

# Chapter 1

## PURPOSE; INTENT; DEFINITIONS

### 9-1-1: PURPOSE AND INTENT:

The zoning regulations and districts herein are established in accordance with the comprehensive plan and Idaho Code for the purpose of promoting the health, safety, morals, and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure the citizens and property from fire, panic and other danger; to provide adequate light and air; to prevent overcrowding of the land; to avoid undue concentration of population; and to facilitate provision of transportation, water, sewage, schools, parks and other public requirements and facilities. They have been made with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, and with the view of conserving the value of the land and structures, and of encouraging the most appropriate use of land throughout the incorporated areas of the city. (Ord. 6-2e, 2000)

### 9-1-2: DEFINITIONS:

- A. Interpretation Of Terms And Words: When consistent with the text, words used in the present tense include the future tense, words used in the future tense include the present tense. Words used in the singular include the plural, and words used in the plural include the singular.
- B. General Definitions: The following definitions shall apply throughout this title, unless otherwise specifically indicated:

**ACCESSORY BUILDING:** A structure on the same lot as, and of a nature that is incidental and subordinate to, the principal structure.

**ACCESSORY DWELLING UNIT:** A single family residence constructed or placed on a lot or parcel of land, that is secondary in nature to the primary residence and complies with the square footage limitations outlined in code. It may be attached to the primary single-family residence and or accessory building or it may be detached. Accessory dwelling units shall comply with all building and fire codes in place at the time of construction.

**ACCESSORY USE:** A use on the same lot as, and of a nature that is incidental and subordinate to, the principal use of the lot.

**ADMINISTRATOR:** An official having knowledge in the principles and practices of

the planning and zoning commission who is appointed by the city council and the planning and zoning commission to administer this title.

**AGRICULTURE:** The cultivation of soil, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary associated activities and uses for treating and storing agricultural products.

**AIRPORT HAZARD AREA:** Any area of land or water which is established as an airport hazard.

**AIRPORTS:** Any runway, land area, or other facility designed or used either publicly or privately by any person for landing and takeoff of aircraft, including all necessary taxiways, aircraft storage and tie down areas, hangars and other necessary buildings.

**ANIMAL HOSPITAL:** See definition of Veterinary Clinic or Animal Hospital.

**APARTMENT:** A single room or a suite of more than one room in a multiple-family dwelling, occupied on more than a transient occupancy basis.

**ARTERIAL, PRINCIPAL:** A public street or highway that connects a network of continuous routes and serves an intercity population concentration and which is designed to carry heavy traffic loads. Frontage and access is limited. The four (4) principal arterials in the city of Ponderay are: Highway 95, Highway 200, Kootenai Cutoff Road and Schweitzer Cutoff Road.

**AUTO WRECKING YARD:** Any place where two (2) or more vehicles or parts thereof, including farm machinery and parts thereof, not licensable and not in running condition are stored in the open sight of the general public.

**BUILDING:** Any structure, permanently fixed to the land, for the housing or enclosure of persons or animals.

**BUILDING HEIGHT:** The vertical distance from the average elevation of the finished grade to the highest point of the coping of a flat roof or the deck line of a mansard roof, or the average height of the highest gable of a pitch or hip roof, excepting chimneys and steeples.

**BUILDING LINE:** A line established at the minimum distance a building may be located from a property line, as established by this title.

**CEMETERY:** Land used or intended to be used for the burial of the dead and dedicated for the said purpose.

**CITY COUNCIL:** The elected local legislative body of the city of Ponderay.

**CLINIC:** A building or portion of a building containing offices for providing medical, dental or psychiatric/psychological services on an outpatient only basis.

**COLLECTOR:** A public or recorded private street or highway which affords access to adjoining property and connects local access roads to roads of higher classification.

**COMPREHENSIVE PLAN:** The official statement of growth policies, adopted by the city council, including such things as general location and extent of the present and proposed land uses; including residential densities, commercial and industrial uses, major transportation, parks, schools and other community facilities.

**CONDITIONAL USE:** A use permitted in any given zone only after review by the planning and zoning commission and the city council, and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and assure against imposing excessive demands upon public utilities.

