirements shall apply for the approval of manufactured homes located outside of RMH Zone areas:

- A. Placement; Square Footage: The manufactured home shall be multi-sectional and enclose a space of not less than the minimum square footage allowed in the zone in which it is being placed.
- B. Foundation; Elevation: The manufactured home shall be placed on an excavated and backfilled permanent perimeter foundation as approved by State regulations and enclosed at the perimeter such that the home is similar in elevation to conventional site built homes.
- C. Roof Requirements: The manufactured home shall have a pitched roof with a standard of three feet (3') in height for each twelve feet (12') in width.
- D. Compatible Appearance; Siding; Color: The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E. Garage Or Carport: If the predominant construction in the area where the manufactured home is to be situated shall have a garage or carport, then such manufactured home shall have a garage or carport as of the predominant use in the area to be constructed of like materials as the siding of the manufactured home. The City

Council may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of the immediately surrounding dwellings.

F. Standing And Requirements Met: In addition to the provisions of subsections A through E of this section, the City shall subject a manufactured home and the lot upon which it is sited to any lot development standards, subdivision standards and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.

1. Any manufactured housing placed upon a residential lot, not in a manufactured home zone, shall be of a manufacturing origin dated subsequent to the date of the most recent standards and not having had prior occupancy; or if prior thereto, or having had prior occupancy, shall have a Certificate of Compliance of Rehabilitation as provided in Idaho Code title 44, chapter 25.

2. Nothing in this section shall be construed as abrogating a recorded restrictive covenant. (Ord. 176, 1-10-2007)



## CHAPTER 16

MANUFACTURED HOMES, MOBILE HOME PARKS,  
MANUFACTURED HOME PARKS, TRAVEL  
TRAILER PARKS**ARTICLE C. MANUFACTURED HOME PARKS  
AND MOBILE HOME PARKS**

## SECTION:

- 10-16C-1: Code Established
- 10-16C-2: Approval Of Plans And Documents
- 10-16C-3: Preliminary Plan And Documents
- 10-16C-4: Review And Approvals
- 10-16C-5: Final Site Plan
- 10-16C-6: Stage Construction Permitted
- 10-16C-7: Development Agreement
- 10-16C-8: Guarantee Of Performance
- 10-16C-9: Open Space Easements

10-16C-1: **CODE ESTABLISHED:** This article shall be designated as the *MOBILE HOME PARK AND MANUFACTURED HOME PARK CODE FOR THE CITY OF FIRTH*. (Ord. 176, 1-10-2007)

10-16C-2: **APPROVAL OF PLANS AND DOCUMENTS:** Any person wishing to construct a mobile home park or manufactured home park shall obtain from the Zoning Administrator information pertaining to the City plan of land use, streets, public facilities, zoning and subdivision ordinances, and other requirements affecting the land within the development. Before any permit can be issued for any construction connected with a mobile home park or manufactured home park, the preliminary plans, required documents pertaining to the development and the final plan shall have been approved as hereinafter set forth. (Ord. 176, 1-10-2007)

**10-16C-3: PRELIMINARY PLAN AND DOCUMENTS:**

- A. Submittal Requirements: Six (6) copies of the preliminary plan must be submitted to the Zoning Administrator at least two (2) weeks prior to the meeting of the Planning and Zoning Commission at which the plan will be considered. The preliminary plan shall be drawn to a scale not smaller than one inch equals one hundred feet (1" = 100') and shall show the following information:
1. Topography: The topography represented by contours shown at no greater intervals than two feet (2') when required by the Zoning Administrator.
  2. Street Layout: The proposed street and mobile home park or manufactured home park layout.
  3. Open Spaces: Proposed reservations for parks, playgrounds and open spaces. (Ord. 176, 1-10-2007)
  4. Buildings, Facilities: Size and character of recreation buildings and other structures associated with the land and facilities to be used by the mobile home or manufactured home occupants. (Ord. 176, 1-10-2007; amd. 2018 Code)
  5. Unit Layout: Layout of typical unit space.
  6. Tabulations: Tabulations showing:
    - a. Area of land within the mobile home park or manufactured home park.
    - b. Number of manufactured home or mobile home spaces provided for in the manufactured home park or mobile home park.
    - c. Percent of area to be devoted to parks and playgrounds.
  7. Parking: Number of off street parking spaces.
  8. Landscaping: Generalized landscape planting plan.
  9. Utilities, Other Improvements: Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants, storm drains and facilities, curbs and other improvements.

10. Proposed Documents: Draft of proposed documents, including:
    - a. Management policies, covenants and restrictions.
    - b. Maintenance agreement.
  11. Cross Streets: Typical street cross sections.
  12. Other Required Data: Any other data that the Planning and Zoning Commission may require.
- B. Standards And Requirements: The development of a mobile home park or manufactured home park shall conform to the following standards and requirements:
1. Ownership: The area shall be one ownership and shall remain in one ownership, and the same shall not be subdivided.
  2. Preparation By Professional: The final plan must be prepared by an engineer, architect or land surveyor licensed to practice in the State.
  3. Site Size: The minimum initial site size for a mobile home park or manufactured home park shall be five (5) acres.
  4. Clustering Permitted: The mobile homes or manufactured homes may be clustered, and individual mobile home or manufactured home site sizes may be reduced below that required for single-family dwellings within the zone in which the development is located; provided, that the gross density of mobile home or manufactured home units within the development do not exceed eight (8) units per acre and that all lots or spaces are served by an approved central culinary water and sewage disposal system.
  5. Size And Yard Requirements:
    - a. There shall be a minimum lot size of five thousand (5,000) square feet and a minimum width of fifty feet (50') at the building setback line, with a maximum of eight (8) unit spaces per acre.
    - b. There shall be requirement of a front yard setback of fifteen feet (15') minimum from the front property line and rear yard setback of twenty feet (20') from the rear property line.

c. There shall be a minimum side yard requirement of five feet (5') with a requirement of twenty feet (20') distance between units.

d. An open deck or patio area shall not be considered in determining the twenty foot (20') width requirement from any other unit, but shall be necessary to maintain the five foot (5') side yard requirement.

6. Areas Not Used In Development: The land area not contained in individual lots, roads or automobile parking spaces shall be set aside and developed as parks, playgrounds and service areas for the common use and enjoyment of the occupants of the mobile home or manufactured home park within two (2) years from the date of approval of the mobile home or manufactured home park.

7. Gross Area For Common Use: No less than eight percent (8%) of the gross area of the mobile home or manufactured home park shall be set aside for common use. The land covered by vehicular roadways, sidewalks, off street parking and landscaped areas surrounding mobile home or manufactured home spaces which are pertinent to each mobile or manufactured home and the area devoted to service facilities shall not qualify as part of the area required for parks and playgrounds. Designated open space shall be located as near the central part of the development as good design will permit.

8. Distance Requirements: No mobile home, manufactured home or add-on shall be closer than five feet (5') to a property or lot line. When a carport having at least three (3) open sides is added to a mobile or manufactured home, or a deck or patio is constructed, side yards on such construction side may be reduced to five feet (5') from the side lot line, or not less than ten feet (10') between structures, whichever is greater.

9. Surface Of Parking, Driveways: All off street parking space and driveways shall be hard surfaced within two (2) years from date of approval of the mobile home or manufactured home park.

10. Privacy Strip: A strip of land at least eight feet (8') wide surrounding the mobile home or manufactured home park shall be left unoccupied by mobile or manufactured homes and shall be planted and maintained in lawn, shrubs and trees designed to afford privacy to the development.

11. Storage, Waste Receptacles: All storage and solid waste receptacles outside of the confines of a mobile or manufactured

home must be housed in a closed structure compatible in design and construction to the mobile or manufactured home and to any service buildings within the mobile home or manufactured home park. All patios, garages, carports and other add-ons must also be compatible in design and construction with the mobile home and with the service buildings, as approved by the Zoning Administrator.

12. Occupancy Lease: Occupancy shall be by written lease, which lease shall be made available to the officials of the City upon demand. The terms of said lease shall be consistent with the declaration of management policies, covenants and restrictions, as required by subsection C of this section.

13. Roadway Width: Roadways shall be of adequate width to accommodate anticipated traffic as follows:

a. For one-way with no parking: Sixteen feet (16') in width, plus extra width as necessary for maneuvering mobile or manufactured homes.

b. For two-way with no parking: Thirty feet (30') in width.

c. For entrance streets: Minimum of fifty feet (50') in width. All streets shall be bordered by rolled curb or equivalent and shall be hard surfaced.

14. Entrances: There shall be no more than two (2) entrances from the manufactured home park or mobile home park into any one street, except as may be approved for special circumstances, which entrances shall be no closer than twenty five feet (25') from each other, nor closer than seventy feet (70') to the corner of an intersection.

15. Access To Spaces: Access shall be provided to each mobile or manufactured home space by means of an access way reserved for maneuvering mobile or manufactured homes into position and shall be kept free from trees and other immovable obstructions. Paving the accessway shall not be required. Use of planks, steel mats or other means during placement of a mobile or manufactured home shall be allowed so long as the same are removed immediately after placement of the mobile or manufactured home.

16. Off Street Parking: Off street parking shall be provided at the rate of two (2) parking spaces per mobile or manufactured home space contained within the mobile or manufactured home park. In no



case shall the parking space be located greater than one hundred feet (100') away from the mobile or manufactured home space it is designated to serve, except that one-fourth ( $\frac{1}{4}$ ) of the required parking spaces may be located not more than three hundred feet (300') away from the mobile or manufactured home spaces it is designed to serve.

17. Health Regulations: In addition to meeting the above requirements and conforming to the other laws of the City, all mobile and manufactured home parks shall also conform to requirements of the State Health Department. In the event of any conflict between said regulation or codes and this article, the most restrictive provision shall govern.

18. Launderette For Park Occupants: Mobile and manufactured home parks containing not less than twenty five (25) mobile or manufactured homes may include a launderette for convenience of the occupants of the park, but not for the general public.

19. Setback From Public Street; Landscaping Required: All mobile or manufactured homes shall be located at least thirty feet (30') back from any public street, and the resulting yards must be landscaped, except for driveways.

20. Yard Lighting: A minimum of two-tenths (0.2) foot-candles of light shall be required for protective yard lighting the full length of all driveways and walkways.

21. Storage: An area of at least one hundred (100) square feet for each mobile or manufactured home space contained within the mobile or manufactured home park shall be provided for the storage of the renter's boats, trailers, campers and other items that cannot be stored in the mobile or manufactured homes. Said storage space shall be enclosed with a sight obscuring fence of not less than six (6), nor more than eight feet (8') in height.

22. Drainage: The site of any mobile or manufactured home parks shall be graded and/or filled and maintained so as to prevent the accumulation of storm or waste water of any kind. A mobile or manufactured home park shall not be permitted where there is inadequate drainage. Adequate drainage shall be provided and maintained for all patios, mobile or manufactured home stands and buildings.

23. Traffic Signage: Signs shall be placed in all manufactured and mobile home parks indicating the direction of travel and the areas where no automobile parking will be permitted on the roadways.

24. Health Permit Required: No permit to construct or enlarge a mobile or manufactured home park shall be issued until the plans for the proposed construction or enlargement have been approved by the State Health Department.

25. Nonconforming Uses:

a. Any manufactured home park or mobile home park which has been legally established and which was in use at the time of the effective date hereof, which does not meet all of the provisions of this article, shall be deemed to be a nonconforming use, and such nonconforming use may be continued notwithstanding the fact that it may not comply with the provisions of this article; provided, that such nonconforming use does not constitute a hazard to health or a nuisance. Such nonconforming use shall not be extended or enlarged except in compliance with this article.

b. If any mobile or manufactured home park was illegally established at the effective date hereof, the enactment of this article shall not be deemed to render such use legal unless such use is expressly authorized by the terms of this article.

26. Standards: Any manufactured housing placed in a manufactured home park or mobile home park shall be of a manufacturing origin dated subsequent to the most recent standards enacted for the construction of manufactured housing and not having had prior occupancy, or if prior thereto, or having had prior occupancy, shall have a certificate of compliance or rehabilitation as provided in Idaho Code title 44, chapter 25.

C. Documents Required: Documents shall also be submitted with the preliminary plan consisting of:

1. Declaration: A declaration of management policies, covenants and restrictions setting forth the responsibilities and duties of the renters or occupants within the mobile or manufactured home parks.

2. Developer Agreement: An agreement between the developers and the City stating, among other things, that the developer will construct the project in accordance with approved plans.

a. In the event of failure or neglect on the part of the owners, successors or assigns to maintain the common areas, landscaping and other improvements in good condition, the City may perform the necessary work and for the purpose may enter in upon the land and do said work and charge the cost thereof, including reasonable attorney fees, against the owners or their successors or assigns.

b. The agreement shall be binding upon the heirs, assigns, receivers and successor of the project for the life of the buildings or the project.

c. Any other conditions that the Planning and Zoning Commission deems to be reasonably necessary to carry out the intent of this article. (Ord. 176, 1-10-2007)

**10-16C-4: REVIEW AND APPROVALS:**

- A. Scope: The Planning and Zoning Commission shall review the plan and proposed documents to determine compliance with all portions of the City Land Use Plan and this title. In considering said plan, the Planning and Zoning Commission, among other things, shall make sure that such developments shall constitute a residential environment of sustained desirability and stability and that it will not adversely affect amenities in the surrounding area.
- B. Public Hearings Required; Validity: An application for approval of a manufactured home park or mobile home park shall be granted or denied only after a public hearing before the Planning and Zoning Commission. Notice of the hearing shall be given in a newspaper of general circulation at least fifteen (15) days prior to said hearing. After review by the Planning and Zoning Commission, the application, with the Planning and Zoning Commission's recommendations, shall be submitted to the City Council, which may conduct at least one public hearing in addition to the hearings conducted by the Planning and Zoning Commission, using the same notice and hearing procedures as the Planning and Zoning Commission, and shall adopt, amend or reject the plan. An application denied by the City Council may be appealed pursuant to the State administrative procedure policy. Approval of the preliminary plan shall be valid for a period of one year. (Ord. 176, 1-10-2007)

**10-16C-5: FINAL SITE PLAN:**

- A. Submittal: Upon approval of the preliminary plan and documents by the City Council, the developer shall submit to the Planning and Zoning Commission a final site plan of either the entire mobile or manufactured home park or the first stage of such development that is to be constructed and final copies of the required documents. Such plan shall be drawn to scale and provide, in detail, all the information required under this article.
- B. Recording: Copies of the final documents approved by the City Council shall also be recorded in the Office of the City Clerk. No building permit shall be issued for said mobile or manufactured home park until final plans have been approved by the City Council and the required documents filed in the Office of the City Clerk, and until the guarantee of performance required under this article has been properly posted. (Ord. 176, 1-10-2007)

**10-16C-6: STAGE CONSTRUCTION PERMITTED:** Development may be carried out in progressive stages, in which event each stage shall be so planned that the requirements and intent of this article shall be fully complied with at the completion of each stage. No final plan for the initial stage shall cover less than five (5) acres. (Ord. 176, 1-10-2007)

**10-16C-7: DEVELOPMENT AGREEMENT:** Prior to the granting of the final approval, and the granting of any building permits, the developer shall enter into a development agreement with the City in which all conditions of construction, completion of performance, performance of conditions, and other requirements shall be specified and detailed. (Ord. 176, 1-10-2007)

**10-16C-8: GUARANTEE OF PERFORMANCE:**

- A. Possession And Occupancy: No possession or occupancy of the manufactured home park or mobile home park lots shall be allowed until the improvements as planned shall be fully constructed as to such lots; provided, however, that if the developer desires to have any occupancy of a portion of the partially developed stated construction, he shall furnish evidence and proof of the ability to complete performance and that the occupancy of those lots then com-

pleted could not be affected by the lack of the completion of the other portions.

