

# CITY OF PLENTYWOOD

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## TITLE 10

### ZONING REGULATIONS

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## CHAPTER 1

**DEFINITIONS**

## SECTION:

- 10-1-1: Construction Of Words  
 10-1-2: General Definitions

10-1-1: **CONSTRUCTION OF WORDS:** Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular. (Prior Code Section 11.04.010)

10-1-2: **GENERAL DEFINITIONS:** For the purpose of this title, certain terms and words hereby are defined:

**ACCESSORY BUILDING AND STRUCTURE:** An attached or detached subordinate building or structure on the same lot as, or part of, the main building, and occupied by or devoted to a use incidental to the main use. **(Amended 8/02/2010)**

**ACCESSORY USE:** A use subordinate to the main use on a lot and for purposes customarily incidental to those of the main use. **(Amended 8/02/2010)**

**ALLEY:** A narrow servicerway providing a secondary public means of access to abutting properties.

**AUTOMOBILE SERVICE AREA OR ESTABLISHMENT:** See definition of Garage, Repair.

**AUTOMOBILE SERVICE STATION:** Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil, or grease, tires, batteries, or minor automobile accessories. Services offered may include the

	installation of tires, batteries and minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered as incidental to the conduct of a parking garage, the premises shall be classified as a parking garage. Definition includes gasoline service station.
BASEMENT:	The portion of a building partly underground and having at least one-half ( $\frac{1}{2}$ ) of its height below the average finished grade adjoining the building.
BOARDING, LODGING OR ROOMING HOUSE:	A building, or portion thereof, other than a hotel where lodging and/or meals for two (2) or more unrelated persons are provided for compensation.
BUILDING:	Any structure designed or intended for support, enclosure, and/or shelter of persons, animals, chattels or property.
BUILDING AREA:	The portion of the lot that can be occupied by structures, excluding the front, rear and side yards.
BUILDING HEIGHT:	The vertical distance measured from the average elevation of the finished grade adjoining the building to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
CLINIC:	A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses.
COVERAGE:	The percent of the plot or lot area covered by the building's area.
DISTRICT, ZONE:	An area within the city and jurisdictional area of the size and shape shown on the official zoning

- map in which the regulations governing the area, height and use of buildings and associated lots are the same.
- DRIVE IN EATING ESTABLISHMENTS:** A building or structure from which persons are served prepared food and drink in their automobile or at curbside, but which may or may not have an area for customers to receive and/or eat food outside of an automobile.
- DWELLING:** A building, or portion thereof, designed or used exclusively for residential occupancy and providing housekeeping facilities. As used in this title, the term "dwelling" shall refer to single family, two family, or multi-family buildings, along with modular homes or mobile homes. The term does not include hotels; motels; boarding or lodging houses; campgrounds; facilities for recreational vehicles; pickup campers; motorhomes; tents; or any type of mobile or temporarily-placed living quarters not having a permanent foundation and not qualifying as a mobile home. **(Amended 8/02/2010)**
- Multiple-Family Dwelling:** A building, or portion thereof, designed for and occupied by three (3) or more families living independently of each other, including apartment houses.
- Single-Family Dwelling:** A building designed for and occupied exclusively by one family.
- Two-Family Dwelling:** A building designed for and occupied exclusively by two (2) families living independently of each other.
- FAMILY:** An individual or two (2) or more persons related by blood or marriage or a group of not more than four (4) persons who need not be related by blood or marriage living together as a single housekeeping unit.
- FRONT LOT LINES:** The boundary line separating the lot from the street as officially platted or shown in the

records of the Sheridan County clerk and recorder. Where a lot has more than one adjacent street, the front lot line shall be that which has the narrowest street frontage.

**GARAGE, PARKING:** A building, or portion of a building, except any herein defined as a "private garage" or as a "repair garage", used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire, in which any sale of gasoline, oil and accessories is only incidental to the principal use.

**GARAGE, REPAIR:** A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments, machine shops or junkyards. Definition includes automobile service areas and establishments.

**HOME OCCUPATION<sup>1</sup>:** An occupation which is carried on in a dwelling unit.

**HOME; REST, CONVALESCENT, FOR THE AGED:** A home operated similarly to a boarding house but not restricted to any number of guests or guest rooms, and in which nursing, dietary and other personal services are furnished to convalescents, invalids, and aged persons, but in which homes are kept no persons suffering from an acute mental sickness or from a contagious or communicable disease, and in which homes are performed no surgery or other primary treatments such as are customarily provided in hospitals and in which no persons are kept or served who normally would be admitted to a mental hospital.

**HOSPITAL:** An establishment which provides accommodations, facilities, and services over a continuous period of twenty four (24) hours for observation, diagnosis and care, of two (2) or more individuals, not related by blood or marriage to

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1. See section 10-5-5 of this title.

the operator, who are suffering from illness, injury, deformity or abnormality, or from any condition requiring obstetrical, medical or surgical services.

- HOTEL; MOTEL:** Any building or portion thereof containing five (5) or more rooms that are rented or hired out to be occupied or which are occupied for sleeping purposes for compensation, whether the compensation be paid directly or indirectly. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.
- JUNKYARD:** Land or buildings where waste, discarded or salvaged materials are brought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including, but not limited to, scrap, metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.
- KENNEL:** A place where three (3) or more dogs or cats are kept whether as pets or commercially.
- LOADING SPACE:** An off street space or berth on the same lot with a principal building for the parking of a commercial vehicle while loading or unloading merchandise and which has direct access from a public street or alley.
- LOT:** Land held as an individual unit of ownership shown on a certificate of survey, subdivision plat, deed, or other instrument of record. This definition includes the words "plot", "piece" and "parcel".
- LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection.
- LOT, DEPTH OF:** The mean distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE:	An interior lot having frontage on two (2) parallel or approximately parallel streets.
LOT, LINES:	The lines bounding a lot as described on the deed or other record of conveyance, or recorded plat or survey.
LOT, WIDTH OF:	The mean width measured at right angles to its depth.
MACHINE SHOP:	A place for the repair of mechanical equipment, including, but not limited to, automobiles, trucks, farm equipment, and construction equipment where major repairs, fabrication of parts and fabrication of equipment are usual items of business.
MOBILE HOME:	A factory built single family dwelling unit, designed for human occupancy, larger than two hundred fifty six (256) square feet, which is wholly or in substantial part built at an off-site location and designed for transportation on its own chassis, or a removable chassis, to a building site. The unit may be used or designed to be used with or without a permanent foundation so that it can either be moved from time to time or can be set on a permanent foundation. The unit may contain one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; or two (2) or more units separately towable but designed to be joined into one integral unit; or it may be comprised of a single unit. Mobile homes are sometimes referred to as "manufactured" homes or housing. Mobile homes are not built in compliance with the Uniform Building Code or the International Residential Code. Mobile homes must be built in compliance with or according to the applicable federal manufactured home construction & safety standards and requirements adopted by the U.S. Dept. of Housing & Urban Development, which is known as the "HUD Code". A mobile home must have a HUD insignia on the structure that certifies that it has been built in accordance with the "HUD Code". Applicants seeking a zoning permit for a mobile home structure must submit, with such application, satisfactory proof that the structure is built in compliance with the HUD Code. <b>(Amended 8/02/2010)</b>
MOBILE HOME LOT:	A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MOBILE HOME PARK:	Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for accommodation.
MOBILE HOME STAND:	The area of a mobile home lot which has been prepared for the placement of a mobile home.
MODULAR BUILDING UNIT:	<p>A modular building unit is a factory-built structure intended to be transported to a site for final assembly on a permanent foundation. A unit may be used by itself or may be incorporated with one or more similar units in final assembly at the building site. The structure shall be designed and usable for human occupancy. The structure may be used for commercial, residential, or industrial purposes depending upon the permitted uses assigned to the zoning district where it is to be located. Modular homes or modular units to be used for residential purposes are permitted only in residential zoning districts: R-1, R-2, or MH. Modular units to be used for commercial or industrial purposes are permitted only in C-1, C-2, or L-I zoning districts. A modular building unit and the component systems (electrical, plumbing, mechanical, heating) shall be constructed in accordance with the minimum standards &amp; specifications applicable to factory-built modular buildings set by the Building Codes Bureau of the Montana Dept. of Labor &amp; Industry for the particular structure in question. A modular building unit must bear a Montana Insignia of Approval certifying that the structure, together with its component systems (heating, plumbing, electrical, and mechanical), are constructed in compliance with the codes &amp; standards adopted by the State of Montana and applicable to factory built modular buildings or structures. Depending upon the type of structure and its intended use, a modular building shall meet the requirements of the latest applicable edition, as adopted by the State of Montana, of either the International Residential Code (IRC) or the International Building Code (IBC). Modular buildings intended to serve as single-family or two-family dwellings shall comply with the International Residential Code, as adopted in accordance with the rules and standards administered by the Montana Building Codes Bureau. Modular buildings to be used for multi-family dwellings of a greater number shall comply with the current applicable edition of either the IRC or the IBC, depending upon the requirements of the Montana Building Codes Bureau and regulations. Applicants seeking a zoning permit from the City for a modular structure must submit, with such application, satisfactory proof that the structure is built in compliance with the required code specifications &amp; standards applicable to that particular structure according to the Montana laws and regulations as administered by the Montana Building Codes Bureau. <b>(Amended 8/02/2010)</b></p>

OFF STREET PARKING:	Parking facilities for vehicles on other than a public street or alley.
PRIMARY USE:	The principal or predominant use to which a lot or piece of property is or may be devoted and to which all other uses on the premises are accessory.
PROFESSIONAL OFFICE:	Offices maintained and used as a place of business by persons engaged in a profession.
RESTAURANT:	A public eating house which does not provide curbside or in automobile food service.
SCHOOL:	Elementary, junior or senior high, including public, private or parochial. An institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the board of education.
SHALL:	Mandatory and not directory.
SIDE STREET:	Any street being intersected by an alley at a right angle.
SIGNS:	Any outdoor advertising having a permanent location on the ground or attached to or painted on a building, including bulletin boards, billboards, and poster boards, or any device designed to inform or attract attention.
STORY:	The portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.
STREET:	Any thoroughfare or public space which has been dedicated to public or private use as the principal means of access to properties.