CONDITIONAL USE PERMIT: The phrase "conditional use permit" under this title shall be synonymous with the phrase "special use permit" as that phrase is used by state law or county ordinance, and the terms shall be used interchangeably.

CONTRACTOR'S YARD: Any lot, or portion thereof, used for the storage, maintenance or repair of equipment or supplies in conjunction with the construction of roads, structures, etc., or used for the processing of materials in conjunction with said construction projects. Said use is deemed to be temporary for the duration of the project.

DAYCARE CENTER: A home or place providing care or supervision to a group of five (5) or more children, not related by blood or marriage to the person or persons providing the care or supervision, for all or part of the twenty-four (24) hour day. The care of less than five (5) children, not related by blood or marriage to the person or persons providing the care or supervision, during any part of a twenty-four (24) hour day, shall be classified as a "home occupation" for purposes of this title.

DWELLING: A building or portion thereof designed exclusively for residential purposes, including single-family, duplex, multiple-family, modular and mobile home dwellings, but shall not include hotels, motels, boarding and lodging houses.

DWELLING, DUPLEX: A detached residential building, containing two (2) dwelling units only.

DWELLING, MOBILE HOME: See definition of Manufactured Home.

DWELLING, MODULAR: A detached residential dwelling unit manufactured and assembled off site to the standards of the latest published international building code standards and designed to be transported to the site and placed on a permanent foundation.

DWELLING, MULTIPLE-FAMILY: A residential building containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY: A detached residential building containing one

dwelling unit only.

**DWELLING UNIT:** Space within a dwelling, consisting of one or more rooms which are arranged, designed, or used as living quarters for one family only.

**EXCAVATION:** The artificial turning, breaking, undermining, or removal of the natural surface or subsurface earth material, exceeding fifty (50) square feet of surface area or two feet (2') in depth; except, excavations incidental to the issuance of a building permit if the building is completed following such excavation, and excavations for the purpose of impounding water for agricultural purpose.

**FAMILY:** An individual or two (2) or more persons living together as a single housekeeping unit in a single dwelling unit.

**FLOODPLAIN:** Any relatively flat area of lowland adjacent to the channel of a river, stream, lake or other body of water which has been or may be covered by the water of a flood of 100-year frequency. The floodplain includes the channel. For purposes of this definition, terms as specified by the army corps of engineers are as follows:

—**CHANNEL:** A natural or artificial watercourse of perceptible extent, with a definite bed and bank to confine and conduct continuously or periodically flowing water.

—**FLOOD:** The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

—**FLOOD OF 100-YEAR FREQUENCY:** A flood magnitude which has a one percent (1%) chance of being equaled or exceeded in any given year.

—**FLOODWAY:** The channel or watercourse and those portions of the floodplain adjacent to the channel which are reasonably required to carry and discharge the floodwater of any watercourse.

—FLOODWAY FRINGE: That part of the floodplain which is beyond the floodway. Such area will include those portions of the floodplain which will be inundated by a flood of 100-year frequency.

GREEN SPACE: That area of developed property, which is not paved or graveled, but which is landscaped with vegetation for aesthetic or decorative purposes.

GREENHOUSE, COMMERCIAL: An establishment where flowers, shrubbery, vegetables, trees and other horticulture products are grown in the open or in an enclosed building for sale on a retail or wholesale basis.

GROUP HOUSING: A residential facility where meals and lodging are provided for unrelated persons, where no cooking or dining facilities are provided in the individual rooms. The term includes boarding house, barracks, dormitory and rooming house.

HEAVY INDUSTRIAL: Manufacturing or production in which large machines are used to produce raw materials or to make large objects or heavy goods or material in bulk. Heavy industrial uses are typically more intense and include the use of heavy equipment, large machines and tools, large-scale infrastructure and or numerous or complex processes.

HELIPORT: Any land area, pad or other facility designed or used either publicly or privately by any person for the exclusive purpose of landing and taking off of a helicopter or nonfixed-winged aircraft. A heliport may also include storage and tie down areas and other necessary storage buildings.

HIGHWAY: See definition of Street.

HIGHWAY, STATE: The entire width between the boundary lines of every highway right of way in favor of the state which serves interstate and intrastate populations, and which are designed to carry maximum traffic loads, and for which frontage and access is restricted by Idaho department of transportation standards.