- B. **Default:** In the event the developer defaults or fails or neglects to satisfactorily install the required improvements within the time limitation, the City Council may declare default and the City may, after notice and hearing given to the developer, to show cause why such should not be declared, install or cause to be installed the required improvements using as security the lien upon the land as provided in the development agreement.
- C. **Release Of Obligation:** The developer shall be responsible for the quality of all materials and workmanship. Upon the completion of installation of all such improvements, the City Engineer shall make an inspection of the improvements and shall submit a report to the City Council. If the improvements do not meet the standards and the plans, the City Engineer shall so report; and the developer shall be obligated to correct the improvements and complete the installations to meet all such plans and to be approved by the City Engineer. Upon the City Engineer's approval of the installation or improvements, the City shall release the lien imposed by the development agreement for the completion and installation of all improvements.
- D. **Continuing Obligation:** Any failure on the part of the developer or his assigns maintain the manufactured home park or mobile home park in accordance with the approved development agreement, the covenants, conditions, restrictions and agreements shall be deemed a public nuisance endangering the health, safety and general welfare of the public and a detriment to the surrounding area, and shall give the City a right of entry under the development agreement to correct any such condition and complete any such improvements and have a lien thereon for the cost and expense incurred.
- E. **Remove Or Abate Nuisance:** In addition to any other remedy provided by law for the abatement or removal of such public nuisance, the City may remove or abate the nuisance and charge the cost thereof, including reasonable attorney fees, to the owners. (Ord. 176, 1-10-2007)

10-16C-9: **OPEN SPACE EASEMENTS:** The parks and play areas and common areas shall be protected against building development by conveying to the occupants of the manufactured home park or mobile home park an open space easement over such open areas, restricting the area against any future building or use, except as space for the

aesthetic and recreation satisfaction and utility of the residents. Buildings or uses for noncommercial, recreational or cultural purposes, compatible with the open space objectives, may be permitted with the express approval of the Planning and Zoning Commission and the City Council. (Ord. 176, 1-10-2007)

## CHAPTER 16

MANUFACTURED HOMES, MOBILE HOME PARKS,  
MANUFACTURED HOME PARKS, TRAVEL  
TRAILER PARKS**ARTICLE D. TRAVEL TRAILER PARKS**

## SECTION:

- 10-16D-1: Code Established
- 10-16D-2: Approval Of Plans And Documents
- 10-16D-3: Preliminary Plan And Documents
- 10-16D-4: Review And Approvals
- 10-16D-5: Final Site Plan
- 10-16D-6: Stage Construction Permitted
- 10-16D-7: Development Agreement
- 10-16D-8: Guarantee Of Performance

10-16D-1: **CODE ESTABLISHED:** This article shall be designated as the *TRAVEL TRAILER PARK CODE FOR THE CITY OF FIRTH*. Travel trailer parks subject to this article shall be allowed only in RMH Zones and commercial zones. (Ord. 176, 1-10-2007)

10-16D-2: **APPROVED PLANS AND DOCUMENTS:** Any person wishing to construct a travel trailer park shall obtain from the Zoning Administrator information pertaining to the City plan of land use, streets, public facilities and other requirements affecting the land within the development. Before a permit can be issued for any construction connected with a travel trailer park, the preliminary plans, required documents pertaining to the development and the final plan shall have been approved as hereinafter set forth. (Ord. 176, 1-10-2007)

10-16D-3: **PRELIMINARY PLAN AND DOCUMENTS:** The preliminary plan and documents shall be prepared and submitted as follows:

- A. Plan Requirements: Six (6) copies of the preliminary plan must be submitted to the Zoning Administrator at least two (2) weeks prior to the meeting of the Planning and Zoning Commission at which the plan will be considered. The preliminary plan shall be drawn to a scale not smaller than one inch equals one hundred feet (1" = 100'), or as recommended by the Zoning Administrator, and shall show the following information:
1. Road, Space Layout: Proposed road and trailer space layout.
  2. Open Space: Proposed reservation for parks, playgrounds and other open space.
  3. Service Facilities Location: Proposed location for service facilities.
  4. Landscape Plan: A generalized landscape plan.
  5. Utilities, Other Improvements: Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants, storm drains and facilities, curbs and other improvements.
  6. Other Required Data: Any other data that the Planning and Zoning Commission may require.
- B. Standards And Requirements: Each travel trailer park shall be held in one ownership and shall contain at least two (2) acres of land.
1. Abut Collector, Arterial Street: All travel trailer parks shall abut upon a collector or arterial street, as set forth in the major street plan of the City.
  2. Setback From Public Street: All travel trailers shall be set back at least thirty feet (30') from any public street.
  3. Roadway System; Access; Exits: The roadway system shall provide convenient circulation through the travel trailer park and provide access to each travel trailer space. No travel trailer space will be permitted direct access to a public street, road or highway, other than by means of the travel trailer park roadway system. All entrances and exits from the travel trailer park shall be by forward motion only. No exit or entrance from a travel trailer park shall be through a residential zone and no entrance or exit shall be located closer than fifty feet (50') to the intersection of two (2) streets.



4. Road Width; Surfacing: All one-way roadways shall be at least fifteen feet (15') in width and all two-way roadways at least thirty feet (30') in width, and all roadways shall be hard surfaced.
5. Landscaping: All areas within the park which are not hard surfaced shall be landscaped and maintained with lawns, trees and shrubs designed to provide privacy and noise containment, and shall be equipped with adequate sprinkling devices as approved by the Zoning Administrator.
6. Space Size: Each travel trailer space shall be at least twenty feet (20') in width and at least forty feet (40') in length.
7. Rental Term: No travel trailer space shall be rented for a period of more than six (6) months to the same tenant.
8. Water, Sewer System: All travel trailer spaces shall be served by an approved water and sewage disposal system.
9. Health Regulations: In addition to meeting the above requirements, all travel trailer parks shall conform to the requirements of the State and City health regulations relating to travel trailer parks.
10. Drainage: The site of any travel trailer park shall be graded and/or filled and maintained so as to prevent the accumulation of storm or waste water of any kind. A travel trailer park shall not be permitted where there is inadequate drainage. Adequate drainage shall be provided and maintained for all patios, travel trailer stands and buildings.
11. Signage: Signs, as may be required by the City, shall be placed in all travel trailer parks indicating the direction of travel and the area where no automobile parking will be permitted on the roadways.
12. State Health Department Approval: No permit to construct or enlarge a travel trailer park shall be issued until the plans for the proposed construction or enlargement have been approved by the State Health Department.
13. Permitted Trailers: Both dependent and independent travel trailers shall be allowed to occupy travel trailer spaces in a travel trailer park.
14. Privacy Strip: A strip of land at least eight feet (8') wide surrounding the travel trailer park shall be left unoccupied by travel

trailers and shall be planted and maintained in lawn, shrubs and trees designed to afford privacy to the development. (Ord. 176, 1-10-2007)

10-16D-4: **REVIEW AND APPROVALS:**

- A. **Scope:** The Planning and Zoning Commission shall review the plan to determine its compliance with any portion of the City Land Use Plan and zoning ordinance. In considering the development, the Planning and Zoning Commission shall, among other things, make sure that such development will mesh harmoniously with the surrounding area; that it will not produce a volume of traffic beyond the capacity of the surrounding street system; that requirements for utilities, off street parking, traffic circulation and other public requirements will be adequately met and that the standards and intent of this article shall be adequately complied with. The Planning and Zoning Commission may require changes to be made in the plan. They may also require additional yards or buffers or other improvements to be installed, along with greater amounts of landscaping or parking spaces. Said changes may be imposed as conditions of approval where it is determined by the Planning and Zoning Commission that such changes are necessary to ensure that the development will mesh harmoniously with adjoining or nearby uses.
- B. **Public Hearings Required; Validity:** An application for approval of a travel trailer park shall be granted or denied only after a public hearing before the Planning and Zoning Commission. Notice of the hearing shall be given in a newspaper of general circulation at least fifteen (15) days prior to said hearing. After review by the Planning and Zoning Commission, the application, with the Planning and Zoning Commission's recommendations, shall be submitted to the City Council, which may conduct at least one public hearing in addition to the hearings conducted by the Planning and Zoning Commission, using the same notice and hearing procedures as the Planning and Zoning Commission, and shall adopt, amend or reject the plan. An application denied by the City Council may be appealed pursuant to the State administrative procedure policy. Approval of the preliminary plan shall be valid for a period of one year. (Ord. 176, 1-10-2007)

10-16D-5: **FINAL SITE PLAN:** Upon approval of the preliminary plan by the City Council, the developer shall submit to the Planning and Zoning Commission in a final site plan of either the entire travel trailer

park or the first stage of such development that is to be constructed. Such plan shall be drawn to scale and provide, in detail, the information required under this article. (Ord. 176, 1-10-2007)

10-16D-6: **STAGE CONSTRUCTION PERMITTED:** Development may be carried out in progressive stages, in which event each stage shall be so planned that the requirements and intent of this article shall be fully complied with at the completion of each stage. No final plan for the initial stage shall cover less than two (2) acres. (Ord. 176, 1-10-2007)

10-16D-7: **DEVELOPMENT AGREEMENT:** Prior to the granting of the final approval, and the granting of any building permits, the developer shall enter into a development agreement with the City in which all conditions of construction, completion of performance, performance of conditions and other requirements shall be specified and detailed. (Ord. 176, 1-10-2007)

10-16D-8: **GUARANTEE OF PERFORMANCE:**

- A. **Possession And Occupancy:** No possession or occupancy of the travel trailer park shall be allowed until the improvements as planned shall be fully constructed; provided, however, that if a developer desires to have any occupancy of a portion of a partially developed staged construction, he shall furnish evidence and proof of the ability to complete the performance and that such performance shall include all improvements, including, but not limited to, landscaping, road improvements, pedestrianways, curbs, gutters, road surfacing, water and sewer lines, and common facilities shown on the final site plan, and that the occupancy of such portion, then completed, could not be affected by the lack of completion of the other portions.
- B. **Default:** In the event the developer defaults or fails or neglects to satisfactorily install the required improvements within the time limitation, the City Council may declare default and the City may, after notice and hearing given to the developer, to show cause why such should not be declared, install or cause to be installed the required improvements using as security the lien upon the land as provided in the development agreement.

- C. **Release Of Obligation:** The developer shall be responsible for the quality of all materials and workmanship. Upon the completion of installation of all such improvements, the City Engineer shall make an inspection of the improvements and shall submit a report to the City Council. If the improvements do not meet the standards and the plans, the City Engineer shall so report; and the developer shall be obligated to correct the improvements and complete the installations to meet all such plans and to be approved by the City Engineer. Upon the City Engineer's approval of the installation or improvements, the City shall release the lien imposed by the development agreement for the completion and installation of all improvements.
- D. **Continuing Obligation:** Any failure on the part of the developer or his assigns to maintain the travel trailer park in accordance with the approved development agreement, the covenants, conditions, restrictions and agreements shall be deemed a public nuisance endangering the health, safety and general welfare of the public and a detriment to the surrounding area, and shall give the City a right of entry under the development agreement to correct any such condition and complete any such improvements and have a lien thereon for the cost and expense incurred.
- E. **Remove Or Abate Nuisance:** In addition to any other remedy provided by law for the abatement or removal of such public nuisance, the City may remove or abate the nuisance and charge the cost thereof, including reasonable attorney fees, to the owners. (Ord. 176, 1-10-2007)

## CHAPTER 17

**NONCONFORMING BUILDINGS AND USES**

## SECTION:

- 10-17- 1: Maintenance Permitted
- 10-17- 2: Repairs
- 10-17- 3: Expansion Or Enlargements
- 10-17- 4: Restoration Of Damaged Buildings
- 10-17- 5: Discontinuance
- 10-17- 6: Change To Conforming Use
- 10-17- 7: Change To Another Nonconforming Use
- 10-17- 8: Reclassification Of Territory
- 10-17- 9: Permits Granted Prior To Passage Of Ordinance Or  
Amendment Thereto; Vested Interest
- 10-17-10: Nonconforming Lots Of Record

10-17-1: **MAINTENANCE PERMITTED:** It is the intent of this title to prohibit the addition or enlargement of nonconforming uses. Nevertheless, a nonconforming building or structure may be maintained and may be continued to the same extent as that which legally existed at the time of the effective date hereof. (Ord. 176, 1-10-2007)

10-17-2: **REPAIRS:** Repairs may also be made to a nonconforming use, provided such repairs shall not have the effect of increasing the floor space devoted to the nonconforming use, capacity or volume of business. (Ord. 176, 1-10-2007)

10-17-3: **EXPANSION OR ENLARGEMENTS:**

- A. Land: Land area of any nonconforming use shall not be increased.
- B. Buildings: The floor area in a building or structure occupied by a nonconforming use shall not be increased except to overcome unsafe or unsanitary conditions when required by an official, Safety or Health Officer. (Ord. 176, 1-10-2007)

- 10-17-4:     **RESTORATION OR DAMAGED BUILDINGS:** A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or public enemy, may be restored, and the occupancy or use of such building, structure or part thereof which was legally in existence at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year from the date of destruction and is diligently pursued to completion; and provided, that such restoration does not increase the floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming. (Ord. 176, 1-10-2007)
- 10-17-5:     **DISCONTINUANCE:** A nonconforming building or structure or portion thereof, or a lot occupied by a nonconforming use, which is or hereafter becomes abandoned or is discontinued for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. (Ord. 176, 1-10-2007)
- 10-17-6:     **CHANGE TO CONFORMING USE:** Any nonconforming use may be changed to a conforming use. Any nonconforming use, which has been changed to a conforming use, shall not thereafter be changed back to a nonconforming use. (Ord. 176, 1-10-2007)
- 10-17-7:     **CHANGE TO ANOTHER NONCONFORMING USE:** A nonconforming use of a building or lot shall not be changed to another nonconforming use. Any change of use whatsoever must be to a conforming use. (Ord. 176, 1-10-2007)
- 10-17-8:     **RECLASSIFICATION OF TERRITORY:** The provisions pertaining to nonconforming uses of land and buildings shall also apply to land and buildings which hereafter become nonconforming due to an amendment in this title. (Ord. 176, 1-10-2007)
- 10-17-9:     **PERMITS GRANTED PRIOR TO PASSAGE OF ORDINANCE OR AMENDMENT THERETO; VESTED INTEREST:** Notwithstanding the issuance of a permit therefor, no building which becomes nonconforming upon the passage of this title or which becomes noncon-

forming due to an amendment to this title shall be built unless a significant amount of construction has taken place thereon before the effective date of this title. A significant amount of construction shall be interpreted to mean enough construction to require an expenditure of at least five hundred dollars (\$500.00) to duplicate the materials and labor so expended. (Ord. 176, 1-10-2007)

**10-17-10: NONCONFORMING LOTS OF RECORD:**

- A. Dwelling, Accessory Building Permitted: In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any lot of record at the effective date of adoption or amendment of this title, even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. However, yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.
- B. Undivided Parcels: If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this title, and if all or part of the lots do not meet the requirements for lot width and area as established by this title, the lands involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this title, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this title. (Ord. 176, 1-10-2007)

CHAPTER 18  
**MOVING OF BUILDINGS**

SECTION:

10-18-1: Permit Required

10-18-1: **PERMIT REQUIRED:** No permit shall be issued for the moving of any residential, commercial or industrial building, from one site within the City to another site within the City, or from a site outside of the City to a site within the City, without first filing an application with the Zoning Administrator.

- A. Application: The following information shall be filed with the Zoning Administrator at the time the application is made:
1. Location and address of the old and new site.
  2. Plot plan of the new location, also showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots.
  3. Plan and specifications for the proposed improvements at the new location, including plans for landscape treatment, when required, by the Zoning Administrator.
  4. Certification by the Zoning Administrator that the structure is sound enough to be moved and that the location and use of the building will conform to the Building Code and this title.
- B. Board Of Adjustment To Approve: The application shall then be submitted to the Board of Adjustment for approval.
- C. Findings Of Board Of Adjustment: Before the Board of Adjustment may approve the application for the move of a building, it must find:



1. The building is in conformity with the type and quality of buildings existing in the area into which it is proposed to be moved.
  2. Said building and lot on which the building is to be located conforms to the requirements of this title and the Building Code.
  3. Its location on the lot does not in any substantial way adversely affect buildings or uses on abutting properties.
  4. All dedications and improvements, as required by the City for streets and facilities and buildings, shall be provided in conformity with the standards of the City.
- D. Standards Required Before Occupancy: Prior to occupancy, the building shall be brought up to standards of the Building Code for a new building, and shall be painted, refurbished and maintained at that standard.
- E. Bond Required: Before a permit to move a building may be granted, the applicant shall post a bond or other assurance as determined by the Board of Adjustment to cover costs of improvements established in the granting of the permit. (Ord. 176, 1-10-2007)

## CHAPTER 19

**SUBDIVISION REGULATIONS**

## SECTION:

- 10-19- 1: Definition
- 10-19- 2: Plat Required
- 10-19- 3: Approval Of Subdivision Plat
- 10-19- 4: Appeals
- 10-19- 5: Permits
- 10-19- 6: General Requirements
- 10-19- 7: Preliminary Plat Requirements
- 10-19- 8: Final Plat Requirements
- 10-19- 9: Street Improvements; Fees
- 10-19-10: Dedications
- 10-19-11: Amended Plats
- 10-19-12: Exceptions May Be Made To Avoid Hardship
- 10-19-13: Site Plan Review
- 10-19-14: Split Zoned Lots

10-19-1: **DEFINITION:** The word "subdivision," as used in this chapter, is hereby defined as the division of a developed or undeveloped tract or parcel of land into three (3) or more parts for the purpose, whether immediate or future, of sale or of building development; provided, that if any one person within one calendar year divided any tract into three (3) or more parts, such land shall be deemed a subdivision within the meaning of this chapter; provided, however, that this definition of a subdivision shall not include a bona fide division or partition of agricultural land in parcels of more than five (5) acres for agricultural purposes, nor shall it include the division of property which is within a duly zoned commercial or industrial district for commercial or industrial development where no new streets are required or are to be dedicated for public use; nor shall it include or apply to the allocation of land in the settlement of an estate, or a court decree for the distribution of property; nor shall it apply to the sale or conveyance of any parcel of land which may be shown as one of the lots of a subdivision of which a plat heretofore has been recorded in the land records of Bingham County, Idaho. (Ord. 176, 1-10-2007)

10-19-2:     **PLAT REQUIRED:** No person shall subdivide any tract of land which is located wholly or in part in the City, unless he shall first have or cause to have made a plat thereof as required by Idaho Code title 50, chapter 13 and as set forth within this chapter. (Ord. 176, 1-10-2007; amd. 2018 Code)

10-19-3:     **APPROVAL OF SUBDIVISION PLAT:** No plat shall be recorded or offered for recording until the plat has been reviewed by the Planning and Zoning Commission, approved by the Board of Adjustment, development agreement signed and shall bear thereon the approval, by endorsement, of the City Engineer and City Clerk. (Ord. 176, 1-10-2007)

10-19-4:     **APPEALS:** Any aggrieved person whose plat has been rejected or disapproved by the Board of Adjustment may petition the Mayor and Council for a hearing to review the action of the Planning and Zoning Commission. (Ord. 176, 1-10-2007)

10-19-5:     **PERMITS:** No permits shall be issued by an administrative officer for the construction of any building or other improvement requiring a permit upon any land for which a plat is required by this chapter unless and until the requirements of this chapter have been complied with. (Ord. 176, 1-10-2007)

10-19-6:     **GENERAL REQUIREMENTS:**

A.     Streets And Sidewalks:

1. All through streets in the subdivision must conform to the major street plan of the City.

2. The alignment and width of previously platted streets, when extended, shall be preserved, unless topographical conditions make a modification advisable. Exception to this would be in the case where the existing street will no longer meet the required street width as determined by the current ordinance.