STRUCTURAL ALTERATION:	The modification of a building or structure that changes its exterior dimensions or its roof line(s).
STRUCTURE:	That which is constructed or erected at a fixed location on the ground, or attached to something having a fixed location on the ground by permanent means, such as a foundation, but may rest on the ground with or without blocks, skids, boards, or other means of support. A "structure" includes, but is not necessarily limited to, buildings, mobile homes, modular building unit, sheds, kennels, garages, walls, fences, signs, billboards, carports, breezeways and decks.
TEMPORARY:	Not having or requiring permanent attachment to the ground or involving structures which have no required permanent attachment to the ground.
TRAVEL TRAILER:	A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body length not exceeding thirty two feet (32') while in transit and licensed as such.
USE:	The purpose for which land or a building structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.
USE, ACCESSORY:	See definition of Accessory Use.
VARIANCE:	The means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property.
VETERINARY CLINIC:	A building or premises for the medical or surgical treatment of animals or pets, including dogs and cats; veterinary hospitals, including the boarding of hospitalized animals, but excluding the boarding of animals not subjected to medical or surgical treatment.
WELDING SHOP:	A place of business where welding and cutting are the major means of accomplishing repairs or fabricating metal items.

- YARD:** An open space on the same lot with the principal building, unoccupied or unobstructed by any portion of a structure, except as otherwise provided by this title.
- Front Yard:** An open space extending across the full width of the front of the lot from the front line of the building proper to the front lot line, and occupied only by covered steps and open porches.
- Rear Yard:** An open, unoccupied space between the rear line of a building and rear lot line for the full width of the lot and unoccupied except by accessory buildings.
- Side Yard:** An open space extending from the side building line to a side lot line running between the front yard and the rear yard. (Prior Code Section 11.04.010; amd. 2005 Code)

## CHAPTER 2

**ZONING MAP AND DISTRICTS**

## SECTION:

- 10-2-1: Zoning Map
- 10-2-2: Interpretation Of District Boundaries
- 10-2-3: District Classifications

10-2-1: **ZONING MAP:** The city is hereby divided into districts, or zones, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this title. (Prior Code Section 11.04.020)

10-2-2: **INTERPRETATION OF DISTRICT BOUNDARIES:** Where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately the center lines of streets or highways, street lines, or highway rights of way lines, such center lines, street lines, or highway rights of way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the scale of the map. (Prior Code Section 11.04.020)
- D. Where physical or cultural features existing on the ground are different from those shown on the official zoning map, or where

circumstances arise not covered by the rules above, the board of adjustment shall interpret the district boundaries. (2005 Code)

10-2-3: **DISTRICT CLASSIFICATIONS:** For the purpose of this title, the city is hereby divided and classified into the following use districts:

- R-1 Low density residential
- R-1A Low density with modified setback
- R-2 High density residential
- M-H Mobile home park district
- C-1 Central business district
- C-2 Highway business district
- L-I Light industrial district

(Prior Code Section 11.04.020; amd. Ord. 11-6-1995)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE A. R-1 LOW DENSITY RESIDENTIAL**

## SECTION:

- 10-2A-1: Intent
- 10-2A-2: Permitted Uses
- 10-2A-3: Lot Area
- 10-2A-4: Height
- 10-2A-5: Lot Frontage
- 10-2A-6: Yards
- 10-2A-7: Accessory Buildings And Structures
- 10-2A-8: Yard Encroachments

10-2A-1: **INTENT:** The R-1 single- and two-family dwelling district is established for the purpose of low density dwelling control and to allow certain public facilities. It is intended that no use be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing in the district. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. (Prior Code Section 11.04.030)

10-2A-2: **PERMITTED USES:** In an R-1 zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended or designed for other than one of the uses listed below:

Accessory uses and buildings to uses listed in this section.

Churches or similar places of worship.

Home occupations by permission of city council.

Public parks, playgrounds, recreation areas, and community buildings owned and operated by a public agency.

Signs.

Single-family dwellings.

Telephone exchanges, electric substations, regulator stations or other public utilities where no public business, repair, or storage facilities are maintained.

Temporary structures incidental to construction work, but only for the period of such work.

Two-family dwellings.

Permitted uses shall include modular building units, but not mobile homes. (Prior Code Section 11.04.030; amd. 2005 Code)

10-2A-3:     **LOT AREA:** The minimum lot area shall be not less than five thousand (5,000) square feet for a single-family dwelling. For a two-family dwelling (duplex), there shall be a minimum lot area of seven thousand (7,000) square feet. (Ord. 6-16-1980; amd. 2005 Code)

10-2A-4:     **HEIGHT:** No building shall exceed thirty five feet (35') in height nor more than two (2) stories in height except for one or more of the following uses or exceptions: chimneys, cooling towers, elevator headhouse, fire towers, monuments, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, radio and television towers, or necessary mechanical appurtenances may be erected to exceed the maximum height limitation if approved by the board of adjustment. (Prior Code Section 11.04.030)

10-2A-5:     **LOT FRONTAGE:** There shall be a minimum lot frontage of not less than sixty feet (60'). (Prior Code Section 11.04.030)

10-2A-6:     **YARDS:**

A.     Front Yards: There shall be a front yard having a depth of not less than twenty five feet (25'). However, in blocks where residential

buildings have been erected on forty percent (40%) or more of the lots, the front yard shall not be less than the average front yard thus established; provided, that no front yard shall be less than twenty five feet (25') nor more than thirty five feet (35') for interior lots and not less than twenty feet (20') for corner lots. Where buildings front on a side street (a street not parallel to the alley), the front yard shall have a depth of not less than ten feet (10'). (Prior Code Section 11.04.030)

- B. **Rear Yards:** There shall be a rear yard having a depth of not less than twenty feet (20'). When a building fronts on a side street, the rear yard may be reduced to ten feet (10'). When the two (2) side yards have a combined depth of ten feet (10') or greater, the rear yard depth may be reduced to ten feet (10').
- C. **Side Yards:** A side yard abutting an interior lot line shall have a depth of not less than eight feet (8'). Where a building fronts on a side street (a street not parallel to the alley or the street on which the interior lots front), the setbacks for the side yards shall be as follows: 1) the setback for the side yard adjacent to the street on which the interior lots front shall be the same as what would be required for the front yard if the building fronted on the street on which the interior lots front; and 2) the setback of the other side yard or the one adjacent to the alley shall be the same as what would be required for the rear yard if the building fronted on the street on which the interior lots front. Where a building on a corner lot fronts on the street parallel to the alley or on the street on which the interior lots front, the side yard not abutting an interior lot line and abutting the street not parallel to the alley shall have a minimum depth of ten feet (10'). (Prior Code Section 11.04.030; amd. 2005 Code)

**10-2A-7: ACCESSORY BUILDINGS AND STRUCTURES:** When an accessory building or structure is attached to the main building, the extreme portion of the roof overhang shall be not less than eight feet (8') back from the side property line. Where an accessory building or structure is located in the rear of the front lot line by fifty feet (50') or more and is not closer than twelve feet (12') from any building used for residential purposes on the same or adjoining property, it may be placed so that the most exterior portion of the building or structure is not closer than two feet (2') from the side property line. In all cases, the building shall be no closer than two feet (2') from the rear property line. In the case of corner lots, the most exterior portion of an accessory building or structure, whether or not it is attached to the main building, shall be no closer than ten feet (10') from the property line on the side street (the street not parallel to the alley) and no closer than twenty feet (20') from the property line on the street parallel to the alley. (Prior Code Section 11.04.030; amd. 2005 Code)

**A. CONSISTENCY WITH RESIDENTIAL DISTRICT:** Accessory buildings and structures shall not be inconsistent with the established and prevailing patterns and character of construction, architectural design, and appearance of other existing buildings and structures in the neighborhood. Accessory buildings or structures whose overall or dominant construction, architectural design, or appearance is more characteristic of or identifiable with industrial, commercial, or agricultural buildings or structures shall be considered inconsistent with the district's intended use and shall not be allowed.

**B. SIZE LIMITATIONS:** Accessory buildings or structures, including but not limited to garages, shall not exceed the following sizes with respect to the corresponding size of the lot on which they are situated:

<u>LOT SIZE</u>	<u>MAXIMUM BUILDING SIZE</u>
0—10,000 Sq. ft	1200 Sq. Ft.
Over 10,000 Sq. Ft.	1600 Sq. Ft.

**C. SIDEWALL HEIGHT LIMITATIONS:** The exterior sidewalls of accessory buildings or structures, including but not limited to garages, shall not exceed a height of Ten Feet (10'). Sidewalls shall be measured from the ground to the roof line whether or not the roof has an overhang or eave.

**D. ESTABLISHED PRINCIPAL USE:** An accessory building or structure is an attached or detached subordinate building or structure on the same lot as, or part of the main building and occupied by or devoted to a use incidental to the main use. An accessory use is a use that is subordinate to the main use on a lot and for purposes customarily incidental to those of the main use. Accessory buildings or structures are not permitted unless the lot has a main, principal, or primary building or structure having a bona fide principal, main or primary use. A lot having a principal or main building or structure with a principal or primary use that is proven to be established and currently active on a bona fide basis shall be considered as having a bona fide principal use. A residence shall be considered a bona fide principal use if the dwelling is actually occupied on a bona fide basis by at least one natural person who is a bona fide permanent resident of the lot. **Amended 8/2/2010**

**E. Multi-Level or Multi-Use Accessory Structures:** The definitions, restrictions and criteria for permitting accessory buildings or structures in residential areas, including but not limited to those governing appearance, size, and sidewall height, shall apply to and include buildings or structures having one level or part thereof devoted to a main or non-accessory use and another level or part thereof devoted to an accessory use, such as a building serving primarily as a garage, shop or vehicle storage on the ground level and having bedrooms, recreational rooms, or other living space on the second or upper level. **Amended 8/2/2010**

10-2A-8: **YARD ENCROACHMENTS:** Every part of a required yard shall be open to the sky, unobstructed by any part of any structure with the exception of the following:

- A. Projection of sills, belt courses, cornices and ornamental features which do not project more than twelve inches (12") from the principal building.
- B. Open, unenclosed porch or uncovered steps may project into the front yard for a distance not exceeding ten feet (10').
- C. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet (3') above the floor level of the ground story may project into a required rear yard, provided these projections be at least five feet (5') from the property line.
- D. Driveways, parking spaces, sidewalks, uncovered patios and terraces of noncombustible materials and ornamental objects are allowed in all yards. (Prior Code Section 11.04.030)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE B. R-1A LOW DENSITY WITH MODIFIED SETBACK**

## SECTION:

- 10-2B-1: Intent
- 10-2B-2: Permitted Uses
- 10-2B-3: Lot Area
- 10-2B-4: Height
- 10-2B-5: Lot Frontage
- 10-2B-6: Yards
- 10-2B-7: Accessory Buildings And Structures
- 10-2B-8: Yard Encroachments

10-2B-1: **INTENT:** The R-1A single- and two-family dwelling district (low density with modified setback) is established for the purpose of low density dwelling control and to allow certain public facilities, as with R-1, but to provide for a lesser side setback minimum distance. It is intended that no use be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing in the district. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. (Ord. 11-6-1995)

10-2B-2: **PERMITTED USES:** In an R-1A zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended or designed for other than one of the uses listed below:

Accessory uses and buildings to uses listed in this section.