HOME OCCUPATION: An occupation, profession or craft carried on by the occupant at his/her principal residence, or by an occupant's immediate family member at said residence. Said occupation, profession or craft shall be clearly incidental to the primary residential use of the property. Further, the occupation, profession or craft shall meet the following criteria:

- A. The use shall be owned and managed by an occupant of the principal residence.
- B. The degree and intensity of the use shall at all times be subordinate to, and in keeping with, the residential neighborhood in which it is located.
- C. Vehicular and pedestrian traffic generated by such home occupation shall not significantly exceed the traffic attributable to a normal dwelling unit, and any need for parking generated by the conduct of such occupation shall be met on the subject property and off the streets.
- D. The use shall not create health, fire or pollution hazards.
- E. The use shall not create noise, dust, vibration, electrical interference, glare or odors which exceed the amount or type that would be reasonably expected to be emitted by a residential use.
- F. The use shall not impact utilities, including ground water (wells) and septic systems in such a manner so as to restrict or interfere with the right of other residents to the reasonable enjoyment of their property.
- G. No materials, supplies, tools or items of trade shall be stored outside; and
- H. The use as a home occupation shall be clearly incidental and subordinate to the residential use of the property.
- I. Any employee of the home occupation must be the occupant or a member of the occupant's immediate family.

HOSPITAL: An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and injured persons, licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

**HOTEL:** A building in which there are guestrooms where lodging, with or without meals, is provided for compensation, and where no provisions are made for cooking in any individual room or suite, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed and detained under restraint.

**JUNKYARD:** An open area where waste and scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, or where commercial salvaging of any goods or machinery is conducted.

**KENNEL, BOARDING:** A place, other than a veterinary hospital, where five (5) or more domesticated animals (dogs, cats, etc.), four (4) months of age or more, are kept, whether as pets or for commercial purposes.

**KINDERGARTEN:** A school, public or private, whether operated for profit or not for profit, giving preschool instruction to children under the age of seven (7) years.

**LAND MINING:** The act, process or business of extracting or collecting soil, rock, gravel, etc., for use off site.

**LEGAL ACCESS:** A public, or recorded private, street or highway which affords a primary means of access to adjoining properties. A recorded private street or highway may be a recorded easement for ingress or egress or a platted street right of way used as private thoroughfare for access to abutting property and for which the city assumes no responsibility for maintenance. A private street or highway not recorded with the Bonner County recorder's office shall not be considered legal access.

**LIGHT INDUSTRIAL:** Those uses involving assembly, fabrication, manufacturing or processing that use relatively light machinery and/or produce relatively small products. In addition, the following criteria shall be met:

- A. The use must be carried on in such a manner as to be protected from fire



and explosion.

- B. All byproducts, emissions, waste and other discharges must meet minimum local, state and federal standards, including, but not limited to, the standards of the local health district, sewer district and sanitary landfills. In addition, they shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements.

LIVING SPACE: The term living space shall refer to the portions of a structure that are designed to be used for human habitation. Living space shall be measured by calculating the square footage of the floor area, by measuring from the interior surface of the walls. It shall exclude all portions of the structure not designed for human habitation including but not limited to attached garages, utility areas, closets, etc.

LOADING SPACE, OFF STREET: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and accessible to and expected to be used by such vehicles. All off street loading spaces shall be located totally outside of any street or alley right of way.

LOCAL ROAD OR LOCAL ACCESS ROAD: A public or recorded private street or highway which affords primary access to adjoining property. A local road may be recorded as an easement for ingress and egress or a platted street which provides access to abutting property.

LOT: An individual parcel of land of at least sufficient size and frontage to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**MANUFACTURED HOME:** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC section 5401 et seq. This term is used synonymously with "mobile home".

**MICROBREWERY—** or craft brewery, is a brewery which produces less than fifteen thousand barrels of beer, cider or other fermented beverage.

**MOBILE HOME:** See definition of Manufactured Home.

**MOBILE HOME PARK:** A site specifically designed to accommodate, with or without compensation, four (4) or more mobile home or manufactured home units. This term shall not include mobile home subdivisions or recreational vehicle parking.