3. Where a subdivision abuts or contains an existing or proposed arterial street, there shall be a reverse frontage with screening and an additional fifteen foot (15') rear or side yard setback requirement.

4. Street width is to be measured from property line to property line. The minimum width of streets so measured shall be:

- a. For local or minor street, sixty feet (60');
- b. For collector or secondary street, sixty feet (60');
- c. For arterial or major street, conform to major street plan.

5. Minimum width of roadway (face to face of curb) shall be:

- a. For local or minor street, thirty six feet (36');
- b. For collector or secondary street, forty one feet (41');
- c. For arterial or major street, conform to major street plan.

6. Dead-end streets, designed to be so permanently, shall not be longer than four hundred feet (400') and shall be provided at the closed end with a turnaround with a pavement edge diameter and right-of-way diameter as follows:

- a. If the turnaround is constructed with curb and gutter, the right-of-way shall be a minimum of one hundred feet (100') in diameter with a pavement edge diameter of a minimum eighty three feet (83');

- b. If the turnaround is to be constructed with a drainage swale, without curb and gutter, the right-of-way diameter shall be a minimum of one hundred thirteen feet (113') and the pavement edge diameter shall be a minimum of eighty three feet (83').

7. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty degrees (80°).

8. Minor streets shall be so laid out that their use by through traffic will be discouraged.

9. The arrangement of streets in new subdivisions shall make reasonable provisions for the continuation of the principal existing streets in adjoining subdivisions, or their proper projections when adjoining property is not subdivided. The street and alley arrangements must also be such as to cause no hardship to owners of adjoining property when they plat their land and seek to provide for

convenient access thereto. This arrangement must also provide for continuing a reasonable number of through utility lines.

10. Minimum street grades of four-tenths percent (0.4%) will be required, with the maximum grade being seven percent (7%) for secondary and major streets, and ten percent (10%) for local or minor streets. Where the observance of this standard is impossible, the City Engineer shall review the situation before an exception may be granted.

11. All streets and alleys shall be completed to the grades, which have been officially approved or determined by the City Engineer, as shown upon approved plans and profiles.

12. Where street lines within a block deflect from each other at any one point more than ten degrees ( $10^{\circ}$ ), there shall be a connecting curve. The radius of the curve for the inner street line shall not be less than seven hundred feet (700') for a major street, two hundred fifty feet (250') for an important neighborhood street and fifty feet (50') for local or minor streets.

13. Curbs at street intersections shall be rounded with curves having a minimum radius of twenty five feet (25').

14. Reserve strips on outer boundaries of a subdivision may be established to control access to a partial width street, upon approval by Board of Adjustment; and provided, that such subdivision be accompanied by agreement to dedicate such strip, when sufficient ground is made available, for public use to permit widening of said strip to its normal width. No other reserve strips controlling access to public ways shall be permitted, except when the control and disposition of land comprising such strips are placed within the jurisdiction of the City under conditions specified by Board of Adjustment and attached to plat.

15. Street name signs shall be erected by the subdivider in accordance with City standard specifications.

16. All streets and alleys within the subdivisions will be required to be dedicated for public use. The dedication of one-half ( $\frac{1}{2}$ ) streets in any subdivision is prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these rules and where Board of Adjustment finds it will be practicable to require the dedication of the other one-half ( $\frac{1}{2}$ ) when the adjoining property is subdivided. Wherever there exists a

one-half ( $\frac{1}{2}$ ) street adjacent to a tract to be subdivided, the other one-half ( $\frac{1}{2}$ ) shall be platted within such tract.

17. Sidewalks shall be a minimum of five feet (5') in width and may be required to be wider in areas near shopping centers, schools or where pedestrian traffic may warrant a greater width.

18. Areas developed without curb and gutter shall provide:

a. An eleven feet four inch (11'4") minimum width grass drainage swale immediately adjacent to any public street. The bottom of the grass drainage swale, measured at the two foot (2') wide midpoint between the edge of the street pavement (or its concrete edge) and the opposite side of the swale (usually the street right-of-way line), shall be a minimum of fourteen inches (14") below the edge of the street pavement or its concrete edge, for the full length of the property, except for the driveway.

b. Any driveway crossing the grass drainage swale shall also be swaled. The width of the swaled portion of the driveway shall be the same as the width of the grass drainage swale which it crosses. The bottom of the swaled portion of the driveway, measured at the two foot (2') wide midpoint between the edge of the street pavement (or its concrete edge) and the opposite side of the swale, shall be a minimum of six inches (6") below the edge of the street pavement or its concrete edge. (Ord. 176, 1-10-2007)

c. Any person, firm or corporation, whether as principal, agent, employee or otherwise, who shall construct or fail to construct, reconstruct, plant or fail to plant, fail to maintain, or change the use of any designated swale area contrary to the provisions of this subsection, or who fails to comply with any notice to correct within the time specified, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 10-3-6 of this title. (Ord. 176, 1-10-2007; amd. 2018 Code)

B. Alleys And Easements:

1. The minimum width of any dedicated alley shall be sixteen feet (16'). Alleys of twenty feet (20') in width may be required in commercial and industrial areas. Alleys may be required along the rear line of business property and in the rear of all lots fronting major thoroughfares.

2. Where alleys are not provided, easements of not less than eight feet (8') in width shall be dedicated on each side of all rear lot lines and six feet (6') on side lot lines, where necessary, for poles, wires, conduits, storm or sanitary sewers, gas and water lines. Easements of greater width may be required along lines across lots or along boundaries, where necessary, for surface drainage or for the extension of main sewers or other utilities.

3. Alley intersections and sharp changes in alignment shall be avoided; but, where necessary, corners shall be cut off sufficiently, as determined and approved by the City Engineer, to permit safe vehicular movement.

4. Dead-end alleys shall be avoided, where possible, but if unavoidable, shall be provided with a cul-de-sac turnaround or alternate turnaround.

5. Easements shall be provided for the unobstructed flow of surface water drainage and the design shall be approved by the City Engineer or it shall be designed by the City Engineer.

C. Blocks:

1. The length, widths and shapes of blocks shall be determined with due regard to adequate building sites suitable to the special needs of the type of use contemplated; the zoning regulations, as to lot size and dimension; the need for convenient access, circulation, control and safety of street traffic; and the limitations and opportunities of topography.

2. Block lengths shall not exceed one thousand three hundred feet (1,300') and not less than four hundred feet (400'). Pedestrian concrete crosswalks, not less than six feet (6') wide, shall be required, where deemed essential, to provide circulation or access to schools, playgrounds, shopping areas, transportation or any other community facilities.

D. Lots:

1. All lots shown on the subdivision plat must conform to the minimum requirements of the zoning regulations.

2. Side lines of lots shall be at right angles or radial to the street lines unless a variation from the rule will give a better street and lot

plan. All corner lots shall have a minimum radius of twenty feet (20') on the property lines.

3. Double frontage lots shall be prohibited, except where unusual topography makes it impossible to meet this requirement.

4. All remnants of lots below minimum size left over after the subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels. (Ord. 176, 1-10-2007)

10-19-7: **PRELIMINARY PLAT REQUIREMENTS:**

In seeking to subdivide land into building lots and to dedicate streets, alleys or other land for public use, there shall be one scaled drawing submitted to the Zoning Administrator, a minimum of twenty four inch by thirty six inch (24" x 36") and eleven inch by seventeen inch (11" x 17") copies in the number directed by the Zoning Administrator. In addition, all submittals shall also be submitted in electronic form. The preliminary plat shall be submitted at least ten (10) days before a Planning and Zoning Commission meeting date. The Planning and Zoning Commission shall review the application within ten (10) days from the first meeting at which the plan was formally presented, unless an extension of time is agreed to by the subdivider. The preliminary plat so prepared by the subdivider and formally filed with the Planning and Zoning Commission shall contain the following information:

- A. Name: The proposed name of the subdivision.
- B. Location: The location of the subdivision as forming a part of some larger tract or parcel of land referred to in the records of the County Recorder.
- C. Vicinity Map: A vicinity map showing a radius of one-half ( $1/2$ ) mile around the proposed development shall be provided. All existing roadways shall be shown, with names on the vicinity map.
- D. Contour Map: A contour map at appropriate contour intervals to show the general topography of the tract.
- E. Boundary Lines: The boundary lines of the tract to be subdivided shall be accurate in scale and bearing.
- F. Streets, Important Features: The location, widths and other dimensions of all existing or platted streets shall be shown on the preliminary plat. In addition, important features within one hundred feet (100') and contiguous to the tract to be subdivided and recorded as a legal document shall be shown on the preliminary plat. Examples of those features include, but are not limited to, railroad lines, watercourses, easements and exceptional topography.

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- G. Utilities: The approximate location of existing sanitary sewers, storm drains, water supply mains, fire hydrants and culverts within the tract and immediately adjacent thereto.
1. Irrigation Rights: All preliminary plats shall be accompanied by proof of transferable irrigation water rights. All sub-dividers are required to complete the transfer of irrigation water rights and installation of the irrigation water system as proposed. One share of water for each acre of property within the subdivision, or all water rights associated with the property, whichever is greater, shall be deeded to the city before the filing of the final plat.
- H. Streets, Lots, Open Spaces: The location, widths, and other dimensions of proposed streets, alleys, easements, parks, lots, and other open spaces.
- I. Public Use Parcels To Be Dedicated: All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated.
- J. Point, Scale, Date: North point, scales and dates.
- K. Zoning Requested: The zoning requested for each area, if not already zoned.
- L. Additional Information: Where needed and upon the request of the Planning and Zoning Commission, the following information shall be furnished:
1. The cross section of proposed streets showing widths of roadways and location of sidewalks.
2. The proposed method of handling sanitary sewage, surface water drainage and storm drains within the tract.
- M. Drawing Scale: The preliminary plat shall be drawn to a scale not smaller than one inch to one hundred feet (1" = 100').
- N. Copies Maintained; Term Of Validity: One copy of the approved preliminary plat will be kept on file for public examination at the Office of the City Engineer, one copy at the Office of the Planning and Zoning Commission and one copy returned to the owner. Such approval of the preliminary plat shall be valid for a period of one calendar year only. (Ord. 176, 1-10-2007; amd. Ord. 217A, 4-10-2024)

**10-19-8: FINAL PLAT REQUIREMENTS:**

- A. **Time Limit For Submittal:** The final plat must be submitted to the Planning and Zoning Commission for final review within one year after the approval of the preliminary plat, and no plat shall be recorded or offered for recording, nor shall any land be recorded or offered for sale with reference to such plat until said plat has been duly approved as indicated in section 10-19-3 of this chapter.
- B. **Approval; Recording:** Final approval of the plat shall be secured from the Board of Adjustment; otherwise, the subdivider will be duly notified of its rejection by said body. The final plat must be recorded within twelve (12) months of approval by the Board of Adjustment, or it shall expire. The Planning and Zoning Commission must review the final plat. The final plat shall be submitted at least ten (10) days before a Planning and Zoning Commission meeting date. The Planning and Zoning Commission shall review the application within ten (10) days from the first meeting at which the plan was formally presented, unless an extension of time is agreed to by the subdivider.
- C. **Preparation Of Plat:** The plat sheet must be prepared in accordance with Idaho Code. One copy for the Engineering Department will be prepared as outlined below.
- D. **Number Submitted; Recording:** Two (2) prints shall be submitted to the Planning and Zoning Commission for its review. If approved, the prints shall have endorsed thereon the required approvals. Upon final approval, the subdivider will take the drawings to the County Recorder and return the prints for the City to the Engineering Department, and the County Recorder shall have attested the content on the print for the City to be the same that has been recorded with the County.
- E. **Print Dimensions:** The size of the print to be filed with the City Engineer shall be twenty two inches by thirty four inches (22" x 34") and the border line of the plat shall be drawn in heavy lines, leaving a space of at least one and one-half inch ( $1\frac{1}{2}$ " ) margin on the left hand side of the sheet for binding, and not less than a one-half inch ( $\frac{1}{2}$ " ) margin in from the outside or trim line around the other three (3) sides or edges of the sheet. The plat shall be so drawn that the top of the sheet either faces north or west, preferably north, whichever accommodates the drawing best. The actual map drawn shall be made on a scale not smaller than one inch to one hundred feet ( $1" = 100'$ ) and shall clearly show all details; and the workmanship

on the finished drawing shall be neat, clean cut and readable. In addition, a minimum of two (2) eleven inch by seventeen inch (11" x 17") copies of the recorded final plat will be submitted with the City Engineer's copies.

- F. Information Required On Drawing: The following information shall be contained upon the drawing to be filed with the City Engineer:
1. The name and general location of the subdivision in bold letters at the top of the sheet. The name of the subdivision must not bear the name of any other Town or addition in the County.
  2. The north point and scale of the plat.
  3. The boundaries must be accurately drawn, showing the proper bearings and dimensions of all boundary lines of the subdivision. These lines should be slightly heavier than street and lot lines.
  4. The names, widths, lengths, bearings and curve data on center-lines of proposed streets, alleys and easements desired or necessary; also, the boundaries, bearings and dimensions of all portions within the subdivision as intended to be dedicated to the use of the public. The sizes, lines, dimensions, bearings and number of all lots, blocks and/or parts reserved for any reason within the subdivision.
  5. The widths and names of abutting streets and alleys, and the names and boundaries of all subdivisions which have been previously recorded and adjacent thereto, must be shown upon the plat offered for record. These adjacent subdivisions will be shown in dotted lines to show their relationship to the plat offered for record. If adjoining land is unplatted, it should be indicated as such.
  6. All linear dimensions shall be calculated to the nearest one-hundredth (0.01) of a foot, and all bearings shall be calculated to the nearest ten (10) seconds of arc, except on the boundaries where the bearings may be shown to the nearest one second. All curves shall be defined by the radius, central angle, tangent, arc and chord distances. The description and location of all monuments shall be shown. Monuments of iron pipe, stone or concrete shall be set at tangent points or points of curves of street intersections on property lines, at alley intersections and at such other points as may be necessary to make the retracing of the lines as shown on the final plat reasonably convenient. No plat showing a plus or minus distance will be accepted unless agreed to by the City Engineer.

7. A definite tie between not less than two (2) prominent points shall be shown between the exterior boundary of the subdivision and the section corner and quarter corner system of the County as established by the United States government and supplemented by the County, indicated either by bearing and distance or by rectangular coordinates. The said tie may be made to a line of a County plat, or a plat of a neighboring subdivision, which conforms to the above requirement.
8. All lots shall be numbered by progressive numbers in each block separately; blocks shall also be numbered.
9. Upon the print, the required forms shall be letter for the following: registered professional engineer and/or land surveyor's "Certificate of Survey"; owner's dedication certificate with notary public's acknowledgment; the approval of the Mayor and City Council attested by the City Clerk; approval by the City Attorney, the City Engineer and the Planning and Zoning Commission.
10. The following items shall accompany the final plat application:
  - a. Prior to Planning and Zoning Commission approval:
    - (1) A vicinity map showing a radius of one-half ( $\frac{1}{2}$ ) mile around the proposed development. All existing roadways shall be shown with names on the vicinity map.
    - (2) A copy of the proposed final plat indicating the zoning on each lot within the final plat. This copy shall be a separate document from the proposed final plat itself.
  - b. Prior to Board of Adjustment approval:
    - (1) Copies of any private restrictions proposed to be recorded for the purpose of providing regulations governing the use, building lines, open spaces or other aspects of development and use.
    - (2) Final plat and improvement drawings recorded in digital form.
- G. Dimensions Staked: All dimensions, both linear and angular are to be staked in the field by an accurate control survey which must balance and close within a limit of one in ten thousand (10,000).