Churches or similar places of worship.

Home occupations by permission of city council.

Public parks, playgrounds, recreation areas, and community buildings owned and operated by a public agency.

Signs.

Single-family dwellings.

Telephone exchanges, electric substations, regulator stations, or other public utilities where no public business, repair, or storage facilities are maintained.

Temporary structures incidental to construction work, but only for the period of such work.

Two-family dwellings.

Permitted uses shall include modular building units, but not mobile homes. (Ord. 11-6-1995; amd. 2005 Code)

10-2B-3:     **LOT AREA:** The minimum lot area shall be not less than five thousand (5,000) square feet for a single-family dwelling. For a two-family dwelling (duplex), there shall be a minimum lot area of seven thousand (7,000) square feet. (Ord. 11-6-1995)

10-2B-4:     **HEIGHT:** No building shall exceed thirty five feet (35') in height nor more than two (2) stories in height except for one or more of the following uses or exceptions: chimneys, cooling towers, elevator headhouses, fire towers, monuments, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, radio and television towers, or necessary mechanical appurtenances may be erected to exceed the maximum height limitation if approved by the board of adjustment. (Ord. 11-6-1995)

10-2B-5:     **LOT FRONTAGE:** There shall be a minimum lot frontage of not less than sixty feet (60'). (Ord. 11-6-1995)

**10-2B-6: YARDS:**

- A. **Front Yards:** There shall be a front yard having a depth of not less than twenty five feet (25'). However, in blocks where residential buildings have been erected on forty percent (40%) or more of the lots, the front yard shall not be less than the average front yard thus established; provided, that no front yard shall be less than twenty five feet (25'), nor more than thirty five feet (35') for interior lots, and not less than twenty feet (20') for corner lots. Where buildings front on a side street (a street not parallel to the alley), the front yard shall have a depth of not less than ten feet (10'). (Ord. 11-6-1995)
- B. **Rear Yards:** There shall be a rear yard having a depth of not less than twenty feet (20'). When a building fronts on a side street, the rear yard may be reduced to ten feet (10'). When the two (2) side yards have a combined depth of ten feet (10') or greater, the rear yard depth may be reduced to ten feet (10').
- C. **Side Yards:** A side yard abutting an interior lot line shall have a depth of not less than four feet (4'). Where a building fronts on a side street (a street not parallel to the alley or the street on which the interior lots front), the setbacks for the side yards shall be as follows: 1) the setback for the side yard adjacent to the street on which the interior lots front shall be the same as what would be required for the front yard if the building fronted on the street on which the interior lots front; and 2) the setback of the other side yard or the one adjacent to the alley shall be the same as what would be required for the rear yard if the building fronted on the street on which the interior lots front. Where a building on a corner lot fronts on the street parallel to the alley or on the street on which the interior lots front, the side yard not abutting an interior lot line and abutting the street not parallel to the alley shall have a minimum depth of ten feet (10'). (Ord. 11-6-1995; amd. 2005 Code)

**10-2B-7: ACCESSORY BUILDINGS AND STRUCTURES:** When an accessory building or structure is attached to the main building, the extreme portion of the roof overhang shall be not less than four feet (4') back from the side property line. Where an accessory building or structure is located in the rear of the front lot line by fifty feet (50') or more and is not closer than twelve feet (12') from any building used for residential purposes on the same or adjoining property, it may be placed so that the most exterior portion of the building or structure is no less than two feet (2') from the side property line. In all cases, the building shall be no closer than two feet (2') from the rear property line. In the case of corner lots, the most exterior portion of an accessory building or structure, whether or not it is attached to the main building, shall be no closer than ten feet (10') from the property line on the side street (the street not parallel to the alley) and no closer than twenty feet (20') from the property line on the street parallel to the alley. (Ord. 11-6-1995; amd. 2005 Code)

**A. CONSISTENCY WITH RESIDENTIAL DISTRICT:** Accessory buildings and structures shall not be inconsistent with the established and prevailing patterns and character of construction, architectural design, and appearance of other existing buildings and structures in the neighborhood. Accessory buildings or structures whose overall or dominant construction, architectural design, or appearance is more characteristic of or identifiable with industrial, commercial, or agricultural buildings or structures shall be considered inconsistent with the district's intended use and shall not be allowed.

**B. SIZE LIMITATIONS:** Accessory buildings or structures, including but not limited to garages, shall not exceed the following sizes with respect to the corresponding size of the lot on which they are situated:

<u>LOT SIZE</u>	<u>MAXIMUM BUILDING SIZE</u>
0—10,000 Sq. ft	1200 Sq. Ft.
Over 10,000 Sq. Ft.	1600 Sq. Ft.

**C. SIDEWALL HEIGHT LIMITATIONS:** The exterior sidewalls of accessory buildings or structures, including but not limited to garages, shall not exceed a height of Ten Feet (10'). Sidewalls shall be measured from the ground to the roof line whether or not the roof has an overhang or eave.

**D. ESTABLISHED PRINCIPAL USE:** An accessory building or structure is an attached or detached subordinate building or structure on the same lot as, or part of the main building and occupied by or devoted to a use incidental to the main use. An accessory use is a use that is subordinate to the main use on a lot and for purposes customarily incidental to those of the main use. Accessory buildings or structures are not permitted unless the lot has a main, principal, or primary building or structure having a bona fide principal, main or primary use. A lot having a principal or main building or structure with a principal or primary use that is proven to be established and currently active on a bona fide basis shall be considered as having a bona fide principal use. A residence shall be considered a bona fide principal use if the dwelling is actually occupied on a bona fide basis by at least one natural person who is a bona fide permanent resident of the lot. **Amended 8/2/2010**

**E. Multi-Level or Multi-Use Accessory Structures:** The definitions, restrictions and criteria for permitting accessory buildings or structures in residential areas, including but not limited to those governing appearance, size, and sidewall height, shall apply to and include buildings or structures having one level or part thereof devoted to a main or non-accessory use and another level or part thereof devoted to an accessory use, such as a building serving primarily as a garage, shop or vehicle storage on the ground level and having bedrooms, recreational rooms, or other living space on the second or upper level. **Amended 8/2/2010**

10-2B-8: **YARD ENCROACHMENTS:** Every part of a required yard shall be open to the sky, unobstructed by any part of any structure with the exception of the following:

- A. Projection of sills, belt courses, cornices and ornamental features which do not project more than twelve inches (12") from the principal building.
- B. Open unenclosed porch or uncovered steps may project into the front yard for a distance not exceeding ten feet (10').
- C. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet (3') above the floor level of the ground story may project into a required rear yard, provided these projections be at least five feet (5') from the property line.
- D. Driveways, parking spaces, sidewalks, uncovered patios and terraces of noncombustible materials and ornamental objects are allowed in all yards. (Ord. 11-6-1995)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE C. R-2 HIGH DENSITY RESIDENTIAL**

## SECTION:

- 10-2C-1: Intent
- 10-2C-2: Permitted Uses
- 10-2C-3: Lot Area
- 10-2C-4: Height
- 10-2C-5: Lot Frontage
- 10-2C-6: Yards
- 10-2C-7: Accessory Buildings And Structures
- 10-2C-8: Yard Encroachments

10-2C-1: **INTENT:** The R-2 zone is intended for the purpose of allowing high residential density land use with the commingling of compatible single-family and two-family dwellings, apartments, home occupations and community facilities yet retaining the basic residential quality. (Prior Code Section 11.04.040)

10-2C-2: **PERMITTED USES:** In an R-2 zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended or designed for other than one of the uses listed below:

Accessory uses to the uses listed below.

Any use permitted in the R-1 and R-1A zones.

Clubs and fraternity houses.

Home occupation by permission of city council.

Hospitals, homes for the aged.

Lodging and boarding houses.

Multiple-family dwellings (apartment houses).

Schools and other public buildings.

Permitted uses shall include modular building units, but not mobile homes.  
(Prior Code Section 11.04.040; amd. 2005 Code)

10-2C-3:     **LOT AREA:** The minimum lot area shall be not less than five thousand (5,000) square feet for a single-family dwelling. For a two-family dwelling (duplex), there shall be a minimum lot area of seven thousand (7,000) square feet. For multiple-family dwellings (3 or more units), there shall be a minimum lot area of nine thousand (9,000) square feet plus an additional five hundred (500) square feet for each additional unit above the minimum of three (3) units provided that only fifty percent (50%) of the lot area is covered by the structure. (Ord. 6-16-1980; amd. 2005 Code)

10-2C-4:     **HEIGHT:** No building shall exceed forty five feet (45') in height nor more than three (3) stories in height except: chimneys, cooling towers, elevator headhouse, fire towers, monuments, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, radio and television towers, or necessary mechanical appurtenances, may be erected to exceed the maximum height limitation if approved by the board of adjustment. (Prior Code Section 11.04.040)

10-2C-5:     **LOT FRONTAGE:** There shall be a minimum lot frontage of not less than sixty feet (60'). (Prior Code Section 11.04.040)

10-2C-6:     **YARDS:**

- A.     **Front Yards:** There shall be a front yard having a depth of not less than twenty five feet (25'). However, in blocks where residential buildings have been erected on forty percent (40%) or more of the lots, the front yard shall not exceed the average front yard line thus established; provided, that no front yard shall be less than fifteen feet (15') for interior lots and not less than twenty feet (20') for corner lots. Where buildings front on a side street (a street not

parallel to the alley), the front yard shall have a depth of not less than ten feet (10'). (Prior Code Section 11.04.040)