**MOTEL OR TOURIST COURT:** A group of attached or detached buildings containing individual sleeping or living units where a majority of such units open individually and directed to the outside, and where a garage is attached or a parking space is conveniently located to each unit for use by automobile tourists or transients, and such words include auto courts, motor lodges, motor inns and similar terms.

**NONCONFORMING BUILDING:** A building, or portion thereof, which was lawfully erected or altered and maintained at the time this title was adopted, but which, because the application of this title to it, no longer conforms to the use, height or regulations of the zone in which it is located.

**NONCONFORMING USE:** A use which was lawfully established and maintained at the time this title was adopted, and which, because of the application of this title, no longer conforms to the use regulations of the zone in which it is located. A nonconforming building or nonconforming position of the building shall be deemed to constitute a nonconforming use of the land on which it is located.

**NURSERY SCHOOL:** A school or organized program for the care and/or instruction of preschool children under the age of six (6) years, whether public or private and whether or not operated for profit.

**NURSING HOME:** A home, place or institution for the care of the aged or infirm, or a place for inpatient care for those suffering bodily disorders, including convalescent and retirement homes, but not including facilities for the treatment of sickness or injuries, or for surgical care.

**OPEN SPACE:** Any open area, including, but not limited to, parks, yards, playgrounds, beaches, waterways, parkways and streets.

**OUTDOOR ADVERTISING STRUCTURE:** A structure designed to display a name, identification, description, display or illustration, generally relating in its subject matter to products, an object, a place, persons, institutions, businesses, services or activities.

**PARKING LOT:** An off-street parking area, located totally outside of any road right of way, for motor vehicles and complying with the dimensions designated herein for parallel, angular and perpendicular parking which shall have access to a public street or alley or private driveway. In determining the gross area required for an off-street parking lot requiring a specific number of parking spaces, including driveways and aisles, two hundred (200) square feet per parking space shall be used.



A. ~~A.~~ Parking Space Design And Dimensions:

	45°	60°	90°	Parallel
Width of parking space	9'	9'	9'	9'
Length of parking space	18'	18'	19'	23'
Width of driveway	15'	20'	25'	12'

B. Compact Car Standards:

1.    If the total number of required parking spaces is less than ten (10), no compact car spaces shall be provided.
2.    If the total number of required parking spaces equals ten (10), then one parking space may be for compact cars. For each four (4) spaces in excess of ten (10), one space for compact cars may be provided.
3.    Each compact car parking space shall be marked for such use.
4.    Those spaces designed and signed for compact cars shall have a minimum size of seven and one-half feet (7<sup>1</sup>/<sub>2</sub>') in width and fifteen feet (15') in length.

**PERFORMANCE BOND OR SURETY BOND:** A financial guarantee by a subdivider or developer, filed with the city, in the amount of one and one-half (1<sup>1</sup>/<sub>2</sub>) times the estimated construction cost that guarantees the completion of physical improvements according to plans and specifications, within the time prescribed by the agreement.

**PERFORMANCE STANDARDS:** Criteria outlined in this title for specific conditions for various uses or classification of uses.

**PLANNING AND ZONING COMMISSION:** The Ponderay planning and zoning commission, herein also referred to as the "commission".

**PRESCHOOL:** A school or organized program for the care and/or instruction of preschool children under the age of seven (7) years, whether public or private.

**PUBLIC BUILDING:** A building or structure used as offices for conducting official business of government entities and political subdivisions.

**PUBLIC UTILITIES COMPLEX FACILITY:** A public utility facility of major importance, involving construction of facilities of a complex nature including, but not limited to, station grounds, pumping stations, power substations, dam structures, fire stations, telephone transmission stations, telegraph stations, sewage disposal, public libraries, railroad transportation lines or spurs, railroad classification lines, or structures principally used in interstate transmission of electricity, natural gas or fuel.

**PUBLIC UTILITY SERVICES:** Public utility services, including, but not limited to, water, sewage, telephone, electricity, television, and natural gas transmission lines and facilities, sanitary landfills and public roads and highways.

**RECREATIONAL VEHICLE:** A vehicle thirty feet (30') or longer in length, designed or used for human habitation on a temporary basis for recreational or other related activities.