- H. Signatures: The final print shall be signed separately by all parties duly authorized and required to sign. (Ord. 176, 1-10-2007)

10-19-9: **STREET IMPROVEMENTS; FEES:**

- A. Requirements: The owners of any land to be platted as a subdivision may be required to install all street improvements, including sidewalks, curb and gutter, street grading and surfacing, as well as sanitary sewers, street drainage and drainage structures, water mains and fire hydrants, including hydrant and valve boxes, all such improvements to be installed under the specifications and inspection of the City Engineer. The installations of all such improvements required above may be reduced on major streets forming a boundary of the subdivision.
- B. Fee: A fee will be charged for the checking of drawings and for inspection, as determined by the City Engineer and City Council. (Ord. 176, 1-10-2007)

10-19-10: **DEDICATIONS:**

- A. Streets, Alleys, Etc.: All streets, alleys, easements and required crosswalks within the subdivision must be dedicated for public use.
- B. Other Public Open Space: Dedication of all other public open space within the subdivision will be required in accordance with the Master Plan of the City. Where this plan calls for a larger amount of public space than the subdivider can be reasonably expected to dedicate, the land needed beyond the subdivider's fair contribution is to be reserved for acquisition by the City, provided such acquisition is made within five (5) years from the date of approval.
- C. Public Hearing Required; Appeal: The action of the Mayor and City Council in exercising this power to compel dedication of public open space shall take place only after a public hearing has been held on the matter. Anyone aggrieved by the decision of the City Council may have the decision reviewed by a court of competent jurisdiction. (Ord. 176, 1-10-2007)

**10-19-11: AMENDED PLATS:**

- A. Scope: Amended plats must be filed as per original. In the event a plat of a subdivision has been recorded and major changes have been made which change the subdivision materially, the subdivision upon which these changes have been made must be vacated and an amended plat filed in accordance with the regulations set up in this chapter.
- B. Street, Alley, Easement Location: Any change in the location of a street or area reserved for public use or in alleys and easements shall require the filing of amended plat.
- C. Lot Lines, Sizes Or Unit Changes: Any change, which affects lot lines, lot sizes or units for additional building which may be under separate ownership shall require the filing of an amended plat or condominium plat.
- D. Original Plat Accompany: Any request to amend a plat must be accompanied by a copy of the original plat. (Ord. 176, 1-10-2007)

**10-19-12: EXCEPTIONS MAY BE MADE TO AVOID HARDSHIP:**

Whenever the tract to be subdivided is, in the opinion of the City Council, of such unusual shape or size or is surrounded by such development or unusual conditions that the strict application of the requirements contained herein would result in real difficulties and substantial hardships or injustices, the City Council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but so, at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of this chapter are preserved. (Ord. 176, 1-10-2007)

**10-19-13: SITE PLAN REVIEW:** A final site plan review must be approved prior to the issuance of a building permit in all nonresidential zones and in any residential zone that allows apartments.

- A. Submittal: A preliminary site plan must be submitted to the Planning and Zoning Commission for review and recommendations to the City Council under the following conditions:
  - 1. Multi-family dwellings consisting of five (5) or more attached dwelling units.

2. Dwelling groups consisting of two (2) or more dwelling units inside or outside a planned unit development.
  3. Other residential developments as deemed necessary by the City Council, the Chairperson of the Planning and Zoning Commission or a member of the Planning and Zoning Commission.
  4. All developments outside residential zones.
- B. Recommendations To City Council: Recommendations to the City Council will be reported at the next Council meeting. The City Council will consider the recommendations of the Planning and Zoning Commission and make any additional recommendations they feel necessary. All recommendations will be forwarded to the developer for compliance.
- C. Approval Upon Compliance: Upon compliance with required changes, the planning and zoning portion of the final site plan may be approved by the Chairperson or Vice Chairperson and one member of the Planning and Zoning Commission.
- D. Drawings To Include: All final site plan drawings shall include the following items:
1. Parking space requirements per chapter 22 of this title.
  2. Landscaping requirements per section 10-14-23 of this title.
  3. Location of all buildings proposed for development.
  4. Location of all access to public roads.
  5. A vicinity map showing a radius of one-half ( $1/2$ ) mile around the proposed development. All existing roadways shall be shown with names on the vicinity map.
  6. All other documents for review as required by the City Engineer.
- E. Validity: Approval of a site plan shall be valid for a period of twenty four (24) months. (Ord. 176, 1-10-2007)

10-19-14: **SPLIT ZONED LOTS:** The following shall address split zoned lots within the City:

- A. Prohibition: Split zoned lots are prohibited in the City.
- B. Submittal: Upon submission of a request for final plat approval, a separate document shall be submitted for staff review showing the zoning of each lot within the requested final plat. (Ord. 176, 1-10-2007)



## CHAPTER 20

**COMMUNICATION TOWERS AND ANTENNAS**

## SECTION:

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10-20-1: **INTENT AND PURPOSE:** Communication towers and antennas whose distribution, placement, architectural or other aesthetic properties are out of character with their surroundings have the effect of decreasing the attractiveness and destroying the character and integrity of the community. This, in turn, has an adverse impact on quality of life and property values, important elements of the public welfare. The purpose and intent of this chapter is to promote the public welfare, by providing for those communication towers and antennas required for over-

the-air communications services, while controlling the negative impacts which can be caused by these towers and antennas. (Ord. 176, 1-10-2007)

10-20-2:       **GENERAL OBJECTIVES:** The objectives for establishing a conditional use for and requiring business licenses for communication towers and antennas are to:

- A.     Provide for the legitimate desire of service providers, citizens and businesses in and near the City to provide, or to access and use over-the-air electromagnetic radio wave services as quickly as practical;
- B.     Protect the citizens and businesses of the City and surrounding areas from the disadvantages of the uncontrolled proliferation and placement of communication towers;
- C.     Control the proliferation of particularly tall towers by requiring them to be built, and the land upon which they are situated to have sufficient space, to provide for maximum collocation opportunities;
- D.     Impose appropriate restrictions on the conditions tower owners may impose on collocators, and provide minimum tower and tower site standards, then let the market place determine whether a specific service provider will or will not collocate;
- E.     Establish siting, appearance and noise standards that protect the residents and businesses in and around the City by only allowing towers, antennas and support equipment buildings that are visually and audibly compatible with and tend to blend in with the area where they are located;
- F.     Optimize the placement and distribution of various types of towers; and
- G.     Maintain tower appearance and structural integrity through design, construction and maintenance standards. (Ord. 176, 1-10-2007)

10-20-3:       **DEFINITIONS:** The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

**ANTENNA:**                   Any structure or device designed, utilized or intended to be utilized to radiate or capture

over-the-air electromagnetic waves, for purposes, including, but not limited to, beacon, control signal, data, audio and/or video transmission or reception, radio or television transmission or reception, studio to transmitter links, microwave relay links, satellite uplinks and downlinks, unlicensed wireless services, commercial wireless telecommunication services, commercial mobile wireless services, cellular phone services, specialized mobilized radio communications, enhanced specialized mobilized radio communications, personal wireless services, common carrier wireless exchange access services and pager services.

**BACKHAUL  
NETWORK:**

Landlines (including trunks) interconnecting wireless telecommunications antennas, mobile telephone switching offices, and the public switched telephone network (including local and long distance providers).

**BOARD OF  
ADJUSTMENT:**

The Board of Adjustment of the City of Firth, Idaho.

**CITY:**

The City of Firth, Idaho.

**CITY CLERK:**

The City Clerk of the City of Firth, Idaho.

**CITY COUNCIL:**

The City Council of the City of Firth, Idaho.

**COLLOCATION:**

The use of a tower by more than one wireless communications provider.

**FAA:**

The Federal Aviation Administration or its lawful successor.

**FCC:**

The Federal Communications Commission or its lawful successor.

**FIRE CHIEF:**

The Fire Chief of the City of Firth, Idaho.

**MAYOR:**

The Mayor of the City of Firth, Idaho.

PERSONAL WIRELESS SERVICES:	Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services as now defined in section 704(a)(7)(C)(i) of the Telecommunications Act of 1996, 47 USC section 332(a)(7)(C)(i), as the same may be amended from time to time.
PLANNING AND ZONING COMMISSION:	The Planning and Zoning Commission of the City of Firth, Idaho.
PUBLIC UTILITY FACILITIES:	Facilities designed or utilized for the transmission, distribution, delivery or collection of electric, public switched telephone network, cable television, natural gas, water or sewer utility services, or for the transportation of the public.
SERVICE PROVIDER:	A wireless communications provider.
TOWER:	Refers to communications towers. A tower is any lattice tower, monopole, pole, mast, spire or similar structure, freestanding or guyed, mounted on the ground or on another structure, which supports or is intended to support one or more antennas.
WIRELESS TELECOMMUNICATION SERVICES (COMMERCIAL):	Licensed cellular, specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), personal communication services (PCS), paging, and similar services utilizing over-the-air electromagnetic radio waves that are marketed to the general public. Wireless telecommunication services are not controlled by the Idaho Public Utilities Commission, are not public utilities and are not essential services, but are governed under the provisions of this title. (Ord. 176, 1-10-2007)

**10-20-4: GENERAL PROVISIONS:**

- A. **Support Equipment Building Minimum Requirements:** Any tower support equipment building must meet minimum requirements governing main buildings in the zone in which it is located, unless the support equipment building is an accessory to a main building, in which case the support equipment building must meet minimum requirements for accessory buildings in the zone in which it is located.
- B. **Tower And Attachments Meet Accessory Building Requirements:** The tower and everything attached to it must meet minimum requirements governing accessory buildings in the zone in which it is located. If the tower is also used to illuminate a public park, playing field, public parking lot or public street, or to hold a traffic light, instead of being governed by accessory building setbacks, the tower shall minimally be governed by streetlight setbacks. Additional setback requirements given in section 10-20-8, "Setbacks", of this chapter must also be met.
- C. **Extend To Front Line:** No tower or antenna may extend further than eighteen inches (18") beyond the front line of any building into the property's front yard, except for:
1. Satellite dishes and microwave-TV dishes no greater than thirty inches (30") in diameter;
  2. Towers which are also used to illuminate public parks, playing fields, public parking lots or public streets;
  3. Towers which are also used to hold traffic lights;
  4. Towers which are made to look like and used as flag poles.
- D. **Access Easement:** The property where a tower is or will be located must have an access easement by which vehicles and equipment can get to the property.
- E. **Commercial Lease:** If the land upon which the tower is or will be located is or will be leased, the lease shall fit within "commercial lease" provisions of the Federal Bankruptcy Law. (Ord. 176, 1-10-2007)

10-20-5: **SPECIAL ANTENNA CATEGORIES:**

- A. **Receive Only Antennas:** Receive only antennas are those which receive but do not transmit any signal. The most common receive only antennas are those which receive broadcast AM radio, FM radio or TV signals, although others also exist. A receive only antenna is allowed in any zone in the City and does not require a conditional use permit or business license; provided, that the highest point of the tower and anything mounted on it is no higher than ten meters (10.000 m) (32'9<sup>1</sup>/<sub>16</sub>" ) above the ground, measured at grade, or for roof mounted antennas, three meters (3.000 m) (9'10<sup>7</sup>/<sub>64</sub>" ) above the highest point of the roof. If there are any local trees or buildings blocking a signal from a directional antenna, this height may be increased sufficiently to clear the obstruction, but only up to a height of twenty one and one-half meters (21.500 m) (70'6<sup>29</sup>/<sub>64</sub>" ) above grade.
- B. **Amateur Antennas:** An amateur antenna, to include dipoles, used by a Federally licensed amateur radio operator, is allowed in any zone in the City and does not require a conditional use permit or business license, provided the highest point of the tower and anything mounted on it is no higher than twenty one and one-half meters (21.500 m) (70'6<sup>29</sup>/<sub>64</sub>" ) above the ground, measured from grade, and provided all applicable FCC regulations are met.
- C. **Personal Use Unlicensed Frequency Antennas:** An antenna used to transmit on FCC authorized unlicensed frequencies (such as citizen's band), for personal use only, may be located in any zone in the City and does not require a conditional use permit or business license, provided it meets the same minimum requirements that a receive-only antenna must meet, plus all applicable FCC regulations.
- D. **Low Height Governmental Antennas:** A transmitting antenna used strictly for Federal, State or local governmental purposes may be located in any zone in the City and does not require a conditional use permit or business license, provided it meets the same minimum requirements that a receive-only antenna must meet, plus all applicable FCC regulations.
- E. **Mobile Antennas:** An antenna attached to a licensed motor vehicle (including travel trailers or motor home trailers or camper trailers, but excluding all other types of trailers) may be used in any zone in the City and does not require a conditional use permit or business license. This also includes any temporary antenna set in the parking area beside such a vehicle, used exclusively by that vehicle, and carried in or on the vehicle when the vehicle is not parked.

- F. Portable Hand Held Device Antennas: An antenna attached to a portable hand held device, such as a walkie talkie, wireless phone, cell phone or pager, may be used in any zone in the City and does not require a conditional use permit or business license.
- G. Temporary Towers:
1. A "temporary tower", including such things as a cherry picker or crane, used to determine acceptable antenna locations and heights, does not require a conditional use permit or business license, but does require permission from the City Council, including specific locations to be tested and the date each test will be made.
  2. If a tower with a current conditional use permit and business license has been damaged or destroyed, a temporary tower may be placed at the same site, provided the temporary tower meets all setback requirements, for a period of up to ninety (90) days, while the permanent tower is being repaired or replaced. Before the temporary tower may be placed on the property, approval must be granted by the Mayor or Acting Mayor.
  3. No other temporary towers are allowed within the City.
- H. Antenna Arrays: Antenna arrays are normally only used to transmit long wave, medium wave (including broadcast AM radio) and short wave radio signals. An antenna array, consisting of multiple towers and their supporting mechanisms but functioning as a single broadcast antenna, will be treated as a single tower where limitations on numbers of towers exist in this chapter. (Ord. 176, 1-10-2007)

10-20-6: **TOWER CATEGORIES:** In all cases, each land and/or building owner, whether public or private, has the right to control the placement of, dictate acceptable characteristics of, and limit the total number of towers and/or antennas on his, her, their or its property, as long as all provisions of this chapter are met. The Board of Adjustment reserves the right to impose stricter requirements than those required for a specific tower type, if the characteristics of the specific tower site warrant it.

- A. Type 1: Mounted to a roof or side of a building and:
1. Extending no greater than ten meters (10.000 m) (32'9<sup>1</sup>/<sub>16</sub>" ) above the highest point of the roof;
  2. If guy wires are used, no guy wire may extend below the roof;

3. No part of a roof mounted tower may extend beyond the side of the building, and no part of a side mounted tower may extend greater than eighteen inches (18") beyond the side of the building;
  4. Nothing mounted on the tower may extend further than ten meters (10.000 m) (32'9<sup>1</sup>/<sub>16</sub>" ) above the highest point of the roof, nor greater than eighteen inches (18") beyond the side of the building;
  5. An antenna mounted directly to the side of a building or any other structure not otherwise classified as a tower may not extend above the square or top of the side of the building, nor more than eighteen inches (18") beyond the side of the building;
  6. Except for towers already existing before the effective date hereof, lattice construction is prohibited;
  7. Allowed in the R-3, R-3A, PB, RSC-1, C-1, HC-1, CC-1, GC-1, M-1, I&M-1, and I&M-2 Zones.
- B. Type 2: A monopole designed to look like a standard utility pole, mounted on the ground and:
1. No greater than twenty seven and one-half meters (27.500 m) (90'2<sup>43</sup>/<sub>64</sub>" ) high, measured from grade to the top of the tower and anything mounted to the tower;
  2. No greater than twenty four inches (24") in width or in depth;
  3. Nothing mounted on the tower, including, but not limited to, antennas, mounting brackets, amps platforms and transformers, may extend further than eighteen inches (18") beyond the face of the tower, with the exception of antennas strung between towers, supports for electric, telephone, cable TV and other lines defined as utility lines by this Code, and those lights and flags specifically allowed on the tower under subsections B4 and B5 of this section;
  4. Allowed in any zone in a one acre or greater public park, in a playing field located on a five (5) acre or greater property upon which no residence is located, or in a public parking lot, with a light or lights attached to illuminate the public park, playing field or public parking lot;
  5. When made to look like a flag pole, allowed in any zone on five (5) acre or greater school grounds, three (3) acre or greater church grounds, five (5) acre or greater hospital grounds, and City, County,



State or Federal government owned property, and also allowed on any property not zoned as residential (not zoned RP, RP-A, R-1, R-1A, R-2, R-2A, RMH, R-3 or R-3A); provided, that:

a. Excluding the land the tower itself is on, the tower is at least two hundred feet (200') from the nearest residential property;

b. The flag flown on the tower is kept in good condition, with a standby flag ready to replace it should it become damaged;

c. The flag is big enough that all features on the flag (for example, all stars on an American flag) are visible from the ground;

d. The flag is flown both day and night, with the light illuminating the flag at night aimed up at the flag only, with no part of the light beam hitting any part of any building off of the tower property;

6. Allowed behind and within twenty five feet (25') of a building, when located in an office, retail, service or heavy commercial zone (PB, RSC-1, C-1, HC-1, CC-1 or GC-1);

7. Allowed anywhere on the property, when located in an industrial or manufacturing zone (M-1, I&M-1 or I&M-2);

8. When located outside an industrial or manufacturing zone (outside M-1, I&M-1 or I&M-2), justification must be provided for not using a Type 1 tower due to one or more of the following:

a. No building which would otherwise allow the antenna to reach the desired coverage area is tall enough to get the antenna to the height required.

b. No building which would otherwise allow the antenna to reach the desired coverage area is available.

c. The City Council has specifically requested a Type 2 tower at a specific site.

C. Type 3: A monopole designed to look like a standard utility pole, mounted on the ground and:

1. No greater than twenty seven and one-half meters (27.500 m) (90'2<sup>43</sup>/<sub>64</sub>" ) high, measured from grade to the top of the tower, exclusive of anything mounted to the tower;

2. No greater than twenty four inches (24") in width or in depth;
3. Nothing mounted on the tower, including, but not limited to, antennas, mounting brackets, amps platforms and transformers, may extend further than eighteen inches (18") beyond the face of the tower, with the exception of antennas strung between towers, supports for electric, telephone, cable TV and other lines defined as utility lines by this Code, and those lights and traffic lights specifically allowed on the tower under subsections C4 and C5 of this section;
4. Allowed by a public street, with a light or lights attached to illuminate the street, or located by a public street or at an intersection of public streets, with a traffic light attached, when located in an office, retail, service or heavy commercial zone (PB, RSC-1, C-1, HC-1, CC-1 or GC-1);
5. Allowed in any zone when located adjacent to an arterial with a light attached to illuminate the arterial, or when located adjacent to an arterial, or at an intersection of an arterial and any other street, with a traffic light attached;
6. Justification must be provided for not using a Type 1 or Type 2 tower due to either of the following:
  - a. The City Council has specifically requested a Type 3 tower at a specific site.
  - b. Otherwise:
    - (1) For a Type 1 tower, no building which would otherwise allow the antenna to reach the desired coverage area is both available and tall enough to get the antenna to the height required; and
    - (2) No space on or behind a building which would otherwise allow the antenna to reach the desired coverage area is available; and
    - (3) No space in a playing field, public park or public parking lot which would allow the antenna to reach the desired coverage area is available; and
    - (4) No site where this chapter would allow the tower to look like and act as a flag pole is available.