- B. Rear Yards: There shall be a rear yard having a depth of not less than twenty feet (20'). When a building fronts on a side street, the rear yard may be reduced to ten feet (10'). When the two (2) side yards have a combined depth of ten feet (10') or greater, the rear yard depth may be reduced to ten feet (10').
- C. Side Yards: A side yard abutting an interior lot line shall have a depth of not less than four feet (4'). Where a building fronts on a side street (a street not parallel to the alley or the street on which the interior lots front), the setbacks for the side yards shall be as follows: 1) the setback for the side yard adjacent to the street on which the interior lots front shall be the same as what would be required for the front yard if the building fronted on the street on which the interior lots front; and 2) the setback of the other side yard or the one adjacent to the alley shall be the same as what would be required for the rear yard if the building fronted on the street on which the interior lots front. Where a building on a corner lot fronts on the street parallel to the alley or on the street on which the interior lots front, the side yard not abutting an interior lot line and abutting the street not parallel to the alley shall have a minimum depth of ten feet (10'). (Prior Code Section 11.04.040; amd. 2005 Code)

10-2C-7: **ACCESSORY BUILDINGS AND STRUCTURES:** When an accessory building or structure such as a garage is attached to the main building the extreme portion of the roof overhang shall be not less than four feet (4') back from the side property line. Where an accessory building or structure is located in the rear of the front lot line by fifty feet (50') or more and is not closer than twelve feet (12') from any building used for residential purposes on the same or adjoining property, it may be placed so that the most exterior portion of the building or structure is no less than two feet (2') from the side property line. In all cases, the building or structure shall be no closer than two feet (2') from the rear property line. In the case of corner lots, the most exterior portion of an accessory building or structure, whether or not it is attached to the main building, shall be no closer than ten feet (10') from the property line on the side street (the street not parallel to the alley) and no closer than twenty feet (20') from the property line on the street parallel to the alley. (Prior Code Section 11.04.040; amd. 2005 Code)

**A. CONSISTENCY WITH RESIDENTIAL DISTRICT:** Accessory buildings and structures shall not be inconsistent with the established and prevailing patterns and character of construction, architectural design, and appearance of other existing buildings and structures in the neighborhood. Accessory buildings or structures whose overall or dominant construction, architectural design, or appearance is more characteristic of or identifiable with industrial, commercial, or agricultural buildings or structures shall be considered inconsistent with the district's intended use and shall not be allowed.

**B. SIZE LIMITATIONS:** Accessory buildings or structures, including but not limited to garages, shall not exceed the following sizes with respect to the corresponding size of the lot on which they are situated:

<u>LOT SIZE</u>	<u>MAXIMUM BUILDING SIZE</u>
0—10,000 Sq. ft	1200 Sq. Ft.
Over 10,000 Sq. Ft.	1600 Sq. Ft.

**C. SIDEWALL HEIGHT LIMITATIONS:** The exterior sidewalls of accessory buildings or structures, including but not limited to garages, shall not exceed a height of Ten Feet (10'). Sidewalls shall be measured from the ground to the roof line whether or not the roof has an overhang or eave.

**D. ESTABLISHED PRINCIPAL USE:** An accessory building or structure is an attached or detached subordinate building or structure on the same lot as, or part of the main building and occupied by or devoted to a use incidental to the main use. An accessory use is a use that is subordinate to the main use on a lot and for purposes customarily incidental to those of the main use. Accessory buildings or structures are not permitted unless the lot has a main, principal, or primary building or structure having a bona fide principal, main or primary use. A lot having a principal or main building or structure with a principal or primary use that is proven to be established and currently active on a bona fide basis shall be considered as having a bona fide principal use. A residence shall be considered a bona fide principal use if the dwelling is actually occupied on a bona fide basis by at least one natural person who is a bona fide permanent resident of the lot. **Amended 8/2/2010**

**E. Multi-Level or Multi-Use Accessory Structures:** The definitions, restrictions and criteria for permitting accessory buildings or structures in residential areas, including but not limited to those governing appearance, size, and sidewall height, shall apply to and include buildings or structures having one level or part thereof devoted to a main or non-accessory use and another level or part thereof devoted to an accessory use, such as a building serving primarily as a garage, shop or vehicle storage on the ground level and having bedrooms, recreational rooms, or other living space on the second or upper level. **Amended 8/2/2010**

10-2C-8: **YARD ENCROACHMENTS:** Every part of a required yard shall be open to the sky, unobstructed by any part of any structure with the exception of the following:

- A. Projection of sills, belt courses, cornices and ornamental features which do not project more than twelve inches (12") from the principal building.
- B. Open, unenclosed porch or uncovered steps may project into the front yard for a distance not exceeding ten feet (10').
- C. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet (3') above the floor level of the ground story may project into a required rear yard, provided these projections be at least five feet (5') from the property line.
- D. Driveways, parking spaces, sidewalks, uncovered patios and terraces of noncombustible materials and ornamental objects are allowed in all yards. (Prior Code Section 11.04.040)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE D. M-H MOBILE HOME PARK DISTRICT**

## SECTION:

- 10-2D-1: Intent  
 10-2D-2: Permitted Uses  
 10-2D-3: Other Laws  
 10-2D-4: Design Standards  
 10-2D-5: Design Standards For Other Uses

10-2D-1: **INTENT:** The intent of this article is to provide for mobile home park development at appropriate locations and to establish standards for development in order to integrate mobile homes into an area without adversely affecting surrounding properties and to provide safeguards for residents of mobile homes. (Prior Code Section 11.04.050)

10-2D-2: **PERMITTED USES:** In an M-H zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged, which is arranged, intended or designed for other than one of the uses listed below:

Accessory buildings and uses customarily incidental to the permitted uses; no part of any park shall be used for nonresidential purposes, except such uses that are required for direct servicing and well being of park residents and for management and maintenance of the park. Nothing in this article shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

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

Mobile home parks.

Mobile homes.

Signs in accordance with chapter 4 of this title. (Prior Code Section 11.04.050; amd. 2005 Code)

10-2D-3: **OTHER LAWS:** The regulations in this district shall not be interpreted so as to supersede or amend any state or federal regulations pertaining to mobile home park development. These regulations are intended to be supplemental to other established mobile home park regulations and their amendments. When the standards and regulations in this district are more restrictive than other established standards and regulations, the more restrictive shall be used. (Prior Code Section 11.04.050)

10-2D-4: **DESIGN STANDARDS:** Any person desiring to enlarge or establish a mobile home park shall meet or exceed the following design standards:

- A. **Lot Size:** The minimum lot area per mobile home site shall be five thousand (5,000) square feet including underground utility easements, private drives, and parking spaces, but excluding street rights of way.
- B. **Lot Arrangement:** Mobile home lots shall be arranged to permit practical placement and removal of mobile homes.
- C. **Setbacks:**
  - 1. **Boundary:** All mobile homes shall be located at least twenty five feet (25') from any property boundary line abutting upon a public street or highway right of way and at least fifteen feet (15') from other boundary lines of the park.
  - 2. **Street:** The mobile home stand must be located at least ten feet (10') from the street that serves it.
- D. **Lot limits:** The limits of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.

- E. **Stand Coverage:** A mobile home stand may not occupy more than one-third ( $\frac{1}{3}$ ) of the area of its lot. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds ( $\frac{2}{3}$ ) of the area of a lot.
- F. **Distance Between Homes:** No mobile home or its attached structures, such as awnings or carports, may be located within twenty feet (20') of any other mobile home or its attached structures.
- G. **Accessory Structures:** No detached structure, such as a storage shed, may be located within five feet (5') of any mobile home or its attached structures.
- H. **Parking:** A minimum of two (2) off street parking spaces shall be provided for each mobile home lot. Parking may be in tandem. The driveway shall be located to allow for convenient access to the mobile home. The minimum width shall be ten feet (10'). One guest parking space for each ten (10) mobile home lots shall be provided. Group parking may be provided.
- I. **Anchors And Stands:**
1. **Stands:** Each mobile home shall provide for a minimum of three (3) reinforced concrete ribbons or pads at ground level. Piers and footings sufficient to carry the weight of the mobile home should be installed under the steel frame. A maximum pier spacing of ten feet (10') with the end piers being no farther than five feet (5') from the end of the unit. Each concrete ribbon or pad shall be a minimum of three feet (3') long, sixteen inches (16") wide and four inches (4") thick. These ribbons may run crosswise of the home or at right angles to the mobile home.
  2. **Anchors:** It is essential that some means be provided to anchor mobile homes and secure them against forces exerted by the wind. Anchors such as cast in place concrete, screw augers, or arrowhead anchors should be used, unless the mobile home is attached permanently to a foundation. (Prior Code Section 11.04.050)
- J. **Skirting And Canopies:**
1. **Skirting:** Each mobile home shall be skirted within thirty (30) days after said mobile home is moved upon a lot within the mobile home park. Said skirting shall be of a fire resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home. (Prior Code Section 11.04.050; amd. 2005 Code)

2. Canopies And Awnings: Canopies and awnings may be attached to any mobile home, if fashioned securely and if of a design that will blend with the mobile home.

- K. Other Standards: Standards for utilities, streets, parks, etc., shall be designed in accordance with local and state subdivision and health requirements. (Prior Code Section 11.04.050)

10-2D-5: **DESIGN STANDARDS FOR OTHER USES:** The lot area, height, yards and other requirements for uses other than mobile home parks shall be the same as for the R-2 district. Mobile homes placed on individual lots shall not be less than twelve feet by sixty feet (12' x 60') in size. Mobile homes placed on individual lots shall be skirted within thirty (30) days after the mobile home is moved upon the lot. Skirting shall be of a fire resistant material similar to that of which the mobile home exterior is constructed. (Prior Code Section 11.04.050; amd. 2005 Code)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE E. C-1 CENTRAL BUSINESS DISTRICT**

## SECTION:

- 10-2E-1: Intent
- 10-2E-2: Permitted Uses
- 10-2E-3: Lot Area
- 10-2E-4: Building Height
- 10-2E-5: Yards
- 10-2E-6: Off Street Parking And Loading

10-2E-1: **INTENT:** The intent of this district is to provide a central area for the community's business, government, service, and cultural activities. Uses within this district should be appropriate to such a focal center with inappropriate uses being excluded. Room should be provided in appropriate areas for logical and planned expansion of the present district. (Prior Code Section 11.04.060)

10-2E-2: **PERMITTED USES:** In a C-1 zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged, which is arranged, intended or designed for other than one of the uses listed below:

Automobile parking lots and garages.

Bakeries.

Barber and beauty shops and other personal services.

Bars, cocktail lounges.

Bus stations.

Clinics.

Dressmaking.

Financial institutions.

Florists.

Hotels and motels.

Laundry and dry cleaning.

Meeting and lodge halls.

Museums, libraries and galleries.

Printing offices.

Private schools, such as dance, business, secretarial and technical but not private or public elementary or secondary schools.

Professional and business offices.

Public offices.