**RESORT, COMMERCIAL:** An area privately owned and devoted primarily to outdoor recreational uses conducted for profit such as swimming, boating, fishing, hunting, camping, picnicking, winter sports and similar uses. A commercial resort may also include facilities for seasonal or overnight living quarters for guests. The term shall also include any premises designed for the rental of two (2) or more recreational vehicle parking stalls or spaces.

**RIGHT OF WAY:** A strip of land used for access or dedicated for use as a public accessway.

**SANITARY LANDFILL:** A method of disposing of solid waste on land without creating a nuisance or hazard to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

**SCHOOL:** An institution of learning, whether public or private, teaching children from K-12. Colleges, universities, preschools and trade schools are excluded from this definition.

**SERVICES AND SERVICING, INCIDENTAL REPAIR AND MAINTENANCE:** Repair, maintenance and service which is clearly incidental to the wholesale or retail use permitted. This will typically involve repairs or service of products sold or leased in the course of the permitted use.

**SERVICES, PERSONAL AND FINANCIAL:** Business, personal and financial services or offices such as banking, insurance, real estate, accountants, barber/beauticians, medical and dental or governmental offices.

**SIGN:** A device, descriptive display or illustration generally relating in its subject matter to products, accommodations, services or activities on the premises. However, a "sign" shall not include legal notices or informational, or directional media erected or required by governmental bodies, nor shall it include residential location indicators.

**SPECIAL USE PERMIT:** A permit required under this title for a use in a specific zone which is permitted only after review by the planning and zoning commission and the city council.

**STATE:** Any reference to "state", unless otherwise specified, refers to the state of Idaho.

**STORY:** As defined by that version of the international building code in effect in the city of Ponderay at the time approval is sought.

**STREET:** The entire width between the boundary lines of every right of way which provides vehicular and pedestrian access to adjacent properties, the public dedication of which has been officially accepted and legally recorded. The term "street" is interchangeable with "highway".

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building such as foundations, bearing walls, columns, beams or girders, or a structural change in the roof.

**STRUCTURE:** Any object constructed or erected which requires location on the ground or is attached to something having a location on the ground, including towers, smokestacks and overhead transmission lines; but not including a fence, or a wall used as a fence, less than eight feet (8') in height.

**TOPSOIL:** The largely organic upper horizon of the soil down to such restrictions as claypans, hardpans, coarse sand and gravel or rock.

**TRAVEL TRAILERS:** A vehicle other than a motorized vehicle, thirty-five feet (35') or less in length and designed for human habitation on a temporary basis for recreational or other related activities. When used for regular or supplemental living quarters for a period in excess of thirty (30) days in one calendar year, on the same site, a special use permit shall be required.

**USE:** The purpose for which land or a building is arranged, designed or intended, or for which said land or building is or may be occupied or maintained.

USES, PROHIBITED: Those uses not specifically enumerated as permitted uses in a particular zone. "Prohibited uses" are listed in this title for the purpose of clarity and emphasis only. "Prohibited uses" mentioned include, but are not limited to, the enumerated prohibited uses.

VARIANCE: A modification of the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provisions of this title affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

VETERINARY CLINIC OR ANIMAL HOSPITAL: A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention, which may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity of the facility, as distinguished from a boarding kennel.

YARD: An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

YARD, FRONT: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending across the full width of the lot from the front line of the building to the property line on a street. Any lot extending between two (2) nonintersecting streets shall be deemed to have front yards on both streets regardless of the building orientation.

YARD, REAR: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending across the full width of the lot from the rear wall of the building to the rear lot line.

~~Y~~YARD, SIDE: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending from the side wall of the building to the side property line of the lot.



ZONES OR DISTRICTS: Land classifications, identified in this title, whose boundaries are enumerated on official maps in the office of the city of Ponderay and in this chapter. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007; 2008 Code)

## **ARTICLE A. RURAL ZONE**

### **9-4A-1: GENERAL APPLICATION:**

This article provides which uses are permitted in the rural zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4A-2: MINIMUM LOT SIZE AND ACCESS REQUIREMENTS:

- A. Lot Size: The minimum lot size for property in the rural zone is three (3) acres.
- B. Access: All lots in the rural zone shall have at least one existing "legal access" as defined in section 9-1-2 of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4A-3: USES PERMITTED:

The following uses are permitted in the rural zone:

Agricultural pursuits, which include forestry, cultivation of land, storage of related agricultural products and equipment, floriculture, horticulture, nurseries, greenhouses, vineyards, truck gardening, animal and poultry husbandry, and general farming.