- D. Type 4: Any tower which cannot meet the minimum requirements of any of the other types. Any tower whose height or location force it to be marked with FAA standard colors and/or to use FAA mandated warning lights is also a Type 4 tower. All nonconforming towers allowed under section 10-20-17, "Nonconforming Use", of this chapter are also Type 4 towers. Type 4 towers are subject to the following:
1. Type 4 towers may not be located in residential (not in RP, RP-A, R-1, R-1A, R-2, R-2A, RMH, R-3 or R-3A) Zones;
  2. Type 4 towers may not exceed fifty meters (50.000 m) (164'<sup>1</sup>/<sub>2</sub>" ) in height, measured from the ground at grade to the top of the tower and anything mounted on the tower. If a greater height above average terrain is required, this must be achieved by locating the tower on higher ground;
  3. If the tower is on a roof, no part of the tower may extend beyond the side of the building, and nothing mounted on the tower may extend further than eighteen inches (18") beyond the side the building. For nonroof mounted towers, nothing mounted on the tower, including, but not limited to, antennas, mounting brackets, amps platforms and transformers, may extend further than eighteen inches (18"), or for antennas, further than one-fourth (<sup>1</sup>/<sub>4</sub>) wave length of the lowest frequency the antenna is designed for, whichever length is greater, beyond the face of the tower, with the exception of antennas strung between towers, and supports for electric, telephone, cable TV and other lines defined as utility lines by this Code;
  4. If the tower is on a roof, no guy wires are allowed below the roof. For nonroof mounted towers, no guy wires are allowed;
  5. Except for towers already existing before the effective date hereof, lattice construction is prohibited;
  6. With the exception of those conditions which make a nonconforming tower nonconforming, Type 4 towers located within nine hundred ninety feet (990') of one another must be the same height, the same type of construction, and the same colors;
  7. When located outside an industrial or manufacturing zone (outside M-1, I&M-1 or I&M-2), justification must be provided for not using a Type 1, 2 or 3 tower due to one or more of the following:

a. The City Council has specifically requested a Type 4 tower at a specific site.

b. Height limitations:

(1) For a Type 1 tower, no building which would otherwise allow the antenna to reach the desired coverage area is both available and tall enough to get the antenna to the height required and still meet Type 1 tower height limitations; and

(2) Neither a Type 2 or Type 3 tower would be tall enough; and

(3) For sound engineering reasons, the service provider's tower system plan cannot be redesigned (including, but not limited to, using infill towers) to accommodate a shorter tower height.

c. Site availability:

(1) No industrial or manufacturing sites (no M-1, I&M-1 or I&M-2) are available which would allow the antenna or dispersed sets of antennas to reach the desired coverage area; and

(2) No other sites capable of accommodating Type 1, 2 or 3 towers are available which would allow the antenna or dispersed sets of antennas to reach the desired coverage area. (Ord. 176, 1-10-2007)

10-20-7: **INVENTORY OF EXISTING SITES:** At the time of initial application, the applicant must submit a map which will become the property of the City, showing the location and noting the height, design and, if applicable, type of all existing towers, and all approved but not yet constructed towers, both in and within one mile of the City and its impact area, and must also show on this map which of these towers are or will be used by the applicant, and where the applicant proposes to locate any new towers. The City will provide a base map showing the location of existing and approved but not yet constructed towers to help the applicant get started. (Ord. 176, 1-10-2007)

10-20-8: **SETBACKS:** For setback purposes, tower height is measured from the ground at grade to the highest point on both the

tower and anything attached to the tower (including lightning rods). All setbacks given in this section are in addition to those imposed by the zone in which the tower is located. The Board of Adjustment reserves the right to impose stricter setback requirements, if the characteristics of the specific tower site warrant it.

A. Type 3 Towers:

1. For towers located adjacent to arterials, there are no setback requirements beyond those imposed by the zone in which the tower is located.

2. Otherwise, the centerline of the tower must be horizontally set back at least one times the height of the tower from all RP, RP-A, R-1, R-1A, R-2, R-2A, RMH, R-3 and R-3A properties within the City, from all properties shown as low or high density on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as residential by the City or County governing that property.

B. Type 4 Towers: Excluding the property the tower itself sits on, the centerline of the tower must be horizontally set back at least:

1. One times the height of the tower from any arterial;

2. Four (4) times the height of the tower from all RP, RP-A, R-1, R-1A and R-2 properties within the City, from all properties designated as low density on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as low density residential by the City or County governing that property;

3. Two (2) times the height of the tower from all R-2A and RMH properties within the City, from all properties designated as high density on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as high density residential by the City or County governing that property;

4. One times the height of the tower from all R-3, R-3A, PB, RSC-1, C-1, HC-1, CC-1 and GC-1 properties within the City, from all properties designated as commercial on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as commercial by the City or County governing that property;

5. Except for the minimum setbacks required in the zone where the tower is located, no minimum setbacks are required from M-1, I&M-1 or I&M-2 properties within the City, from properties designated as industrial on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as industrial or manufacturing by the City or County governing that property. (Ord. 176, 1-10-2007)

10-20-9: **SEPARATIONS:** For separation purposes, the separation distance is measured from the centerline of one tower to the centerline of the next tower. The Board of Adjustment reserves the right to impose stricter separation requirements, if the characteristics of the specific tower site warrant it.

A. Type 3 Towers:

1. If the tower is located in an industrial or manufacturing zone (M-1, I&M-1 or I&M-2):

a. The tower must be separated at least six hundred sixty feet (660') from any other Type 3 or Type 4 tower;

2. Otherwise, outside of an industrial or manufacturing zone:

a. The tower must be separated at least six hundred sixty feet (660') from any industrial or manufacturing zone (M-1, I&M-1 or I&M-2 within the City, an area designated as industrial on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as industrial or manufacturing by the City or County governing the land where the tower is located); and

b. The tower must be separated at least six hundred sixty feet (660') from any other Type 3 or Type 4 tower.

B. Type 4 Towers:

1. If the tower is located in an industrial or manufacturing zone (M-1, I&M-1 or I&M-2):

a. The tower must be separated at least six hundred sixty feet (660') from any other Type 3 or Type 4 tower;

2. Otherwise, outside of an industrial or manufacturing zone:

a. The tower must be separated at least five thousand two hundred eighty feet (5,280') from any industrial or manufacturing zone (M-1, I&M-1 or I&M-2 within the City, an area designated as industrial on the Comprehensive Plan Map outside the City but within the City's impact area, or if outside the City's impact area, zoned or designated as industrial or manufacturing by the City or County governing the land where the tower is located); and

b. The tower must be separated at least six hundred sixty feet (660') from any Type 3 tower; and

c. The tower must be separated at least five thousand two hundred eighty feet (5,280') from any other Type 4 tower. (Ord. 176, 1-10-2007)

10-20-10: **COLLOCATION:** For collocation purposes, tower height is defined as the distance from the ground at grade to the top of the tower, exclusive of anything mounted on the tower. The Board of Adjustment reserves the right to impose stricter collocation requirements, if the characteristics of the specific tower site warrant it.

A. Excluded Towers: Towers which support only the following types of antennas are excluded from collocation requirements, although the owner is allowed to offer collocation if he, she, they or it so desires:

1. Antennas transmitting on frequencies below thirty (30) MHz;

2. Antennas used exclusively for public safety or other governmental purposes;

3. Receive only antennas.

B. Towers Accepting Collocation: All towers thirty two and one-half meters (32.500 m) ( $106'7\frac{17}{32}"$ ) or greater in height must be able to accept antennas mounted at varying heights, and must be able to support the following number of additional users' antennas, which are structurally comparable to the first user's antennas:

1. For towers thirty two and one-half meters (32.500 m) ( $106'7\frac{17}{32}"$ ) or greater in height, at least one additional user;

2. For towers thirty seven and one-half meters (37.500 m) ( $123\frac{3}{8}$ " ) or greater in height, at least two (2) additional users;
  3. For towers forty two and one-half meters (42.500 m) ( $139\frac{5}{64}$ " ) or greater in height, at least three (3) additional users;
  4. For towers forty seven and one-half meters (47.500 m) ( $155\frac{10}{64}$ " ) or greater in height, at least four (4) additional users.
- C. Support Equipment Buildings: In addition to the requirements given in the "support equipment buildings" section of this chapter, the tower owner must own or lease sufficient land adjacent to the tower to accommodate a single building big enough to hold all the support equipment (radios, generators, etc.) for the total number of users mandated above. This building may initially be sized to just hold the original tower user's equipment, then added onto as additional collocators locate on the tower, but only one support equipment building is allowed per tower. This does not preclude each collocator's space in the support equipment building from being totally isolated from all other users' space, nor does it preclude separate outside doors to each space. The exterior of the entire building, regardless of the number of occupants, must be of the same architecture, construction and materials throughout, to provide a uniform appearance.
- D. Fees: Tower owners' collocation fees may not exceed what the Idaho market will bear. A statement showing what the Idaho market will currently bear, and showing the tower owner's fee structure to be charged to collocators for the coming year, must accompany the initial and each annual renewal tower business license application.
- E. Public Safety Communication Systems: As a condition of being granted a conditional use permit, all tower owners whose towers are required by this chapter to be built with collocation capabilities agree to allow public safety communication systems to collocate on their towers.
- F. Letter Of Intent: For any tower which this chapter requires to be built with collocation capabilities, the tower conditional use permit applicant must provide the City with a letter of intent, stating whether or not collocators will be accepted on the tower, and if so, what general conditions will be imposed on the collocator.
- G. Cessation Of Operation: When an antenna ceases operation (except in the case of the last antenna in use on the tower, in which case the



rules contained in section 10-20-18, "Abandoned Towers", of this chapter apply), the antenna and associated facilities (except for the multi-user support equipment building) must be removed within six (6) months of the cessation of operation, unless either the antenna owner or the tower owner obtains an extension from the Board of Adjustment. (Ord. 176, 1-10-2007)

10-20-11: **APPEARANCE:**

- A. Colors: All towers, antennas and support equipment must conform to Federal Aviation Administration (FAA) and other Federal and State regulations regarding colors. Any portion of any tower, antenna or support equipment not regulated by FAA, Federal or State regulations must be a color which:
1. For towers attached to buildings, the tower and everything attached to the tower must be low contrast to the building as a whole;
  2. For antennas attached directly to a building (for example, as a facade), the antenna must blend in with and appear to be a part of the building;
  3. For freestanding towers, if there is a building within twenty five feet (25') of the tower (excluding the support equipment building), the bottom part of the tower laterally across from the building and everything attached to the bottom part of the tower must be low contrast to the building as a whole, and if the color of the building is changed such that the bottom part of the tower no longer is low contrast to the building as a whole, then the color of the bottom part of the tower must be changed to again become low contrast with the new building color, preferably at the same time the building color is changed, but no later than thirty (30) days after the building color changes;
  4. For freestanding towers, if there are no buildings within twenty five feet (25') of the tower except for the support equipment building, the bottom part of the tower and everything attached to the bottom part of the tower must be low contrast year round to surrounding vegetation and terrain;
  5. The remaining (or upper) parts of the tower and everything attached to the remaining (or upper) parts of the tower must be low

contrast to the sky (both clear and clouded), and this color need not be the same as used for other parts of the tower;

6. Any Type 2 or Type 3 tower not also used as a flag pole alternatively may be the same color as a wooden utility pole, with the provision that everything attached to the tower must be low contrast to either the tower or the surrounding environment;

7. All tower surfaces and finishes designed to corrode or weather to their final stage of finish are prohibited;

8. The Board of Adjustment reserves the right to require specific colors for any given tower, and anything attached to it. This can include what paint or other colorant base to use, how many coats to use, what pigment to use, and the percentage the color may deviate from a specified pigment.

- B. Lights: All towers must conform to Federal Aviation Administration (FAA), Idaho Transportation Department Division of Aeronautics, Federal Communications Commission (FCC) and other Federal and State regulations regarding warning lights and other lighting. When such lights are present, both the light and any flashing or strobing effect must be minimally visible from any part of the ground within visual range of the tower. Except for lights illuminating public parks, playing fields or public parking lots on Type 2 towers, lights illuminating public streets on Type 3 towers, and traffic lights on Type 3 towers, no other lights are authorized on a tower, without specific permission from the Board of Adjustment.
- C. Signage Prohibited; Exceptions: Except for FAA tower designation signs, warning signs, equipment information signs, owner and who to contact signs, and broadcast station call letters, the use of any portion of a tower for signs is prohibited.
- D. Support Equipment Location: All support equipment (including generators) must be located in a support equipment building, except for equipment which cannot be located anywhere but on the tower itself.
- E. Trash, Outdoor Storage: No trash and no outdoor storage of any kind of material, including vehicles, is permitted on the land used by the tower and support equipment building. If the tower is located in a public parking lot, vehicles may use the public parking lot, but permanent parking of vehicles is prohibited.

- F. Fences, Walls: Fences separating a Type 1, 2 or 3 tower and/or its support equipment building from all adjacent uses are prohibited. Walls separating a Type 2 or 3 tower from all adjacent uses are prohibited.
- G. Sound: All support equipment emitting any sound shall be located in the support equipment building. The support equipment building shall use hospital graded or hospital zoned mufflers. If none of the support equipment emits any sound, the requirement for these mufflers may be waved, but no sound emitting equipment may subsequently be introduced until such time as these mufflers are in place.
- H. Concealment: The Board of Adjustment reserves the right to require towers, support equipment buildings, the land containing the tower and its support equipment building and/or anything connected to the tower, including antennas, to be concealed or camouflaged, and reserves the right to change these requirements each time the conditional use permit and/or business license is renewed. (Ord. 176, 1-10-2007)

10-20-12: **SUPPORT EQUIPMENT BUILDINGS:**

- A. Type 1: All equipment supporting Type 1 towers must be located in the building upon which the tower is mounted, except for that equipment which can only be located on the tower itself.
- B. Additions: Any addition made to a building in order to house support equipment must be visually compatible with the existing part of the building.
- C. Support Equipment: Except for outdoor transformers and equipment which can only be mounted on the tower itself, all support equipment (including generators) must be housed in a support equipment building.
- D. Support Building Construction: When support equipment is housed in an independent support equipment building rather than a main building, the support equipment building must be of a similar minimum construction and appearance as other conforming auxiliary buildings in the zone and area, and must be attached to a permanent foundation. Adjoining sidewalks may be placed on a floating foundation, but support equipment buildings themselves must be placed on permanent foundations.

- E. **Building Materials:** Support equipment buildings shall not be constructed of metal. Nor may a support equipment cabinet be used instead of a building. The minimum acceptable building material is cinder block, architectural brick, or a poured block with a brick appearance. Roofs must use asphalt shingles, or alternatively must be a flat one piece membrane rated to withstand Eastern Idaho snow loads.
- F. **Fire Protection:** The support equipment building shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented when determined necessary by the Fire Chief. Demonstration of compliance with requirements of subsections F1 through F3 of this section shall be evidenced by a certificate signed by the Fire Chief as part of the submitted building plans:
1. At least one-hour fire resistant interior surfaces shall be used in the support equipment building.
  2. Monitored automatic fire extinguishing systems approved by the Fire Chief shall be installed in all support equipment buildings.
  3. Rapid entry (knox) systems shall be installed as required by the Fire Chief.
- G. **Outdoor Coatings; Graffiti Guard:** All support equipment exteriors and finishes designed to corrode or weather to their final stage of finish are prohibited. Further, support equipment buildings must be treated with a protective coating which allows easy removal of graffiti. This coating may be paint, or for porous building exteriors, may be a standard silicon based graffiti guard designed to melt when high pressure hot water hits it, carrying any graffiti away with it as it melts. A sufficient number of coats of the protective coating must be applied to last for at least five (5) years, per the manufacturer's directions. The protective coating must be reapplied at least every five (5) years, and every time graffiti is removed.
- H. **Location Within Easement Prohibited:** A support equipment building may not be located in a utility easement.
- I. **Public Parks, Playing Fields, Public Parking Lots:** Support equipment buildings for towers located in public parks, playing fields, or public parking lots shall:

1. Be a color which is low contrast year round to surrounding vegetation and terrain, unless otherwise dictated by the public park's, playing field's or public parking lot's owner, or as specified by the Board of Adjustment.
  2. Be owned by the City or other entity owning the public park, playing field or public parking lot. (This ownership applies to the support equipment building only, not to the tower.)
  3. Contain a separate room or rooms, accessed by separate outside doors, to provide storage space and/or restroom facilities to the City or other entity owning the public park, playing field or public parking lot. Arrangements as to who will pay for the construction of each part of the building must be made between the tower owner and the public park, playing field or public parking lot owner, and are not a part of this chapter.
- J. Buildings Behind Or Near Main Building: Support equipment buildings for towers located behind or otherwise near a main building shall either be a part of the main building itself, or shall be similar in appearance to the main building.
- K. Location To Public Street Or Intersection: Support equipment buildings for towers located by a public street or at an intersection of public streets shall be a color which is low contrast year round to the surrounding area.
- L. Sound Control: Support equipment buildings must conform with the sound control requirements specified in section 10-20-11, "Appearance", of this chapter.
- M. Collocation: Support equipment buildings must conform with the additional requirements given in section 10-20-10, "Collocation", of this chapter. (Ord. 176, 1-10-2007)

10-20-13: **INTERFERENCE AND EMISSIONS STANDARDS:**

- A. Compliance Required: All transmitting antennas and devices must stay in compliance with FCC regulations governing electromagnetic interference and radio frequency interference. If the City has to go to the expense of either using its own personnel or of hiring an outside agency or firm to find the source of any interference, the person or persons found to be causing the interference must pay the cost.