Repair services for clothes, dolls, small appliances, glasses and such other items.

Restaurants and cafes.

Retail sales such as clothing, candy, drugstores, hardware, furniture, jewelry, food stores but excluding heavy machinery and implements, motorized vehicles (automobiles, boats, cycles), mobile homes.

Signs.

Temporary buildings for and during construction, only.

Theaters, except drive in theaters.

Uses customarily accessory to those listed.

Wholesale establishments that use samples, but do not store stock on premises. (Prior Code Section 11.04.060)

10-2E-3

10-2E-6

10-2E-3: **LOT AREA:** No minimum lot area prescribed. (Prior Code Section 11.04.060)

10-2E-4: **BUILDING HEIGHT:** The maximum building height in this district shall be forty five feet (45'). (Prior Code Section 11.04.060)

10-2E-5: **YARDS:** No minimum yards prescribed. (Prior Code Section 11.04.060)

10-2E-6: **OFF STREET PARKING AND LOADING:** Off street parking and loading space shall be provided in accordance with chapter 3 of this title. (Prior Code Section 11.04.060)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE F. C-2 HIGHWAY BUSINESS DISTRICT**

## SECTION:

10-2F-1:	Intent
10-2F-2:	Permitted Uses
10-2F-3:	Lot Area
10-2F-4:	Yards
10-2F-5:	Building Height
10-2F-6:	Off Street Parking And Loading

10-2F-1: **INTENT:** The intent of this district is to provide for a broad range of retail and service functions especially those needing orientation to major thoroughfares. (Prior Code Section 11.04.070)

10-2F-2: **PERMITTED USES:** In a C-2 zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged, which is arranged, intended or designed for other than one of the uses listed below:

Accessory uses to the uses listed below.

All uses permitted in the C-1 district.

Automobile, boat and motorcycle sales and service areas.

Frozen food storage and locker rental.

Gasoline service stations.

Heavy equipment and implement sales and service.

Liquor stores.

Mobile home and travel trailer sales and service.

Mortuaries.

Recreation and amusement facilities (bowling alleys, billiard halls, skating rinks, etc.).

Research and development institutions.

Restaurants, cafes and drive in eating establishments.

Theaters, including drive in theaters.

Tire and muffler sales and services.

Travel trailer parks.

Veterinary clinics. (Prior Code Section 11.04.070)

10-2F-3:     **LOT AREA:** Lot area for this district shall not be less than seven thousand five hundred (7,500) square feet. (Prior Code Section 11.04.070)

10-2F-4:     **YARDS:** Every lot shall have the following minimum yards:

Front yard	None
Rear yard	10 feet
Side yards	None

(Prior Code Section 11.04.070)

10-2F-5:     **BUILDING HEIGHT:** Maximum building height in this district shall be thirty five feet (35'). (Prior Code Section 11.04.070)

10-2F-6:     **OFF STREET PARKING AND LOADING:** Off street parking and loading space shall be provided in accordance with chapter 3 of this title. (Prior Code Section 11.04.070)

## CHAPTER 2

## ZONING MAP AND DISTRICTS

**ARTICLE G. L-I LIGHT INDUSTRIAL DISTRICT**

## SECTION:

- 10-2G-1: Intent
- 10-2G-2: Permitted Uses
- 10-2G-3: Prohibited Uses
- 10-2G-4: Lot Area And Width
- 10-2G-5: Yards
- 10-2G-6: Building Height
- 10-2G-7: Off Street Parking And Loading

10-2G-1: **INTENT:** The intent of this district is to provide for the community's needs for wholesale trade, storage, and warehousing, trucking and transportation terminals, light manufacturing and similar activities. The district should be oriented to major transportation facilities, yet arranged to minimize adverse effects on residential developments; therefore, some type of screening may be necessary. Residences shall not be permitted in this district, except as a permitted use under section 10-2G-2 of this article. (Prior Code Section 11.04.080; amd. 2005 Code)

10-2G-2: **PERMITTED USES:** In an L-I zone, no building or land shall be used and no building or structure shall be erected, altered, or enlarged, which is arranged, intended or designed for other than one of the uses listed below:

Accessory uses.

Building contractors establishments.

Building materials sales.

- Bulk storage of petroleum products.
- Cabinet shops.
- Enclosed warehousing.
- Flour and feed mills.
- Food processing plants.
- Gasoline service stations.
- Grain elevators.
- Greenhouses.
- Machine shops and welding shops.
- Manufacturing of light consumer goods, i.e., electronic equipment, appliances, furniture, beverages.
- Mobile home parks (as regulated in article D of this chapter).
- Outside storage, if accessory to permitted use and if screened from street and surrounding properties by solid fence or dense plantings at least six feet (6') high.
- Paint shops.
- Repair and service establishments for light consumer goods, i.e., automobiles, appliances, furniture.
- Sign shops.
- Signs.
- Temporary buildings for and during construction only.
- Truck and rail terminal facilities.
- Vehicle and boat sales. (Prior Code Section 11.04.080; amd. 2005 Code)

10-2G-3: **PROHIBITED USES:** All uses of land, buildings, and structures or industrial processes that are noxious or injurious by reason of production, or emission of dust, smoke or refuse matter, odor, gas fumes, noise, vibration, or substances or conditions. Before issuing a zoning permit, the city council may request that the board of adjustment review the proposed use to determine whether the use is noxious or injurious. (Prior Code Section 11.04.080; amd. 2005 Code)

10-2G-4: **LOT AREA AND WIDTH:** Lot area for this district shall not be less than seven thousand five hundred (7,500) square feet. (Prior Code Section 11.04.080)

10-2G-5: **YARDS:** Every lot shall have the following minimum yards:

Front yard	20 feet
Rear yard	None <sup>1</sup>
Side yard	None <sup>1</sup>

**Note:**

1. When a lot is adjacent or faces upon another zone, the yards shall meet the requirements of the adjoining zone, and buildings shall be screened with either a decorative fence or plantings. When a lot abuts a street or alley on either side or the rear, a yard of at least fifteen feet (15') shall be provided on the street or alley side.

(Prior Code Section 11.04.080)

10-2G-6: **BUILDING HEIGHT:** Maximum building height in this district shall be forty five feet (45'). (Prior Code Section 11.04.080; amd. 2005 Code)

10-2G-7: **OFF STREET PARKING AND LOADING:** Off street parking and loading space shall be provided in accordance with chapter 3 of this title. (Prior Code Section 11.04.080)

## CHAPTER 3

**OFF STREET PARKING AND LOADING**

## SECTION:

- 10-3-1: Intent
- 10-3-2: Requirements
- 10-3-3: Joint Use
- 10-3-4: Spaces Required
- 10-3-5: Off Street Loading

10-3-1: **INTENT:** This chapter is intended to reduce the need for parking on streets and the traffic congestion and hazards caused thereby, and to provide for off street parking adequate to each type of development, in terms of both amount and location. (Prior Code Section 11.04.090)

10-3-2: **REQUIREMENTS:** The plan of the proposed parking area shall be submitted to the city council at the time of the application for the zoning permit. Such plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, construction details, and other features and appurtenances required.

- A. **Use:** Accessory off street parking, required for the uses specified herein, shall be for use only by automobiles of employees, customers and residents of the activity served.
- B. **Location:** Off street parking requirements shall be met on the same lot as the building served or on a lot within three hundred feet (300') especially reserved for such uses, except that off street parking facilities for separate uses may be provided collectively on a separate lot if the spaces are not less than the total requirements of the separate uses and provided that other requirements are met.

- C. **Space Size:** An off street parking space shall be at least ten feet (10') in width and at least twenty feet (20') in length, exclusive of access drives, yards, or ramps.
- D. **Screening:** All open parking areas with four (4) or more parking spaces shall be effectively screened by wall, fence or landscaping from any property in a residential district.
- E. **Lighting:** No lighting used to illuminate a parking area shall face any residential property in any district.
- F. **Landscaping:** Any use having more than three thousand five hundred (3,500) square feet of required parking shall have two percent (2%) of the gross required parking area landscaped with proper parking lot trees and shrubs having a low profile. Such landscaping will be properly maintained at all times. (Prior Code Section 11.04.090; amd. 2005 Code)

10-3-3: **JOINT USE:** The board of adjustment may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

- A. Up to fifty percent (50%) of the parking facilities required by this chapter for primarily nighttime uses, such as theaters, bowling alleys, bars, restaurants, and related uses, may be supplied by certain types of buildings or uses herein referred to as daytime uses such as banks, offices, retail and personal service shops, clothing, food, furniture manufacturing or wholesale and related uses.
- B. Up to fifty percent (50%) of the parking facilities by this chapter for primarily daytime uses may be supplied by primarily nighttime uses.
- C. Up to one hundred percent (100%) of the parking facilities required by this chapter for a church or for an auditorium incidental to a public or parochial school may be supplied by the off street parking facilities provided by uses primarily of a daytime nature.
- D. **Conditions Required For Joint Use:** The building or use for which application is being made to utilize the off street parking facilities provided by another building or use shall be located within three hundred feet (300') of such parking facilities, in addition to which:

1. The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off street parking facilities is proposed.

2. The applicant shall present a properly drawn legal instrument to be recorded with the county clerk and recorder, executed by the parties concerned for joint use of off street parking facilities and approved as to form and manner of execution by the city attorney; such instrument to be filed with the county clerk and recorder upon approval by the board of adjustment. (Prior Code Section 11.04.090)

10-3-4: **SPACES REQUIRED:** No building shall be erected, enlarged to the extent of increasing the floor area by as much as fifty percent (50%), or changed in use, unless there is provided on the lot, space for the parking of automobiles or trucks in accordance with the following minimum requirements:

<u>Use</u>	<u>Number Of Spaces Required</u>
Banks, business or professional offices, and office buildings	1 space for each 400 square feet of floor area.
Bowling alleys	4 spaces for each alley.
Churches	1 parking space shall be provided for each 5 seats, based on maximum seating capacity of the main assembly room or sanctuary.
Community centers or recreation buildings	1 space for each 3 employees, plus 1 space for each 3 seats.
Dwellings	
Single-, two-family	2 parking spaces for each unit.
Multiple	A ratio of 1½ parking spaces per dwelling unit shall be provided.
Furniture and appliance stores, motor vehicle sales, wholesale stores, repair shops for household equipment, and radio and television, and machinery sales and repair establishments	1 space for each 400 square feet of floor area; 1 space for each 5 employees.