Bed and breakfasts.

Churches, grange halls and other nonprofit, public or private, community facilities.

Home occupations as defined in subsection 9-1-2B of this title.

Public and private schools, except where students are kept under restraint.

Roadside stand that is not more than three hundred (300) square feet for the sale of agriculture products from the premises.

Schools, preschools, daycare centers, colleges and universities.

Single-family dwelling, duplex dwelling (subject to the density standards allotted in the rural zone), and manufactured homes used as a single-family dwelling. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Accessory Dwelling Unit (ADU), with the following restrictions:

- A. Shall be limited to one per lot or parcel.
- A.B. May be attached or detached to the primary single-family dwelling.
- B.C. Must be secondary in nature to the primary dwelling unit.
- C.D. May be occupied full time.
- D.E. Shall be limited in size to 1,250 square feet of living space when

constructed or placed on a conforming lot or parcels of record which contains 7,100 square feet or more of land and 600 square feet of living space when constructed or placed on a legal non-conforming lot or parcel of record containing less than 7,100 square feet.

F. Shall comply with all applicable residential building and fire codes.

#### **9-4A-4: SPECIAL USES:**

The following uses are permitted in the rural zone with a special use permit:

Golf courses and athletic facilities.

- A. Minimum Area: No special minimum area.
- B. Site Development Plan: Subject to approval, by the planning and zoning commission, of a detailed site development plan showing parking, traffic circulation, access, landscaping and structures.

Mobile home parks.

Multiple-family dwellings.

Public utility complex facility.

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this chapter and the comprehensive plan.
- D. Conditions: Specified conditions with respect to emissions of noise, particulate matter or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

Radio and television towers (commercial).

- A. Minimum Area: The base of any tower shall not be closer to any property

line than a distance of one and one-half (1<sup>1/2</sup>) times the height of the tower.

Veterinary clinics, orphanages, hospitals, boarding kennels, animal clinics, and animal training schools.

- A. Minimum Area: No special minimum area.
- B. Housing Of Animals: All animals will be housed in permanent structures which can be physically enclosed during nighttime hours, excluding farm animals, but they must be in a fenced area.
- C. Distance From Dwellings: All buildings and fenced running areas will be a minimum of three hundred feet (300') from any existing dwelling other than that of the owner.
- D. Prevention Of Nuisance: The operator of such a use will maintain adequate housekeeping practices to prevent the creation of a nuisance. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Rental warehouses, boat and/or recreational vehicle storage or ministorage

- A. A minimum of Five (5) acres is required.
- B. Setbacks
  - 1. Structures shall not be located within three-hundred feet (300') from the edge of right-of-way of the nearest arterial as defined under subsection 9-1-2B of this title. The Planning and Zoning Commission may authorize a setback reduction to not less than one-hundred-fifty feet (150') from the edge of right-of-way of the nearest arterial as defined under subsection 9-1-2B of this title, when it can be documented that adequate screening exists onsite. In the event that a setback reduction is granted a condition shall be placed to ensure the screening is retained.
  - 2. All side and rear yard setbacks shall be increased to not less than 25-feet.
- C. Site shall have direct access onto a public right-of-way.
- D. The use, any appurtenant structures and fencing shall be so arranged on the land as to minimize any adverse effects on the surrounding properties and rights-of-ways.
- E. A maximum of 35% of the total lot or parcel, may be used as a storage facility. The storage facility shall include storage structures, associated

parking areas and fire lanes, that are located within fenced storage facility boundary.