- B. Certification: Within seven (7) calendar days of the time an antenna starts transmitting, and each year at the time its business license is renewed, the antenna owner must provide certification to the City from an independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, stating that the radio frequency emissions transmitted from the antenna meet all FCC requirements. (Ord. 176, 1-10-2007)

10-20-14: **SAFETY AND HEALTH:** The tower owner bears full legal responsibility for any harm the tower or its associated facilities may cause to any person, any property or the environment. The antenna owner bears full legal responsibility for any harm the antenna or its associated facilities may cause to any person, any property or the environment. Any documentation, certification or inspections required by this chapter does not guarantee the actual safety of the tower, antenna or associated facility. Such documentation, certification and inspections are tools for City use only, and in no way can be construed to transfer any part of this responsibility from the owner to the City.

- A. Compliance Certification: Before the business license is issued which allows the tower to be put into use, or is reissued to allow any modified portion of the tower to also be put into use, and each time the tower business license is renewed, the applicant must submit to the City Clerk's Office certification from an independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, stating that the tower complies with: (Ord. 176, 1-10-2007)

1. The latest electrical and structural standards, including those wind loading requirements applicable to the Firth area, given by the International Building Code, the Electronics Industry Association, the Telephone Industry Association, the latest EIA/TIA 222 standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", the National Electrical Code, the American National Standards Institute, the Institute of Electrical and Electronics Engineers, the National Safety Electrical Code and local building codes; (Ord. 176, 1-10-2007; amd. 2018 Code)

2. Accepted electrical engineering methods and practices;

3. Soil load bearing requirements for the site;

4. Requirements of the Occupational Safety and Health Administration and the environmental site assessment.

- B. Grounding: All towers must be grounded.
- C. Tower Marking: Any tower not marked with FAA or Idaho Transportation Department Division of Aeronautics mandated warning lights, but greater than thirty six and one-half meters (36.500 m) (119'9") in height measured from grade to the top of the tower and anything mounted on it, must mark the highest point of the tower and anything mounted on it with an FAA defined solid colored aviation yellow sphere not less than thirty six inches (36") in diameter. If the sphere cannot be placed at the highest point, it may be placed at a lower point, but in no case may the top of the sphere be any lower than one meter (1.000 m) below the highest point of the tower and anything mounted to it.
- D. Underground Utilities: All power, signal and remote control conductors between a support equipment building and a tower shall be buried underground.
- E. Climbing Discouraged: Every tower shall be protected to discourage climbing of the tower by unauthorized persons. Preferably, the tower design itself will discourage climbing. This may not be achieved, however, by placing barbs or similar devices which would cause bodily harm on or near the tower.
- F. Treatment Materials: Metal towers must be constructed of, or treated with, corrosive resistant material. Wooden towers must be impregnated with rot resistant substances.
- G. Liability Insurance: The tower and associated facilities must be covered by liability insurance.
- H. Federal, State Regulations: All towers, antennas and signals transmitted from them must comply with current Federal Aviation Administration (FAA) regulations, Idaho Code title 21, chapter 5, State Administrative Rule 39.04.02, Federal Communications Commission (FCC) regulations, and all other regulations issued by Federal and State agencies governing communications towers, antennas and signals transmitted from them. For the lifetime of the tower and each antenna, any new or changed Federal or State regulation governing it must be complied with within the time frame mandated by the new or changed regulation, or if no time frame is provided, within six (6) months of the new or modified regulation's effective date. Failure to comply with Federal and State regulations is in violation of this ordinance and constitutes a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter. The tower

owner must document compliance with relevant tower regulations before the business license is issued which allows the tower to be put into use, before the business license is reissued to allow any modified portion of the tower to also be put into use, and each time the business license is renewed. Each antenna owner must document compliance with relevant antenna and radio frequency emission regulations before the antenna may be used, and each time the business license is renewed. (Ord. 176, 1-10-2007)

10-20-15: **MAINTENANCE:** In addition to other requirements of this chapter, each year at the time the business license is renewed, the applicant must submit to the City Clerk's Office an annual inspection report from an independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, certifying:

- A. **Damage:** What damage (if any) was sustained by the tower since the previous inspection report, and the repairs made to correct it;
- B. **Defects:** That the tower is free from rust, rot, peeling, flaking, blisters and similar defects, and is appropriately treated to remain so through the coming year;
- C. **Grounding Standards:** The condition of the grounding system meets applicable standards;
- D. **Inspections:** The tower has been thoroughly inspected within the last two (2) years, or if a lattice tower, within the last year, and the inspection verifies:
  - 1. The structural integrity of the tower meets applicable standards;
  - 2. All bolts and other parts are in good condition;

Failure of the tower to meet all of the above requirements by the time of the conditional use permit's annual renewal is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter. (Ord. 176, 1-10-2007)

10-20-16: **BACKHAUL NETWORK:** All providers of backhaul service for each antenna on the tower must be identified to the City, and must hold a current franchise with the City. (Ord. 176, 1-10-2007)



10-20-17: **NONCONFORMING USE:** Any permanent tower and any antenna mounted thereon, which was legally established and in use at the effective date hereof, which does not meet the requirements of this chapter (except it must still meet the business license, interference, maintenance, backhaul networks and most of the safety and health requirements), and cannot be economically modified to meet the requirements of this chapter, shall be deemed to be a nonconforming use, and such nonconforming use may be continued notwithstanding the fact that it may not comply with the provisions of this chapter. No tower or antenna which is in conformance with the provisions of this chapter is allowed to come out of conformance. Nonconforming uses are subject to the following requirements:

- A. **Tower Business License:** A nonconforming tower owner must obtain a valid tower business license from the City within ninety (90) days of the time this chapter goes into effect. Failure to obtain a valid business license within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.
- B. **Antenna License:** A nonconforming antenna owner must obtain a valid antenna business license from the City within ninety (90) days of the time this chapter goes into effect. Failure to obtain a valid business license within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.
- C. **Interference Standards:** All signals transmitted from antennas mounted on the tower must be in conformance with FCC interference standards at all times. If an antenna's transmissions are found to be out of compliance with FCC interference standards through tests made or commissioned by the City, then the antenna owner is further liable for the cost of such tests, and for the cost of any legal action the City may have to take to force such transmissions to come into compliance.
- D. **Backhaul Network Requirements:** Each service provider using the tower must be brought into conformance with the backhaul network requirements of this chapter within one month of the time this chapter goes into effect. Failure to meet this requirement within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.
- E. **Maintenance, Safety, Health:** The tower must be brought into compliance with the maintenance and safety and health provisions of this

chapter, except that subsection 10-20-14D of this chapter shall not be required, within one year of the time this chapter goes into effect. Failure to meet this requirement within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.

- F. **Additional Uses; Change In Ownership:** No new additional use may be made of a nonconforming tower, as this could potentially extend its useful life. Except when a current tower user changes ownership in a sale or merger, no new user may make use of a nonconforming tower. When an existing user ceases making use of a nonconforming tower, that user's equipment must be removed. When the last user on a nonconforming tower ceases making use of the tower, the tower must be removed, within the time frame provided in section 10-20-18, "Abandoned Towers", of this chapter.
- G. **Routine Maintenance:** Routine maintenance is permitted on nonconforming towers and antennas. However, a nonconforming tower or antenna may not be structurally altered or replaced by another tower or antenna which is different in use, physical dimensions, or location, without complying in all respects with this chapter.
- H. **Damaged Or Destroyed Tower, Antenna:** If the cost of repairing a damaged or destroyed nonconforming tower or antenna to its former use, physical dimensions and location would be greater than the cost of a new tower or antenna of like kind and quality, then the tower or antenna may not be repaired or restored except in full compliance with this chapter. Otherwise, a damaged or destroyed nonconforming tower or antenna may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefor, and continue in its nonconforming state, provided all other provisions of this chapter, and all other applicable City ordinances and building codes are met, and provided the building permit is obtained within sixty (60) days from the date the tower or antenna was damaged or destroyed, and completion of repairs to or replacement of the tower or antenna is completed within ninety (90) days of issuance of the building permit. Otherwise the tower or antenna shall be deemed to be abandoned, and shall fall under the provisions of section 10-20-18, "Abandoned Towers", of this chapter. (Ord. 176, 1-10-2007)

10-20-18: **ABANDONED TOWERS:** All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operation of all antennas mounted on the tower,

unless a time extension is approved by the Board of Adjustment. Prior to the issuance of a building permit, the tower applicant must post with the City a surety bond from a surety bonding company authorized to do business in the State, payable to the City, in an amount sufficient to cover the estimated costs of removal of the tower and its associated facilities. The estimated costs of removal shall be determined by finding the current costs to construct the tower and its associated facilities from the current version of the "Means Building Construction Cost Data - Western Edition", and multiplying the total of these costs by fifty percent (50%). The amount of the surety bond shall be reviewed each year in conjunction with renewal of the conditional use permit and adjusted to cover the estimated costs of removal as they exist at the time of renewal. If the City must use the proceeds from such a bond to remove an abandoned tower, any and all costs in excess of those covered by the bond, including attorney fees, shall be placed on the tax bill of the property as a special assessment. No surety bond is required for Type 2 or 3 towers, if the landowner wishes the tower to remain as a utility pole after its usefulness as a wireless communications tower is finished, and the applicant contracts in advance to turn ownership of the tower over to the landowner at the time of abandonment. (Ord. 176, 1-10-2007)

10-20-19: **APPLICATION PROCESS:**

- A. Initial Application For Conditional Use Permit: The standard process for applying for a conditional use permit in the City will be followed, subject to the following additions and modifications:
1. Complete paperwork, including the tower conditional use permit application and all supporting documentation, and the filing fee as currently defined by City Council, must be submitted to the City Clerk's Office. Incomplete paperwork will cause the application to be rejected.
  2. The City will schedule a review of the application by the Planning and Zoning Commission at its first regular meeting following the date when both:
    - a. The applicant has filed all applicable paperwork, including all documents from the independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant;
    - b. And all applicable fees have been paid.

3. A quorum of the Planning and Zoning Commission must be present in order for the application to be reviewed. The City shall make every good faith effort to make sure a quorum is present, but if one cannot be assembled, then the review of the application must be held as soon as a quorum at a regular meeting can be present. The Planning and Zoning Commission will review the tower application, then make a recommendation to the Board of Adjustment to accept the application, accept the application with provisions, or reject the application. The Planning and Zoning Commission will document the reason for its decision. All decisions must be based on fact.

4. For a Type 4 tower, starting three (3) calendar days before the Planning and Zoning Commission review and again three (3) calendar days before the Board of Adjustment public hearing, and continuing each day through the day of the Planning and Zoning Commission review and Board of Adjustment public hearing, during daylight hours, at the proposed tower site, the applicant will float a balloon of the standard size used in aerial line of site surveys, such that the top of the balloon is at the same height as the highest point of both the proposed tower and anything that will be mounted to it (including a lighting rod). This balloon will be taken down at night. This will allow the Planning and Zoning Commission, the public and the Board of Adjustment to see where the top of the proposed tower will be. Notice shall be visibly posted at the site, and all public notices announcing the public hearing for the tower will include an explanation, telling why the balloon will be floated at the site, and the dates that it will be floated.

5. Following the Planning and Zoning Commission meeting, as soon as it can be lawfully advertised and a quorum of the Board of Adjustment can be present at a regular meeting, the Board of Adjustment will hold a public hearing reviewing the application and the Planning and Zoning Commission's recommendation. The Board of Adjustment will make the official decision to accept, accept with provisions (those of the Planning and Zoning Commission and/or its own), or reject the application. All decisions must be based on fact.

6. No decision made by the City may:

a. Prohibit or have the effect of prohibiting the provision of a particular type of wireless service;

b. Unreasonably discriminate among wireless service providers competing with one another;

c. Deny a request or impose any provisions which would require stricter emission standards than those imposed by the FCC.

7. If substantial construction of a tower facility has not begun within six (6) months of issuance of the conditional use permit, the conditional use permit becomes null and void.

- B. Annual Renewal: The annual renewal of a tower conditional use permit must be submitted to the City Clerk's Office, including all applicable support documents and fees. No new public hearings are required, but the Board of Adjustment reserves the right to review the application before the renewal may be granted. (Ord. 176, 1-10-2007)

10-20-20: **CONDITIONAL USE PERMIT APPLICATION:**

- A. General Tower Information: The following apply to both initial and annual renewal tower applications. From the time of initial application to the time the tower is removed, if any of this information changes, the application must be updated with the City Clerk's Office within ten (10) business days. The conditional use permit application must minimally include:

1. The name, address and phone number of:
  - a. The tower owner or owners (usually a corporation);
  - b. The official contact person designated by the tower owner to have responsibility for the tower;
  - c. Each person responsible for the accuracy of any nonengineering information required by this application.
2. The legal description of the overall property, and if applicable, of the portion of the property being leased, where the tower is or is to be located.
3. A copy of the current ownership deed for the property where the tower is or is to be located, and if the property is or will be leased to the applicant, a copy of the current or proposed lease.
4. A one square mile map showing the location of the tower and the vicinity in which it is or will be located.

5. For towers which the City requires to be built with collocation capabilities:

a. A statement of the current Idaho market rate for collocation fees;

b. The fee structure to be charged to anyone collocating on the tower for the coming year.

B. First Time Application Information:

1. For a Type 1, 2, or 3 tower, the applicant must provide the names and addresses of all property owners located within five hundred feet (500') of the proposed tower. For Type 4 towers, the applicant must provide the names and addresses of all property owners within one thousand feet (1,000') of the proposed tower. At the time the application is filed with the City, the applicant must pay the City's standard fee for sending notification to each of these property owners, and for publishing notification in the newspaper of the public hearing to be held to consider granting the conditional use permit.

2. The fee for a tower conditional use permit currently set by City Council must be paid at the time of application.

3. The applicant must provide color photographs showing what the proposed site currently looks like, and computer simulations showing what it will look like with the tower and support equipment building in place, from the nearest public street, and from the nearest residential property.

4. The application must state which tower type (1, 2, 3 or 4) is being applied for. It must also state what kind of tower it is (monopole, mast, etc.), and what materials it will be constructed out of.

5. The applicant must state what will make the tower qualify as a certain type.

6. The application must be accompanied by a cross section showing the tower's height (including any lightning rod and initially planned antennas) and elevation.

7. The application must be accompanied by a letter from the FAA approving the proposed site.

8. Except for Type 1 towers, the application must be accompanied by a scaled contour map and site plan. This must include property boundaries, tower location, tower height, existing and proposed structures, access easement location, and where applicable streets, parking lots and other identifying features.
9. The application must be accompanied by an inventory of all existing and approved but not yet constructed towers in and within one mile of the City and its impact area, with the applicant's proposed tower site added.
10. Where applicable, the application must be accompanied by maps showing setbacks from all properties located within twice the minimum setback distances required by this title, and showing separations from all industrial or manufacturing zones and all other existing or approved towers located within twice the minimum separation distance required by this title.
11. For towers which the City requires to be built with collocation capabilities, the applicant must provide:
  - a. A letter of intent, stating whether or not collocators will be accepted on the tower, and if so, what general conditions will be imposed on the collocator;
  - b. A statement of the tower's capacity, including the number and types of antennas it can accommodate;
  - c. A statement of the amount of land reserved for the support equipment building;
  - d. An estimate of the total cost, including installation costs, for the tower.
12. Before an approved conditional use permit can be issued, the applicant must post a tower abandonment surety bond with the City per the conditions given in this article, to cover the current estimated costs to remove the tower and its associated facilities. The estimated costs of removal shall be determined by finding the current costs to construct the tower and its associated facilities from the current version of the "Means Building Construction Cost Data - Western Edition", and multiplying the total of these costs by fifty percent (50%).

- C. Annual Renewal Information: The applicant must update the tower abandonment surety bond to reflect the current estimated costs to remove the tower and its associated facilities. The estimated costs of removal shall be determined by finding the current costs to construct the tower and its associated facilities from the current version of the "Means Building Construction Cost Data - Western Edition", and multiplying the total of these costs by fifty percent (50%). (Ord. 176, 1-10-2007)

10-20-21: **BUSINESS LICENSE:**

A. Tower Business License:

1. For any tower both required by this chapter to have a business license, and already in existence on the effective date hereof, a valid business license must be obtained from the City within ninety (90) days of the effective date hereof. Failure to obtain a valid business license within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.

2. A tower business license must be obtained before any antenna attached to the tower may be placed in service. The tower business license shall be valid for one year, and shall be accompanied by the fee then currently set by the City Council which may be modified from time to time by resolution. In addition to the fee as set by the City Council should the City Council in its determination feel that it is necessary to seek an expert opinion as to any matter concerning the installation, construction and operation of the tower, then the City may require the applicant for license or for renewal of license to make a deposit estimated to be the fee of obtaining an expert opinion. If such fee is not known in an exact amount, then a deposit shall be made which shall consist of a minimum of ten (10) hours of an expert consultant hourly rate of providing consultation to the City. If the actual cost to the City is greater than the deposit then the applicant shall be billed for difference and shall pay the bill in full before the business license is issued. If the actual cost to the City is less than the deposit, the actual cost will be deducted from the deposit and the difference refunded to the applicant at the time the business license is granted.