<u>Use</u>	<u>Number Of Spaces Required</u>
Gas stations	1 space for each 2 employees.
Home occupations	Home occupations will be required to furnish 2 off street parking spaces in the side or rear yard. These shall be in addition to those required for dwelling purposes.
Hospitals	1 parking space for each bed plus 1 parking space for each staff doctor.
Hotels and motels	1 parking space for each room for rent; 1 space for each 5 employees.
Libraries, art galleries or museums	2 parking spaces for each 1,000 square feet of floor area.
Motor freight companies	1 space for each 4 employees; 1 additional space for each of the vehicles used in the conduct of the business at any time.
Private clubs and lodges	1 space shall be provided for each room for rent; 1 space for each 100 square feet of floor area; 1 space for each 4 employees.
Production, manufacture, cleaning, servicing, testing or repair of materials or commodities, or warehousing or storage buildings	1 parking space for each 3 employees.
Public utility and public service uses	1 parking space for each 3 employees, plus 5 spaces for public use.
Restaurants, bars, cafeterias, or other eating and drinking places	1 space for each 100 square feet; 1 space for each 4 employees.
Retail sales stores, personal service establishments, shoe repair, barber and beauty shops, etc.	1 parking space for each 150 square feet of floor area.
Schools, nursery, elementary or boarding (except high)	1 space for each 3 employees, plus 5.
Schools, high	1 space for each 2 employees plus 1 for each 30 students.

<u>Use</u>	<u>Number Of Spaces Required</u>
Theaters and auditoriums	1 parking space for each 4 seats.
Other uses	For any other uses not specifically mentioned or provided for, the board of adjustment shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

(Prior Code Section 11.04.090)

**10-3-5: OFF STREET LOADING:**

- A. Where a building has been newly constructed or converted to a commercial or industrial use occupying a gross floor area of ten thousand (10,000) square feet or more, a minimum of one off street loading space thirty feet by twelve feet (30' x 12') in size, shall be made permanently available.
- B. Where more than one business use is to occupy the building, the city council may require additional loading spaces. (Prior Code Section 11.04.090; amd. 2005 Code)

## CHAPTER 4

**SIGNS**

## SECTION:

- 10-4-1: Applicability
- 10-4-2: General Requirements
- 10-4-3: Residential Uses
- 10-4-4: Churches; Other Public Institutions
- 10-4-5: Highway Signs
- 10-4-6: Commercial Districts
- 10-4-7: Industrial Districts

10-4-1: **APPLICABILITY:** The following regulations shall govern the location, area and type of signs permitted within the city. (Prior Code Section 11.04.100)

10-4-2: **GENERAL REQUIREMENTS:**

- A. **Safety:** All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to the safety of persons or property.
- B. **Nuisance:** No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district because of lighting, glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.
- C. **Revolving Beacon Or Fountain:** No revolving beacon or fountain signs shall be permitted in any district.
- D. **Interference With Traffic Devices:** No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.

- E. Ground Signs: Ground signs shall not be located on public property except by specific approval of the city council.
- F. Temporary Signs: Temporary signs or banners on or over public property are not permitted except by specific approval of the city council.
- G. Projecting Signs: Signs projecting over a street, alley, or other public property may be authorized by the city council for a period not to exceed ten (10) days.
- H. Roadside Market Signs: Roadside market signs advertising produce grown and sold on the premises on which they are located shall be removed when market is not in use. (Prior Code Section 11.04.100; amd. 2005 Code)

10-4-3: **RESIDENTIAL USES:** One sign of a temporary nature advertising availability "for sale" or "for rent" shall be permitted for residential use. Such sign must not exceed four (4) square feet and shall not be lighted. Such sign may be wall, pedestal, or ground type. (Prior Code Section 11.04.100)

10-4-4: **CHURCHES; OTHER PUBLIC INSTITUTIONS:**

- A. Signage Allowed: One illuminated sign or bulletin board shall be permitted on each street side if located on the same site as the principal building.
- B. Maximum Size: No sign or bulletin board shall exceed twenty four (24) square feet in area.
- C. Location:
  - 1. Side Or Rear Property Lines: No sign shall be located closer than eight feet (8') from any side or rear property line.
  - 2. Front Yard: A sign or bulletin board located in the front yard shall be no closer to the street line than one-half ( $\frac{1}{2}$ ) the required front yard.
- D. Affixed To Building: A sign or bulletin board affixed to a building shall not project higher than one story or ten feet (10') above the ground level, whichever is lower.

- E. Ground Signs: Ground signs shall be permanently anchored to the ground and shall not exceed a height of six feet (6').
- F. Corner Lots: On corner lots, no sign shall be so constructed or so located that will obstruct the view of traffic approaching the street intersection. (Prior Code Section 11.04.100)

10-4-5: **HIGHWAY SIGNS:** Highway signs or other such highway oriented advertising devices shall be permitted, provided such signs and devices comply with all state and federal regulations and are located at least one thousand feet (1,000') from any existing advertising sign or device, regardless of political boundaries, width of political boundaries, width of rights of way, existing highways, streets, roads or easements. (Prior Code Section 11.04.100)

10-4-6: **COMMERCIAL DISTRICTS:** Wall signs and one protruding or pedestal sign advertising the particular use of the property shall be permitted, provided such sign does not exceed fifty (50) square feet in area. (Prior Code Section 11.04.100)

10-4-7: **INDUSTRIAL DISTRICTS:** Wall signs and one protruding or pedestal sign advertising the particular use of the property shall be permitted, provided such sign does not exceed two hundred (200) square feet in area and does not exceed a height of thirty five feet (35'). (Prior Code Section 11.04.100)

## CHAPTER 5

**SUPPLEMENTARY REGULATIONS**

## SECTION:

- 10-5-1: Fences And Walls
- 10-5-2: Basements
- 10-5-3: Access
- 10-5-4: Outside Storage
- 10-5-5: Home Occupations
- 10-5-6: Transition Zone
- 10-5-7: Annexation Of Additional Territory
- 10-5-8: Purpose And Intent Of Zoning

10-5-1: **FENCES AND WALLS:**

- A. **Maximum Height:** Fences and walls in residential sections are subject to the following maximum height requirements: along the front lot line, and along the first twenty five feet (25') of the side lot lines as measured from the front property line, the maximum height shall be three feet (3'); along the balance of the side property lines and along the rear property line, the maximum height shall be six feet (6').
- B. **Electric, Barbed Wire Fence:** It shall be unlawful for any person to erect or maintain any electrical fence or any fence constructed in whole or in part of barbed wire. (Prior Code Section 11.04.110; amd. 2005 Code)

10-5-2: **BASEMENTS:** No permit shall be issued for a basement residence or structure alone. (Prior Code Section 11.04.110; amd. 2005 Code)

10-5-3: **ACCESS:** Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an

approved private street (approval granted by city council only). All structures shall be so located on lots as to provide safe, convenient access for servicing fire protection and required off street parking. (Prior Code Section 11.04.110)

10-5-4:       **OUTDOOR STORAGE:** All salvage dealers or other persons accumulating, depositing, or storing salvage material or junk within the city, when the accumulating, depositing, or storing thereof shall be without a building or not within a building, either now stored, deposited or accumulated or hereafter so deposited, stored, or accumulated, shall fence surrounding salvage materials or junk with a solid fence at least five and one-half feet (5½') high, sufficient to enclose the salvaged materials from public view from outside the enclosure. (Prior Code Section 11.04.110; amd. 2005 Code)

10-5-5:       **HOME OCCUPATIONS:**

- A.    Use Limited: Any home occupation must be limited to a use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no display, no stock in trade, no outside storage of equipment, no signs, no inventory and no commodity sold upon the premises.
- B.    Maximum Floor Area Allowed: The use of the dwelling used for the home occupation must be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five percent (25%) of the floor area of the dwelling unit may be used in the conduct of the home occupation.
- C.    Outside Appearance: There may be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation.
- D.    Accessory Building: No home occupation, or any part thereof, may be conducted in any accessory building or structure apart from the dwelling.
- E.    Traffic: No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.

- F. Parking: Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- G. Performance Standards: No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in areas zoned for residential uses. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- H. Application; Council Approval Required: A person desiring permission to conduct a home occupation shall submit to the city a signed and completed application form provided by the city. The permitting of home occupations shall be within the sole discretion of the council. The council shall consider all relevant factors in addition to those above in denying or granting permission for a home occupation. (2005 Code)

**10-5-6: TRANSITION ZONE:**

- A. Garage Entrances: No public garage for more than five (5) motor vehicles shall have an entrance or exit for motor vehicles within fifty feet (50') of a residential district.
- B. Side And Rear Yard Transition: Where a lot in a business or industrial district abuts a lot in a residential district, there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.
- C. Front Yard Transition: Where the frontage on one side of a street between two (2) intersecting streets is zoned partly as a residential and partly as business or industrial, the front yard depth in the business or industrial district shall be equal to the required front yard depth in the residential district. (Prior Code Section 11.04.110)

**10-5-7: ANNEXATION OF ADDITIONAL TERRITORY:** Whenever any territory is annexed to the city, the resolution or ordinance of annexation shall designate the zoning classification district or districts in which the territory is to be included. The territory annexed shall be

governed by the provisions of the articles relating to the zoning district or districts in which such land is placed. (2005 Code)

10-5-8:       **PURPOSE AND INTENT OF ZONING:** The purpose of these zoning provisions is to adopt zoning regulations that:

- A.     Are in accordance with a growth policy;
- B.     Are designed to lessen congestion in the streets;
- C.     Will secure safety from fire, panic, and other dangers;
- D.     Will promote health and the general welfare;
- E.     Will provide adequate light and air;
- F.     Will prevent overcrowding of land;
- G.     Will avoid undue concentration of population;
- H.     Will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- I.     Give reasonable consideration to the character of the district;
- J.     Give reasonable consideration to the district's peculiar suitability for particular uses;
- K.     Give reasonable consideration to conserving the value of buildings; and
- L.     Will encourage the most appropriate use of land throughout the city. (2005 Code)

## CHAPTER 6

**NONCONFORMING RIGHTS**

## SECTION:

- 10-6-1: Nonconforming; Definition
- 10-6-2: Nonconforming Lots
- 10-6-3: Nonconforming Uses
- 10-6-4: Elimination Of Nonconforming Uses
- 10-6-5: Nonconforming Structures
- 10-6-6: Maintenance
- 10-6-7: Mobile Homes As Nonconforming Uses

10-6-1: **NONCONFORMING; DEFINITION:** As used in this title, the term "nonconforming" shall refer to those lots, buildings, structures, or uses of land existing prior to the effective date of the adoption of the original zoning ordinances or amendments thereto by the city that did not conform following such effective date with the regulations of the district or area in which they were situated. The term "effective date", as used hereinafter, shall refer to the time of the adoption of the original zoning ordinances or amendments thereto by the city and the date after which such lot, building, structure or use failed to conform with the regulations for its district. (2005 Code)

10-6-2: **NONCONFORMING LOTS:** A nonconforming parcel of land that did not comply with the requirements of the district in which it is located after the aforesaid effective date shall be a lawful building site provided:

- A. **Single Ownership:** Any lot or parcel of land under one ownership and of record or the subject of a contract of sale on the aforesaid effective date and where no adjoining land was then or now owned by the same person, may be used as a building site even when of less area or width than that required by the zoning regulations for the district in which it is located; or

- B. **Approved By Variance:** Such site is approved by the variance procedure as outlined herein; or
- C. **Acquisition By Governmental Entity:** Such site conforms to the code requirements but was made nonconforming by acquisition of a portion thereof by a governmental entity so that the parcel size is decreased not more than twenty percent (20%) and the yard facing any road was decreased not more than fifty percent (50%).
- D. **Erection Prior To Adoption:** Where buildings or structures have been erected prior to or subsequent to the aforesaid effective date, the area on which such buildings or structures are erected shall not be subsequently divided so as to reduce the building site area and/or frontage below the requirements of this title for the zoning district in which such building exists. (Prior Code Section 11.04.120; amd. 2005 Code)

10-6-3: **NONCONFORMING USES:** A lawful use of land or a building on the aforesaid effective date that is no longer permissible by the terms of these regulations or their amendments may be continued if it remains otherwise lawful, subject to the following provisions:

- A. **Enlarged, Increased Or Extended:** No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land or a greater portion of a building than was occupied by such use at the aforesaid effective date.
- B. **Moved:** No such nonconforming use shall be moved in whole or in part to any other portion of the lot, parcel, or building being occupied by such use at the aforesaid effective date.
- C. **Use Ceases:** If any such nonconforming use ceases for a period of more than one year, any subsequent use of land or a building shall conform to the zoning regulations for the zone in which it is located. The term "ceases" as used in this case shall mean that the activity in question has not been in operation for a period of one year. (Prior Code Section 11.04.120; amd. 2005 Code)

10-6-4: **ELIMINATION OF NONCONFORMING USES:** Notwithstanding the other provisions of this chapter, whenever a nonconforming structure is determined to be obsolete, dilapidated or substandard by the city council, the right to operate, occupy, or maintain such structure may be terminated by action of the council and such

structure shall be demolished. Such action by the city council shall follow the procedures for amendments. Where the property owner refuses to demolish the building, the city council is hereby empowered to demolish the building and assess the cost of demolition as a lien on the property with the right to recover such costs by way of suit or other lawful means. (Prior Code Section 11.04.120; amd. 2005 Code)

10-6-5:       **NONCONFORMING STRUCTURES:** Nonconforming structures that existed on the aforesaid effective date may be continued so long as they remain otherwise lawful, providing that:

- A.     **Enlarged Or Altered:** No such structure may be enlarged or altered in a way that increases its nonconformity.
- B.     **Destruction:** Should such structure be destroyed by any means in extent of more than fifty percent (50%) of its assessed valuation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.
- C.     **Moved:** Should such structure be moved, it shall thereafter conform to the regulations for the district to which it is relocated. (Prior Code Section 11.04.120; amd. 2005 Code)

10-6-6:       **MAINTENANCE:** Any land, building, or structure of nonconforming use may be maintained or repaired, provided such repair or maintenance does not constitute an expansion or enlargement. The board of adjustment may grant a permit for the enlargement of a nonconforming building or erection on the same lot or plot of ground of additional buildings for trade, business or industry located in the district restricted against its use where such enlargement or expansion of facilities will not be detrimental to or tend to alter the character of the neighborhood. (Prior Code Section 11.04.120; amd. 2005 Code)

10-6-7:       **MOBILE HOMES AS NONCONFORMING USES:** Notwithstanding any other provision of these regulations, the following special requirements shall apply to mobile homes and lots providing space for mobile homes where such use is not permitted within the district following the aforesaid effective date:

- A.     **Ownership:** Where the mobile home and the lot upon which it is located are under separate ownership, the mobile home may only be

replaced with another mobile home if it will be under the same ownership as the lot.

- B. Rental Or Lease: Where the mobile home and the lot upon which it is located are under the same ownership, the mobile home cannot be rented or leased.
- C. Replacement: An existing mobile home may only be replaced by another mobile home if it is of equal or greater size. (Prior Code Section 11.04.120; amd. 2005 Code)

## CHAPTER 7

**BOARD OF ADJUSTMENT**

## SECTION:

- 10-7- 1: Created
- 10-7- 2: Membership; Appointment; Term; Compensation
- 10-7- 3: Officers And Proceedings
- 10-7- 4: Office
- 10-7- 5: Powers And Duties
- 10-7- 6: Procedure
- 10-7- 7: Hearing And Notice
- 10-7- 8: Criteria For Granting Variance
- 10-7- 9: Conditions For Approval
- 10-7-10: Definition Of Public Interest
- 10-7-11: Appeals
- 10-7-12: Time Decision Effective

10-7-1: **CREATED:** The board of adjustment is hereby established to act on appeal and variance applications as herein detailed. (Prior Code Section 11.04.130)

10-7-2: **MEMBERSHIP; APPOINTMENT; TERM; COMPENSATION:**  
The board shall consist of five (5) members appointed by the mayor for three (3) year terms (with staggered terms), subject to confirmation by the council. Members of the board may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies on the board shall be filled for the unexpired term of any member whose position becomes vacant. Members shall be compensated in an amount determined by the council for their participation in hearings. (Prior Code Section 11.04.130; amd. 2005 Code)

10-7-3: **OFFICERS AND PROCEEDINGS:**

- A. Chairperson; Vice Chairperson: The board shall select one of its members as chairperson and may select another member to be vice

chairperson. The chairperson or, in the absence of the chairperson, the vice chairperson or acting chairperson, may administer oaths and compel the attendance of witnesses for meetings and hearings. Meetings shall be held at the call of the chairperson and at such other times as the board may determine.

- B. **Meetings And Hearings:** All meetings and hearings 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 fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board. The minutes and records of the board shall be a public record that is available for public inspection.
- C. **Further Rules:** The board may adopt further rules necessary to conduct its business, as long as such rules are consistent with this title and other provisions of the law.
- D. **City Clerk's Assistance:** The city clerk shall be at the disposal of the board to receive and process applications of appeal and to give assistance to the board. (Prior Code Section 11.04.130; amd. 2005 Code)

10-7-4: **OFFICE:** The board's office shall be that of the city hall and all files of the board shall be held therein. (Prior Code Section 11.04.130)

10-7-5: **POWERS AND DUTIES:** The board shall have the following powers:

- A. **Hear Appeals:** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or body in the enforcement of this title.
- B. **Special Exceptions:** To hear and decide special exceptions to the terms of this title upon which the board is expressly required to pass under the provisions of this title.
- C. **Variances:**
  - 1. **Authority To Grant:** To grant variances from the terms and standards of this title where the board determines: a) that granting

the variance will not be contrary to the public interest; b) where owing to special conditions a literal enforcement of the provisions of this title will result in unnecessary hardship; and c) where the spirit of this title will be observed and substantial justice done. "Hardship" refers to circumstances peculiar to the particular property. Financial or economic difficulties, or consequences of actions by the property owner are not "hardships" for zoning purposes.

2. Types Of Variances: More specifically, the board may approve, conditionally approve, or deny any request to grant variances from the following requirements of this title:

- a. Setback requirements;
  - b. Yard requirements;
  - c. Area requirements;
  - d. Height requirements;
  - e. Parking requirements;
  - f. Fence and hedge requirements; and
  - g. Sign requirements, including area, location, or height.
- D. Action On Appeals: In exercising the above mentioned powers, the board may, in conformity with the provisions of this title, reverse or affirm, wholly or partly; or modify the order, requirement, decision or determination appealed from; and may make such order, requirement, decision, or determination as ought to be made and to that end shall have the powers of the officer(s) from whom the appeal is taken.
- E. Required Vote: The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body; to decide in favor of the applicant on any matter upon which it is required to pass under this title; or to grant any variance, or to effect any variation of this title. (Prior Code Section 11.04.130; amd. 2005 Code)

**10-7-6: PROCEDURE:**

- A. **Who Can File:** A notice of appeal or a request for variance may be filed by any person aggrieved by the decision or by any officer, body, or board of the city affected by such decision.
- B. **Time To File:** An appeal must be filed within sixty (60) days of the date the subject decision was made.
- C. **Written Application:** Written applications for appeals or variances shall be filed in the office of the clerk on forms provided for that purpose.
- D. **Fee:** The applicant shall pay a fee for the purpose of defraying expenses incidental to the proceedings, including the costs of the publication of the notice of hearing and the board members' compensation. Such fee for the appeal shall be determined by the council. No application will be regarded as having been filed until such fee has been paid in full.
- E. **Investigation:** The board shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of this title.
- F. **Stay Of Construction And Proceedings:** An appeal stays all proceedings and construction in furtherance of the action appealed, unless the body or administrative official from whom the appeal is taken certifies to the board after the appeal is filed that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order which may be granted on due cause shown by the board or by a court of record on application, with prior notice to the officer or body from whom the appeal is taken with an opportunity to be heard prior to issuance. (Prior Code Section 11.04.130; amd. 2005 Code)

**10-7-7: HEARING AND NOTICE:**

- A. **Hearing Required:** There shall be a hearing for each application for appeal or variance. The board shall fix a reasonable time for such hearing and shall give public notice thereof as well as due notice to the applicant and any other parties in interest. The board shall decide the appeal within a reasonable time.

- B. Notice Of Hearing: Notice of the hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation within the city, with the first publication to be at least fifteen (15) days prior to the hearing date.
- C. Testimony: At the hearing, testimony shall be taken from persons interested in the application.
- D. Appearance: Any party to the hearing may appear in person, by attorney, or by authorized agent. (Prior Code Section 11.04.130; amd. 2005 Code)

10-7-8:           **CRITERIA FOR GRANTING VARIANCE:**

- A. To grant a variance the board must find that: 1) the granting of the variance will be in harmony with the general purpose and intent of this title, 2) will not be injurious to the neighborhood, 3) is the minimum variance that will make possible the reasonable use of the land, building, or structure, and 4) will not be detrimental to the public welfare. The fact that the subject property may be utilized more profitably will not be an element of consideration before the board.
- B. To grant a variance, the board shall additionally determine:
  - 1. That special conditions and circumstances exist that are peculiar to the land (such as size, shape, or topography), structure or building involved and that are not applicable to other lands, structures, or buildings in the same district.
  - 2. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.
  - 3. That the special conditions and circumstances do not result from the action of the applicant.
  - 4. That granting the requested variance will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district.
  - 5. That granting the variance will not allow a use that is not permissible under the terms of this title in the district involved, or a use that is expressly or by implication prohibited in the said district.