3. The business license applicant must provide the name, address and phone number for:

- a. The tower owner or owners (usually a corporation);



b. The official contact person responsible for the tower's maintenance;

c. The independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, certifying any engineering information, whether civil, mechanical, structural or electrical, required by this application.

4. The business license applicant must provide the legal description of the property where the tower is or will be located, and if applicable, of the portion of the property being leased where the tower is or is to be located.

5. The business license applicant must provide a one square mile map showing the location of the tower and the vicinity in which it is or will be located.

6. The business license applicant must certify, item by item, that the tower meets all the minimum requirements for its tower type (1, 2, 3 or 4).

7. The business license applicant must certify that the tower currently meets the City's color and finish requirements. (Nonconforming towers are exempt from this requirement.)

8. The business license applicant must certify that the tower currently meets the City's requirements for attached lights (FAA mandated warning lights, streetlights and/or traffic lights).

9. The business license applicant must certify that except for warning signs, equipment information signs, owner and who to contact signs, and broadcast station call letters, no portion of the tower has any signs on it.

10. The business license applicant must certify that all support equipment is located in a support equipment building, except for equipment which must be located on the tower itself. (Nonconforming towers are exempt from this requirement.)

11. The business license applicant must certify that any concealment or camouflage required by the Board of Adjustment has been made.

12. The business license applicant must certify that any support equipment building meets minimum City requirements. (Nonconforming towers are exempt from this requirement.) (Ord. 176, 1-10-2007)

13. The business license applicant must provide certification that the tower complies with the latest electrical and structural standards, including those wind loading requirements applicable to the Firth area, given by the International Building Code, the Electronics Industry Association, the Telephone Industry Association, the latest revision of the EIA/TIA 222 standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", the National Electrical Code, the American National Standards Institute, the Institute of Electrical and Electronics Engineers, the National Safety Electrical Code, and local building codes, and with accepted electrical engineering methods and practices, and with soil load bearing requirements of the site, and with requirements of the Occupational Safety and Health Administration, and the environmental site assessment. (Ord. 176, 1-10-2007; amd. 2018 Code)

14. For a tower not marked with FAA or Idaho Transportation Department Division of Aeronautics mandated warning lights, but greater than thirty six and one-half meters (36.500 m) (119'9") in height measured from grade to the top of the tower and anything mounted on it, certification that the highest point of the tower and anything mounted on it is marked with an FAA defined aviation yellow sphere per the requirements of this chapter.

15. Certification that all power, signal and remote control conductors between the support equipment building and the tower are buried underground. (Nonconforming towers are exempt from this requirement.)

16. Certification that the tower is protected to discourage climbing of the tower by unauthorized persons, in a manner which complies with City requirements.

17. For a metal tower certification that it is constructed of, or treated with, corrosive resistant material. For a wooden tower, certification that it is impregnated with rot resistant substances.

18. The business license applicant must provide certification that the tower complies with all current FAA, FCC and other regulations governing towers.

19. The business license applicant must state what damage (if any) was sustained by the tower since the previous annual inspection report, and what repairs were made to correct this damage.

20. The business license applicant must state whether or not the tower is of lattice construction, and the date it was last thoroughly inspected.

21. The business license applicant must provide certification that:

a. The tower is free from rust or rot, peeling, flaking, blisters and similar defects, and is appropriately treated to remain so through the coming year;

b. The condition of the grounding system meets applicable standards;

c. The structural integrity of the tower meets applicable standards;

d. All bolts and other parts are in good condition.

22. The business license application must provide a certificate of liability insurance covering the tower and its associated facilities.

B. Antenna Business License:

1. For any antenna, both required by this chapter to have a business license, and already in operation on the effective date hereof, a valid business license must be obtained from the City within ninety (90) days of the effective date hereof. Failure to obtain a valid business license within this time frame is a misdemeanor, punishable as described in section 10-20-23, "Violations; Penalty", of this chapter.

2. An antenna business license must be obtained before any antenna attached to the tower may be placed in service. The antenna business license shall be valid for one year, and shall be accompanied by the fee then currently set by the City Council which may be modified from time to time by resolution. In addition, to the fee as set by the City Council should the City Council in its determination feel that it is necessary to seek an expert opinion as to any matter concerning the installation, construction and operation of the antenna, then the City may require the applicant for license or for renewal of license to make a deposit estimated to be the fee of obtaining an expert opinion. If such fee is not known in an exact amount, then a deposit shall be made which shall consist of a minimum of ten (10) hours of an expert consultant hourly rate of providing consultation to the City. If the actual cost to the City is greater than the deposit, then the applicant shall be billed for difference and

shall pay the bill in full before the business license is issued. If the actual cost to the City is less than the deposit, the actual cost will be deducted from the deposit and the difference refunded to the applicant at the time the business license is granted.

3. The business license applicant must provide the name, address and phone number for:

a. The antenna owner or owners (usually a corporation);

b. The official contact person responsible for the antenna's maintenance;

c. The owner or owners (usually a corporation) of the tower which the antenna is or will be located on (If the antenna is mounted directly onto a building, then the owner or owners of the building.);

d. The independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, certifying any engineering information, whether civil, mechanical, structural or electrical, required by this application.

4. The business license applicant must provide the legal description of the property where the antenna is or will be located, and if applicable, of the portion of the property being leased, where the antenna is or is to be located.

5. The business license applicant must provide a one square mile map showing the location of the antenna and the vicinity in which it is or will be located.

6. The business license applicant must provide coverage plots for the antenna, a 5-year plan map and corresponding inventory.

7. The business license applicant must state which telecommunication service (such as cellular telephone, FM radio station, etc.) the antenna is being or will be used for.

8. If the antenna is or will be used to transmit on any FCC licensed frequencies, then the business license applicant must submit copies of any FCC required construction permits, operating licenses or other approvals permitting the applicant to transmit on such frequencies from the site where the antenna is or will be located for at least the coming year. Otherwise, the business license applicant must include verification that an FCC license is not required.

9. The business license applicant must certify that the antenna currently meets the City's color requirements. (Nonconforming towers are exempt from this requirement.)

10. The business license applicant must certify that all support equipment emitting any sound is located in the support equipment building, and the building is equipped with hospital grade or hospital zoned mufflers, or, that no sound emitting equipment is in use, and therefor the applicant is requesting that the requirement for hospital graded or hospital zoned mufflers be waved. (Nonconforming towers are exempt from this requirement.)

11. The business license applicant must provide certification that the antenna complies with all current FCC and other regulations governing antennas and radio frequency emissions.

12. Within seven (7) calendar days of the time the antenna starts transmitting, and each year at the time the antenna's business license is renewed, the business license applicant must provide certification to the City from an independent professional engineering firm certified in the State, which firm is acceptable to the City and paid by the applicant, stating that all radio frequency emissions transmitted from the antenna meet all FCC requirements.

13. If a backhaul network is used, the business license applicant must provide the backhaul network's name, address and phone number. (Ord. 176, 1-10-2007)

10-20-22: **GENERAL INDEMNIFICATION:** Each conditional use permit, tower business license and antenna business license shall include, to the extent permitted by law, the grantee's express undertaking to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney fees and cost of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its tower, antenna and/or support facilities, and in providing or offering services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a grant agreement made or entered into pursuant to this chapter. (Ord. 176, 1-10-2007)

10-20-23: **VIOLATIONS; PENALTY:** Any person, firm or corporation, whether as principal, agent, employee or otherwise, shall be guilty of a misdemeanor, if he, she, they or it:

- A. Erect, construct or reconstruct any communication tower and/or its associated support equipment building and/or other facilities within the City without obtaining a conditional use permit when one is required; or
- B. Erect, construct or reconstruct any communication tower and/or its associated support equipment building and/or other facilities within the City without obtaining a building permit from the Zoning Administrator; or
- C. Owns or is otherwise responsible for a communication tower and allows that tower to be put into active use by allowing any installed antenna to start transmitting or receiving without a valid tower business license; or
- D. Owns or is otherwise responsible for an antenna and fails to obtain an antenna business license when one is required within the time frame set by this chapter; or
- E. Owns or is otherwise responsible for a tower or antenna already in active use at the time of the passing of this chapter, and who fails to meet the requirements imposed upon nonconforming users within the time frame set by this chapter; or
- F. Owns or is otherwise responsible for a tower or antenna and fails to comply with any of the other provisions of this chapter. (Ord. 176, 1-10-2007; amd. 2018 Code)

## CHAPTER 21

**SIGN REGULATIONS**

## SECTION:

- 10-21- 1: Purpose
- 10-21- 2: Enforcement
- 10-21- 3: Sign Permit Required
- 10-21- 4: Noise Signs Prohibited
- 10-21- 5: Nonconforming Signs
- 10-21- 6: Signs On Public Property
- 10-21- 7: Signs On Private Property
- 10-21- 8: Setback For Signs In Required Landscaping Of Commercial Developments
- 10-21- 9: Sign Heights
- 10-21-10: Exempt Signs
- 10-21-11: Prohibited Signs
- 10-21-12: Billboard Signs

10-21-1: **PURPOSE:** The City has determined that it is necessary to regulate the placement, construction, type and location of signs within the City limits. By this regulation, the City shall limit and/or reduce the visual clutter along City streets, to protect the appearance, property values, the driving public and health and safety of the City and its residents. (Ord. 176, 1-10-2007)

10-21-2: **ENFORCEMENT:** The Building Department and the Planning Department shall be responsible for enforcement and administration of this chapter. A permit review will be conducted by the Planning Department for all applications for sign permits, which shall include review of setbacks and placement. The Building Department shall review construction plans and inspect for correct setbacks and placement. (Ord. 176, 1-10-2007)

10-21-3:       **SIGN PERMIT REQUIRED:** A sign permit shall be purchased from the City for any sign to be erected, constructed or altered except as provided for by this chapter. All signs shall meet the requirements of the zone in which they are being placed. Any sign constructed without a permit after the enactment date hereof shall be removed at the property owner's expense, unless an application for a sign permit is submitted and the application is found to be in compliance with this chapter. Any sign constructed without a permit after the enactment date hereof that is found to be out of compliance shall be removed at the property owner's expense or brought into compliance. (Ord. 176, 1-10-2007)

10-21-4:       **NOISE SIGNS PROHIBITED:** No sign shall be permitted in the City that uses any radio, amplifier or any other sound transmitting device for the purpose of advertising. (Ord. 176, 1-10-2007)

10-21-5:       **NONCONFORMING SIGNS:** Any permanent sign in existence on the enactment date hereof that does not conform to the provisions of this chapter but that was constructed prior to the enactment date and was in conformity with provisions existing at the time of construction, shall be regarded as nonconforming and may be continued from the effective date hereof. Any such nonconforming sign shall not be structurally altered, relocated or replaced without being brought into compliance with the provisions of this chapter. Further, any change in zone shall be permitted only in those circumstances where the sign meets the requested new zone. (Ord. 176, 1-10-2007)

10-21-6:       **SIGNS ON PUBLIC PROPERTY:** It shall be unlawful for any person to fasten or attach, paint or place any sign, handbill, poster advertisement or notice of any kind upon any lamp post, telephone, power or other utility pole, fire hydrant, bridge, street, curb, gutter, swale, sidewalk or landscaping within the right-of-way or otherwise on the property of the City. (Ord. 176, 1-10-2007)

10-21-7:       **SIGNS ON PRIVATE PROPERTY:** No sign shall be placed on private property without the permission of the owner of the property. (Ord. 176, 1-10-2007)



10-21-8:     **SETBACK FOR SIGNS IN REQUIRED LANDSCAPING OF  
COMMERCIAL DEVELOPMENTS:**

- A.     Setback From Property Line: A sign placed in a required thirty foot (30') landscape strip shall be placed so that the sign edge and post closest to the property line shall be set back a minimum of fifteen feet (15') from the property line.
- B.     Existing Sidewalk: A sign placed in a required (or grandfathered) fifteen foot (15') landscape strip which has an existing sidewalk as part of the road right-of-way, shall be placed so that the sign edge or post closest to the property line shall be set back a minimum of seven and one-half feet ( $7\frac{1}{2}'$ ) from the property line.
- C.     Nonexisting Sidewalk: Placement of a sign in a required (or grandfathered) fifteen foot (15') landscape strip which does not have an existing sidewalk as part of the road right-of-way shall be set back a minimum of twelve and one-half feet ( $12\frac{1}{2}'$ ) from the property line.
- D.     Minimum Distance: No sign shall be installed closer than a minimum distance of seven and one-half feet ( $7\frac{1}{2}'$ ) from the property line or twelve and one-half feet ( $12\frac{1}{2}'$ ) from the edge of the road pavement, whichever is greater.
- E.     Triangle: The triangle of land formed on any corner lot by locating the first point of the triangle where the two (2) lot lines would intersect if each continued straight instead of curving around the corner, with the other two (2) points located on each lot line at a distance of thirty feet (30') from said intersection shall be free from signs or sign structures, except as otherwise permitted in this title (see section 10-14-8 of this title). (Ord. 176, 1-10-2007)

10-21-9:     **SIGN HEIGHTS:**

- A.     No sign attached to a pole shall be lower than seven feet (7') above the ground.
- B.     No sign shall exceed a total height of fifty feet (50') above the adjacent grade.
- C.     Signs less than fifteen feet (15') from any lot line adjacent to a public or semipublic street or vehicular easement can be no greater than three feet (3') in height. (Ord. 176, 1-10-2007)

10-21-10: **EXEMPT SIGNS:** The following signs shall be exempt from the sign permit requirement: garage sale, political, real estate, A-frame temporary signs, signs less than two hundred twenty (220) square inches mounted on buildings, signs erected in the public right-of-way by a public agency, however all signs above three feet (3') in height from ground level must meet the setback requirements within this chapter. As the person responsible for enforcement of this chapter, the Zoning Administrator shall be responsible for the enforcement of this section and may remove such signs without notification to the sign owners. (Ord. 176, 1-10-2007)

10-21-11: **PROHIBITED SIGNS:** The following signs shall be prohibited within the City:

- A. Animated signs (electronic message boards that display text only shall not be construed to be an animated sign).
- B. Flashing signs. (Ord. 176, 1-10-2007)

10-21-12: **BILLBOARD SIGNS:** Billboards shall be allowed within the City with a conditional use permit. All placement of billboards shall follow the following setback and landscaping regulations:

- A. Distance Between Billboards: There shall be a minimum of seven hundred fifty feet (750') between all billboards.
- B. Setback: Each billboard shall be set back a minimum distance of thirty feet (30') from any public street right-of-way or from any granted easement of access, except as herein provided and required under the provisions of this chapter.
- C. Landscaping: Each billboard shall be landscaped with the following requirements:
  - 1. There shall be landscaping installed and maintained in front of and behind the billboard a distance of no less than the width of the billboard (i.e., if a billboard is 24 feet in width, there shall be landscaping installed 24 feet in front of the billboard and 24 feet in back of the billboard for a total landscape area of 54 feet by 48 feet).
  - 2. Said landscaping shall be harmonious with the adjacent/surrounding area. In the case of a lot that has no development adjacent/surrounding the billboard, the natural landscaping shall be

considered harmonious until such time as the adjacent/surrounding area is developed. At that time, the billboard, as a condition of the conditional use permit, shall then be landscaped to be harmonious with the adjacent/surrounding property landscaping.

3. Any billboard existing as of the effective date hereof not in compliance with this chapter shall be grandfathered until such time the property has a final plat approval. At that time, the billboard shall be brought into compliance with this chapter or shall be removed. (Ord. 176, 1-10-2007)

## CHAPTER 22

**PARKING AND LOADING REQUIREMENTS**

## SECTION:

- 10-22- 1: Off Street Parking Required
- 10-22- 2: Parking And Loading Facilities, Nonconforming
- 10-22- 3: Permissive Parking And Loading Facilities
- 10-22- 4: Parking Spaces Required
- 10-22- 5: Location And Control Of Parking Facilities, Other Than Dwellings
- 10-22- 6: Computation Of Required Parking Spaces
- 10-22- 7: Combined Parking Facilities
- 10-22- 8: Mixed Uses
- 10-22- 9: Size Of Parking Spaces
- 10-22-10: Access To Parking Facilities
- 10-22-11: Other Access Requirements
- 10-22-12: Circulation Within Parking Area
- 10-22-13: Location Of Parking And Loading Facilities Restricted
- 10-22-14: Development And Maintenance Of Parking Areas
- 10-22-15: Lighting Of Parking Areas
- 10-22-16: Limitation On Use Of Required Parking Areas
- 10-22-17: Continuing Obligation
- 10-22-18: Plot Plan Approval Required
- 10-22-19: Off Street Loading Space Required

10-22-1: **OFF STREET PARKING REQUIRED:** Off street parking and loading space shall be provided in connection with the erection or change of use or occupancy, or the intensification of use of any building in accordance with the provisions of this title, except that the Board of Adjustment, after a recommendation from the Planning and Zoning Commission, may reduce or eliminate the requirements for off street parking under any of the following conditions:

- A. **Previously Adequate Parking:** When it can be shown that adequate parking space existed based on the ordinance in effect at the time the original or subsequent building permit was issued.