6. That the proposed variance will not amount to a rezoning of the land in question or constitute a change in the district boundaries.

7. That the proposed variance will not be injurious to the property and improvements in the vicinity and district in which the subject property is situated. (Prior Code Section 11.04.130; amd. 2005 Code)

10-7-9:       **CONDITIONS FOR APPROVAL:** In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of this title shall not be violated. Violation of such conditions and safeguards when made part of the terms under which the variance is granted, shall be deemed a violation of this title and punishable under chapter 9 of this title. (Prior Code Section 11.04.130)

10-7-10:       **DEFINITION OF PUBLIC INTEREST:** With respect to uses of land, buildings and other structures, this title is declared to be a definition of the public interest by city council. (Prior Code Section 11.04.130; amd. 2005 Code)

10-7-11:       **APPEALS:** Any person or persons, jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board. (Prior Code Section 11.04.130)

10-7-12:       **TIME DECISION EFFECTIVE:** The decision of the board of adjustment shall be final except as provided in section 10-7-11 of this chapter. (Prior Code Section 11.04.130; amd. 2005 Code)

## CHAPTER 8

**AMENDMENTS AND CHANGES**

## SECTION:

- 10-8-1: Initiation  
10-8-2: Investigation  
10-8-3: Hearing

10-8-1: **INITIATION:**

- A. **Proposals:** Proposals to amend, supplement, modify or repeal any of the provisions of this title or any district boundaries, may be initiated by the city council or by petition of any interested resident or property owner.
- B. **Property Owner:** Whenever the property owner of any land or building desires a reclassification of the owner's property or change in the regulations applicable thereto, the owner may file with the city clerk on forms provided by the city for this purpose, a petition duly signed requesting an amendment or change of regulations prescribed for such property.
- C. **Filing Fee:** There shall be a fee paid to the city by the owner filing any such petition for the purpose of defraying expenses of the proceedings on the petition. The fee shall be set by the council and no petition shall be considered to be filed until it is paid. (Prior Code Section 11.04.140; amd. 2005 Code)

10-8-2: **INVESTIGATION:** Upon initiation of an amendment by the city council or upon petition from a property owner, the city council shall cause to be made such an investigation of facts bearing on such initiation or petition as will provide necessary information to assure that the action on each such petition is consistent with the intent and purpose of this title. (Prior Code Section 11.04.140)

**10-8-3: HEARING:**

- A. **Hearing Required:** The council shall hold a public hearing on all proposed amendments, supplements, modifications or repeals of this title or changes in district boundaries at which time interested parties and citizens shall have an opportunity to be heard.
- B. **Notice Of Hearing:** Notice of the hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the city with the first publication to be at least fifteen (15) days prior to the hearing date.
- C. **Protest; Required Vote:** An amendment or reclassification affecting property may not become effective except upon a favorable vote of two-thirds ( $\frac{2}{3}$ ) of the present and voting members of the city council if a protest against such amendment or reclassification is signed by the owners of twenty five percent (25%) or more of either: 1) the area of the lots included in the proposed change; or 2) those lots one hundred fifty feet (150') from a lot included in a proposed amendment or reclassification. (Prior Code Section 11.04.140; amd. 2005 Code)

## CHAPTER 9

**ADMINISTRATION AND ENFORCEMENT**

## SECTION:

- 10-9-1: Administrator
- 10-9-2: Notification Of Violations; Corrective Action
- 10-9-3: Zoning Permit Requirement
- 10-9-4: Application, Review And Permit Issuance
- 10-9-5: Expiration Of Zoning Permits
- 10-9-6: Conformity Of Construction And Use
- 10-9-7: Schedule Of Fees, Charges And Expenses
- 10-9-8: Compliance Regarding Violations
- 10-9-9: Penalty

10-9-1: **ADMINISTRATOR:**

- A. Designation: The city council shall be the zoning administrator and shall administer and enforce this title. The council may direct city personnel to provide assistance or carry out administrative and enforcement activities.
- B. Duties: The council shall receive and review all applications for zoning permits; issue zoning permits; and coordinate inspection of premises and property. (Prior Code Section 11.04.150; amd. 2005 Code)

10-9-2: **NOTIFICATION OF VIOLATIONS; CORRECTIVE ACTION:**

Where the council finds that any of the provisions of this title are being violated, the council shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The council may order the discontinuance of illegal use of land, structures, or buildings; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal construction, alteration, or other work being done; or may take any other action authorized by this title

to ensure compliance with or to prevent violations of this title's provisions. The council may delegate to the city clerk the authority to issue notifications of violations, order corrective action, or take any other steps to ensure compliance with this title or prevent violations thereof. (Prior Code Section 11.04.150; amd. 2005 Code)

**10-9-3: ZONING PERMIT REQUIREMENT:**

- A. Definition: The words "added to" shall refer to instances in which there is an increase in the square footage of enclosed space or change in the outside dimensions resulting from an increase in enclosed space.
- B. Permit Required: A zoning permit must be obtained from the city council before any building or other structure may be constructed, erected, placed, moved, added to, expanded, or structurally altered.
- C. Compliance Required: The council may issue a zoning permit only when the proposed building, structure, or use will meet the requirements of this title.
- D. Nonresidential Change In Use: The use of any building, structure, or land shall not be changed, in whole or in part, from residential to nonresidential purposes until a zoning permit is obtained if it is situated in a district or zone that does not allow the nonresidential use or purpose in question. (Prior Code Section 11.04.150; amd. 2005 Code)
- E. Interpretation Of Distances: When determining compliance with prescribed setbacks or any other distance requirements, distances involving a structure or building shall be measured or construed with reference to the outermost or most exterior part of such structure or building. (2005 Code)

**10-9-4: APPLICATION, REVIEW AND PERMIT ISSUANCE:**

- A. Application: To obtain a zoning permit, a person shall submit a completed application. The application shall be on a form provided by the city clerk and approved by the city council. The application shall include all matters necessary to determine conformance with this title, including, without limitation, the following information: 1) plans clearly showing the dimensions and shape of the lot; 2) the sizes and locations of existing and proposed buildings or other

structures, or alterations thereto; 3) the distances between lot lines and proposed buildings or structures, or alterations to existing buildings or structures. To determine compliance with this title, the council may request and the applicant shall provide such further information as may be necessary to determine conformance with this title.

- B. **Review:** The council shall review the application to ensure the required information is submitted and complete. Upon the submission of a completed application with the required information, the council shall determine whether the proposed building, structure, or use is permitted at the proposed location and whether the proposal will comply with the requirements of the applicable district and the provisions of this title.
- C. **Permit:** If the council finds that the proposal is permitted in the applicable district and will conform to all requirements, a zoning permit shall be issued to the applicant. If the council finds that the proposal either is not permitted in the applicable district or will not conform to all requirements of this title, the application shall be denied and the reasons for such denial shall be noted. The applicant shall be immediately notified of the denial and the reasons therefor. (Prior Code Section 11.04.150; amd. 2005 Code)

10-9-5:       **EXPIRATION OF ZONING PERMITS:** A zoning permit shall be in effect for one year from the date of approval and shall be deemed to expire one year from such date. In the event that a zoning permit expires prior to the completion of work permitted thereby, a new zoning permit shall be obtained for the work not completed. (2005 Code)

10-9-6:       **CONFORMITY OF CONSTRUCTION AND USE:** All construction, installation, alteration, placement, use, or other work must comply with the plans and other information provided with the application that is approved by the council and upon which a permit is granted. Any construction, installation, alteration, placement, use, or other work at variance with the plans or proposals submitted with the application shall constitute a violation of this title and punishable by section 10-9-9 of this chapter. (Prior Code Section 11.04.150; amd. 2005 Code)

10-9-7: **SCHEDULE OF FEES, CHARGES AND EXPENSES:**

- A. **Schedule Established:** The city council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals, variances, zoning amendments and other matters pertaining to this title.
- B. **Posting; Amendment:** The schedule of fees shall be available from the clerk and may be altered or amended from time to time by the council.
- C. **Payment Required:** No permit, zoning change, or variance shall be issued unless or until such fees, charges, or expenses have been paid in full, nor shall any action be taken on proceedings before the board of adjustments or council until such fees have been paid in full. (Prior Code Section 11.04.150; amd. 2005 Code)

10-9-8: **COMPLIANCE REGARDING VIOLATIONS:** Complaints or reports of suspected or alleged violations of this title shall be received by the city clerk. The clerk is authorized to take any appropriate enforcement action on such complaints or reports, including, but not limited to, an investigation thereof. Complaints or reports may also be referred to the city attorney for enforcement action. (Prior Code Section 11.04.150; amd. 2005 Code)

10-9-9: **PENALTY:**

- A. **Violation:** Violations of the provisions of this title or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the granting of variances or any of the requirements for conditions imposed by the Board of Adjustments and/or City Council, are municipal infractions or civil offenses. Citations or complaints shall be issued and proceedings conducted in accordance with Section 1-4-2 of the City Code. Besides imposing any monetary civil penalty for violations, the Court may order or grant any or all other kinds of relief authorized in Section 1-4-2 of the City Code or otherwise permitted under Montana law.

**Amended 6/18/2012**

- B. **Continuing Violation:** Each day or part of a day any violation continues shall be considered a separate offense and subject to separate enforcement, liability, or penalty.

**Amended 6/18/2012**

- C. **Separate Offense:** The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists, or maintains such violation may each be liable for a separate offense and subject to the penalties provided by the City Code. **Amended 6/18/2012**
- D. **Additional Remedies:** Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, lot, or land is used in violation of this titled, the Council may, in lieu of or in addition to any other remedies, initiate in the City Court any appropriate action or proceedings to prevent such unlawful use, action, or violation; to restrain, enjoin, correct, or abate such violation; to prevent the occupancy of such building, structure, or land; or to prevent any illegal act, conduct, business, or use in, on, or about such premises. **Amended 6/18/2012**