- B. Unique Condition: When the existence of a unique situation or condition mitigates the need for parking space to the extent required by a literal interpretation of this title.
- C. Supplied By Legal Entity: When a legal entity established for the purposes of supplying off street parking space has issued a statement to the City certifying that said legal entity will supply to the petitioner the required off street parking space. (Ord. 176, 1-10-2007)

10-22-2: **PARKING AND LOADING FACILITIES, NONCONFORMING:** Any use of property which, on the effective date hereof or of any subsequent amendment thereto, is nonconforming only as to the regulations relating to off street parking and loading facilities may be continued in the same manner as if the parking and loading facilities were conforming. However, such parking and loading facilities as do exist shall not be further reduced unless substitute off street parking and loading space is provided which complies with the provisions of this title. (Ord. 176, 1-10-2007)

10-22-3: **PERMISSIVE PARKING AND LOADING FACILITIES:** Nothing in this title shall be deemed to prevent the voluntary establishment of off street parking or loading facilities in excess of those required by this title; provided, that all regulations herein governing the location, design and operation of such facilities are adhered to. (Ord. 176, 1-10-2007)

10-22-4: **PARKING SPACES REQUIRED:** The number of off street parking spaces required for each use shall be not less than the number set forth herein. When calculating the required number of parking spaces, areas designated as easements for drive-through access to other buildings and other designated driveways shall not be used.

- A. Residential Zones: These requirements shall pertain to all residential zones existing now, and those that may be added in the future, as defined by subsection 10-8-1A of this title, excluding the RMH Zone.

1. Number Required:

- a. One- or two-unit dwellings shall provide two (2) parking spaces per dwelling unit.

b. Three (3) or more unit dwellings shall provide as follows:

(1) Studio, one or two (2) bedroom units shall provide two (2) parking spaces per dwelling unit.

(2) Three (3) or more bedroom units shall provide two and one-half (2<sup>1/2</sup>) parking spaces per dwelling unit.

2. Location Of Parking Spaces For Dwellings: This subsection is applicable to all zones (except those in which dwellings are not permitted). For single-family detached dwellings in zones requiring ten thousand (10,000) or more square feet per lot, and for single-family attached dwellings (those with zero lot lines) in zones permitting no more than two (2) dwelling units per building, a minimum of two (2) spaces per dwelling unit for parking of automobiles shall be enclosed in a garage attached to the dwelling unit. For single-family attached dwellings in zones permitting three (3) or more dwelling units per building, a minimum of one of the required parking spaces for each dwelling unit shall be enclosed in a garage attached to the dwelling unit. For all other dwellings, a minimum of one space for parking of automobiles for dwelling units shall either be enclosed in a garage or carport, or sufficient yards must surround the parking space so that an automobile can be enclosed in a building or carport having yards which will comply with the requirements set forth in this title. Additional parking required must meet the requirements of the zone in which it is located. Such parking spaces shall be located on the same lot as the building, except as may be permitted by the Board of Adjustment. The Board of Adjustment may authorize the Zoning Administrator to permit off street parking spaces to be located off such lot if all of the following criteria are met:

a. It would impose an unnecessary hardship upon the property of the appellant to insist that the off street parking facilities be located on the same lot as the dwellings.

b. Substitute off street parking facilities can be conveniently provided off such lot and within four hundred feet (400').

c. A lease for a term of not less than five (5) years to use the substitute parking space can be secured by the appellant, or else the substitute parking space is owned by the appellant.

3. Garage Access: All parking spaces in a garage must have direct vehicle access to a door leading to the exterior, without being blocked by another vehicle. Except for where each parking space

has its own door to the exterior on either end of the garage, tandem garages are prohibited.

- B. Commercial Zones: These requirements shall pertain to all commercial zones existing now, and those that may be added in the future, as defined by subsection 10-8-1B of this title, excluding the PB Zone. (Ord. 176, 1-10-2007)

#### NUMBER REQUIRED

Automobile and machinery sales	1 space for each 750 square feet of floor area.
Banks	1 space for each 200 square feet of floor area.
Bowling alleys	5 spaces for each alley. Additional parking spaces for balance of building calculated according to use.
Cafes, cafeterias, restaurants and other similar places dispersing food or refreshments	1 space for each 5 fixed/bench seats, or for every 35 square feet of seating area where there are no fixed/bench seats, plus 1 parking space for each employee on the largest shift, whichever is greater.
Dance halls and skating rinks	1 space for each 5 fixed/bench seats or for every 35 square feet of seating area where there are no fixed/bench seats, plus 1 parking space for each 75 square feet of floor area used for dancing or skating.
Drive-ins (involving no inside seating)	1 space for each 35 square feet of building floor area, plus 1 space for each employee on the largest shift.
Furniture sales and repair, major household appliance sales and repair	1 space for each 600 square feet of floor area or 1 space for each employee on the largest shift, whichever is greater.
Hotels and motels	1 space for each living or sleeping unit, plus 1 space for each employee on the largest shift.
Medical and dental clinics and offices	5 spaces for each doctor or dentist.

Mortuary and funeral home	1 space for each 5 fixed/bench seats of all areas used simultaneously for assembly purposes or for each 35 square feet of floor space used for such assembly purposes. Also, 1 space for each vehicle used in connection with the use.
Open air commercial uses, such as nurseries and used car lots	1 space for each 2,000 square feet of lot area devoted to sales and display, or 1 space for each employee on the largest shift, whichever is greater.
Plumbing, heating and electrical shops	1 space for each 600 square feet of floor area or 1 space for each employee on the largest shift, whichever is greater, plus 1 space for each vehicle used in connection with the use.
Rest home	1 space for each 5 patient beds, plus 1 space for each employee on the largest shift.
Retail establishments otherwise not enumerated in this section, such as drug stores, department stores, repair shops, animal hospitals, business schools, dance studios	1 space for each 200 square feet of building floor area, except area devoted exclusively to warehousing or storage, or 1 space for each employee on largest shift, whichever is greater.
Rooming house, dormitory, fraternity house and sorority house	1 parking space for each sleeping room or 1 parking space for each 100 square feet of floor area used for sleeping purposes, whichever is greater.
Theaters, auditoriums, stadiums, sports arenas, gymnasiums	1 space for each 5 fixed/bench seats or 1 space for every 35 square feet of seating area, where there are no fixed/bench seats. Also, 1 space for each 600 square feet of floor area not used for seating.

(Ord. 176, 1-10-2007; amd. 2018 Code)

- C. Professional And Manufacturing Zones: These requirements will pertain to professional office or manufacturing zones existing today and those that may be added in the future. Zones included are PB and M-1.



Manufacturing, processing or fabricating establishments	1 space for each 750 square feet of working space, or 1 space for each employee on the largest shift, whichever is greater.
Professional business or administrative offices (excluding medical and dental)	1 space for each 300 square feet of floor area, or 1 space for each employee on the largest shift, whichever is greater.

D. Industrial And Warehousing Uses; Number Required: For industrial and warehouse uses: one space for each employee on the largest shift, or one space for each one thousand (1,000) square feet of floor area, whichever is greater, plus one space for each vehicle used in connection with the use.

E. Other Uses:

#### NUMBER REQUIRED

Churches, clubs, lodges, fraternal organizations, social halls, assembly halls	1 space for each 5 fixed/bench seats in all areas used simultaneously for assembly purposes, or 1 space for each 35 square feet of floor space used for such assembly purposes, whichever is greater.
Governmental buildings designed for a public use not otherwise enumerated in this section, such as public libraries	1 space for each 600 square feet of floor area.
Hospitals and sanitariums	1 $\frac{1}{2}$ spaces for each patient bed.
Public or private elementary and junior high schools	10 spaces, plus 1 space for each full time equivalent employee.
Public or private high schools	1 space for each 10 students, plus 1 space for each full time equivalent employee.
Public utility facilities, including electrical substations, telephone exchanges, maintenance and storage facilities	1 space for each 600 square feet of office space or work area within a structure, or 1 space for each employee on the largest shift, whichever is greater. Also, 1 space for each vehicle used in connection with the use. No requirements for facilities which are normally unattended by employees, except for occasional maintenance.

- F. Uses Not Mentioned: The required off street parking for any building, structure or use of land of a type which is not listed in this section shall be determined by the Board of Adjustment. The Board of Adjustment shall be guided as much as possible by comparison, with similar uses, which are listed. (Ord. 176, 1-10-2007)

10-22-5: **LOCATION AND CONTROL OF PARKING FACILITIES, OTHER THAN DWELLINGS:** The off street parking facilities required by this title in connection with uses other than dwellings shall be located on the same lot or parcel of land as the use they are intended to serve, except that a substitute location may be provided which meets the following conditions:

- A. Distance: All or part of a substitute location is within four hundred feet (400') from the principal use for which the parking is being provided. Said distance shall be measured as a walking distance along a public street or sidewalk.
- B. Ownership; Lease: The substitute lot is possessed by the same owner as the use it is intended to serve, or is possessed by a legal entity established for the purpose of providing off street parking facilities for its members. Such possession may be by deed or long term lease, the terms of which meet the approval of the City Council. The present and future owners of the substitute lot shall be bound by covenants filed in the Office of the County Recorder, or by a certificate from the legal entity entitling the owner and his customers to parking privileges. The owner of such use shall be required to maintain the number of parking spaces for the duration of the use served. (Ord. 176, 1-10-2007)

10-22-6: **COMPUTATION OF REQUIRED PARKING SPACES:** For the purpose of computing off street parking spaces, which are required by this title, the following rules shall apply:

- A. Floor Area Defined: "Floor area" shall mean gross floor area, unless otherwise specified for a particular use. (See definition in section 10-2-1 of this title.)
- B. Places Of Assembly: In stadiums, sports arenas, churches and other places of assembly in which benches or pews are used in place of seats, each eighteen inches (18") of length of such benches or pews shall be counted as one seat.

- C. Fractional Numbers: When determination of the number of off street parking spaces results in a requirement of a fractional space, any fraction of less than one-half ( $\frac{1}{2}$ ) may be disregarded, while a fraction of one-half ( $\frac{1}{2}$ ) or more shall be counted as one required parking space.
- D. Use From More Restrictive Zone To Less Restrictive Zone: In the event a use normally existing in a more restrictive zone is placed in a less restrictive zone, the requirements from the most restrictive zone shall apply when calculating the parking needs (e.g., a commercial use placed in an I&M Zone would require the same requirements as would normally be required in the commercial zone).
- E. Three Or More Dwelling Units: When calculating parking for a building containing three (3) or more attached dwelling units, the garage shall be used as one-half ( $\frac{1}{2}$ ) of a parking space per garage stall.
- F. Scope Of Calculations; Business Licenses: Calculations of parking spaces for building permits are based on the zone and input from the property owner at the time the building permit is issued. Issuance of a building permit does not guarantee the issuance of a business license. Business licenses are issued based on the use of the business at the time of application and all parking requirements must be met prior to the issuance of a business license. All parking requirements are the responsibility of the property owner. (Ord. 176, 1-10-2007)

10-22-7: **COMBINED PARKING FACILITIES:** The required off street parking and loading facilities may be provided collectively for two (2) or more buildings or uses; provided, that the total number of parking spaces shall be not less than the sum of the requirements for each of the individual uses; and provided, that all other requirements of this title are met. Parking may only be combined in the case of single ownership of the shared buildings or with a common area agreement allowing shared parking and loading facilities and in such case, properties must be adjacent to one another. The common area agreement must be on file with the City. (Ord. 176, 1-10-2007)

10-22-8: **MIXED USES:** In the event that two (2) or more uses occupy the same building, lot or parcel of land, the total requirements for off street parking and off street loading space shall be in the sum of the requirements of the various uses computed separately. (Ord. 176, 1-10-2007)

10-22-9: **SIZE OF PARKING SPACES:** Each off street parking space shall have dimensions not less than ten feet (10') in width and twenty feet (20') in length. No part of the area of a required parking space shall be used for driveways, aisles or other required improvements. (Ord. 176, 1-10-2007)

10-22-10: **ACCESS TO PARKING FACILITIES:** Access driveways shall be provided for ingress to and egress from all parking and loading facilities. Each parking and loading space shall be easily accessible to the intended user. The width of driveway entrances and exits from a public street shall be as set forth in City ordinances controlling and regulating access to public streets. (Ord. 176, 1-10-2007)

10-22-11: **OTHER ACCESS REQUIREMENTS:** The following additional requirements shall govern access to off street parking facilities:

- A. **Forward Travel:** Forward travel to and from parking facilities from a dedicated street or alley is required for all uses except residential. The parking area shall be adequate to facilitate the turning of vehicles to permit forward travel upon entering a street.
- B. **Service Road Access:** All uses, which adjoin a major or secondary highway, shall, wherever possible, have access by way of a service road or alley.
- C. **Traffic Interference:** The access to all off street parking facilities shall be designed in a manner, which will not interfere with the movement of traffic.
- D. **Pedestrian Safety:** Access driveways across sidewalks or pedestrianways shall be designed in such a manner as to promote pedestrian safety. (Ord. 176, 1-10-2007)

10-22-12: **CIRCULATION WITHIN PARKING AREA:** The circulation within a parking area shall comply with the following requirements:

A. **Aisle Widths:**

1. Minimum aisle widths shall be provided in accordance with the angle of the parking spaces they serve:

Parking	
30°	12 feet
45°	12 feet
60°	18 feet
90°	24 feet

2. Other aisle widths shall be determined by interpolation from the above minimum requirements.

- B. Multiple Aisles: Circulation within a parking area with more than one aisle must be such that a vehicle need not enter the street to reach another aisle within the same parking area. (Ord. 176, 1-10-2007)

10-22-13: **LOCATION OF PARKING AND LOADING FACILITIES RESTRICTED:** The location of parking and loading facilities shall comply with the following:

- A. Residential Zones: In residential zones, the parking required by subsection 10-22-4A1 of this chapter, shall not be permitted in the required front yard or the required side yard that faces on a street. Parking may be permitted in other required side and rear yards in the residential zones, providing all other requirements of this title are met.
- B. Business Commercial And Industrial Zones: In the business commercial and industrial zones, the required yard areas may be used for parking (except when specifically prohibited in the zone); provided, that a protective curb shall be installed not less than two feet (2') from the edge of the sidewalk or, in the case where there is no sidewalk, then two feet (2') from the edge of the street line to prevent the use of the sidewalk for automobile parking, bumper overhang and travel purposes.
- C. When Screening Required: No part of any parking area for more than five (5) vehicles shall be closer than ten feet (10') to any residence, school, hospital or other institution for human care located on an adjoining lot, unless screened by a masonry wall or hedge not less than four feet (4') in height. (Ord. 176, 1-10-2007)

- 10-22-14: **DEVELOPMENT AND MAINTENANCE OF PARKING AREAS:** Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot and a vehicle sales area, shall be developed and maintained in good condition and in accordance with the provisions of this title and the requirements of the zone in which the parking space is located. (Ord. 176, 1-10-2007)
- 10-22-15: **LIGHTING OF PARKING AREAS:** Any lighting used to illuminate off street parking facilities or vehicle sales area shall be so arranged as to reflect the light away from the adjoining premises in any residential zone. (Ord. 176, 1-10-2007)
- 10-22-16: **LIMITATION ON USE OF REQUIRED PARKING AREAS:** Required parking areas shall be used exclusively for vehicle parking in conjunction with a permitted use and shall not be reduced or encroached upon in any manner. Parking areas above minimum standards may be used for special events or merchandise stands, providing any required permits have been obtained from the City. The parking facilities shall be so designed and maintained as not to constitute a nuisance at any time, and shall be used in such a manner that no hazard to persons or property, or unreasonable impediment to traffic, will result. (Ord. 176, 1-10-2007)
- 10-22-17: **CONTINUING OBLIGATION:** The required off street parking and loading facilities shall be a continuing obligation of the property owner so long as the use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building or use to discontinue or dispense with the required vehicle parking or loading facilities without providing other vehicle parking or loading area which meets the requirements of this title. (Ord. 176, 1-10-2007)
- 10-22-18: **PLOT PLAN APPROVAL REQUIRED:** At the time a building permit is requested for any building or structure, or at the time a new use of land which would require off street parking is established, a plot plan shall be submitted showing the proposed development of the property, including the layout and development of the parking and loading facilities; except that said plans shall not be required when parking space is to be provided by a legal entity established for the purpose of providing off street parking facilities. All parking and loading spaces shall be designated, as well as the access aisles and other improvement. The Zoning Adminis-

trator may disapprove such plans if he finds they are inconsistent with the requirements of this title. (Ord. 176, 1-10-2007)

**10-22-19: OFF STREET LOADING SPACE REQUIRED:**

- A. Required: One off street loading space shall be provided and maintained for every building or separate occupancy having a gross floor area of ten thousand (10,000) square feet or more which requires the receipt or distribution of goods, materials merchandise or supplies by vehicle, except that the Board of Adjustment may permit off street loading facilities for two (2) or more buildings to be combined. One additional loading space shall be provided for each additional twenty thousand (20,000) square feet of gross floor area of such building or for each vehicle which must be loaded or unloaded at the same time, whichever requirement is greater.
- B. Size; Substitute Loading Facilities: Each required off street loading space shall not be less than ten feet (10') in width, twenty five feet (25') in length and fourteen feet (14') in height. Such required off street loading space shall be provided on the same lot as the building or principal use, except that the Board of Adjustment may authorize the use of substitute loading facilities subject to the following conditions:
1. The substitute off street loading facilities are conveniently located on nearby property.
  2. Use of public streets or alleys will not be required in loading and unloading activities, and all such activities can be conducted off public rights-of-way. (Ord. 176, 1-10-2007)