- F. The exterior of all buildings shall be designed in a manner that is consistent with the rural character of the area.
- G. Fencing shall compliment the exterior building materials (similar color, materials and/or detailing) of the storage buildings, be of an agricultural nature or shall be obscured from view with landscaping and shall be maintained and kept in good repair.
- H. A landscape buffer 25-feet in width shall be installed and maintained around the perimeter of the site, which shall include evergreen trees a minimum of 4-feet in height and spaced no more than 15' on center. Or documentation demonstrating that an adequate buffer is provided by the existing natural vegetation. Exception: Storage located within existing agricultural buildings or new construction on active farmland providing a minimum of 90% open space.
- I. Outdoor storage shall be accessory to the indoor storage facility and shall be limited to major recreational equipment, including travel trailers, recreational vehicles, watercraft, boats or similar, vehicles or equipment.
- J. Units shall not be used as dwellings or as a commercial, service, repair or industrial place of business. The manufacturing, commercial repair or sale of items from or at a rental warehouse, mini storage or boat storage facility is specifically prohibited.
- K. If the property abuts rural or residential zoned property or property which is developed with a residence at the time of construction, the facility hours of public operation shall be limited to seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M.
- L. All lighting shall be shielded and downward directed so as to confine lighting to the premises and produce no glare on adjacent properties or rights of way. External lighting shall be activated by motion and or activity within the facility.
- M. No portion of the above restrictions relating to storage shall be construed in a manner that shall inhibit agricultural pursuits.

# ARTICLE B. RESIDENTIAL ZONE

## 9-4B-1: GENERAL APPLICATION:

This article provides for uses which are permitted in the residential zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4B-2: MINIMUM LOT SIZE AND ACCESS REQUIREMENTS:

A. Lot Size: The minimum lot size for property in the residential zone is fifty feet (50') of frontage and seven thousand one hundred (7,100) square feet, except as provided in section 9-4B-3 of this article.

B. Access: All lots in the residential zone shall have at least one existing "legal access" as defined in subsection 9-1-2B of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4B-3: USES PERMITTED:

The following uses are permitted in the residential zone:

Churches.

Home occupations as defined in subsection 9-1-2B of this title.

Hospitals and clinics.

Multiple-family dwellings, containing no more than three (3) dwelling units, with the following restrictions:

- A. The minimum lot size shall be ten thousand six hundred fifty (10,650) square feet, with a minimum frontage on a public street of seventy-five feet (75'); and
- B. The minimum setbacks shall be twenty feet (20') for the front of the structure, fifteen feet (15') for the sides of the structure, and twenty feet (20') for the rear of the structure.

Nonprofit, public or private, community halls, except those whose principal activity is to

carry on as a business.

Private and public schools, except those where students are held under restraint.

Retirement homes, convalescent centers, and nursing homes.

Schools.

Single-family dwellings, duplex dwelling (subject to the density standards allotted in the residential zone), and manufactured homes used as single-family dwellings. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Accessory Dwelling Unit (ADU), with the following restrictions:

- A. Shall be limited to one per lot or parcel.
- B. May be attached or detached to the primary single-family dwelling.
- C. Must be secondary in nature to the primary dwelling unit.
- D. May be occupied full time.
- E. Shall be limited in size to 1,250 square feet of living space when constructed or placed on a conforming lot or parcels of record which contains 7,100 square feet or more of land and 600 square feet of living space when constructed or placed on a legal non-conforming lot or parcel of record containing less than 7,100 square feet.
- F. Shall comply with all applicable residential building and fire codes.

#### **9-4B-4: SPECIAL USES:**

The following uses are permitted in the residential zone with a special use permit:

Bed and breakfasts.

Golf courses and athletic facilities.

- A. Minimum Area: No special minimum area.
- B. Site Development Plan: Subject to approval, by the planning and zoning

commission, of a detailed site development plan showing parking, traffic circulation, access, landscaping and structures.

C. Commercial Uses: No commercial uses will be permitted, except those related to the sales or rental of equipment associated with use, or food or beverage sales.

Multiple-family dwellings containing more than three (3) dwelling units.

Nursery schools and daycare centers which comply with state guidelines. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)



# ARTICLE C. COMMERCIAL ZONE

## 9-4C-1: GENERAL APPLICATION:

This article provides which uses are permitted in the commercial zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4C-2: LOT RESTRICTIONS AND ACCESS REQUIREMENTS:

- A. Open Space: A minimum of twenty five percent (25%) of the total lot area must remain as open space, free of structures, unless otherwise specifically permitted by the planning and zoning commission.
- B. Compliance Required: No building in the commercial zone shall be altered, erected, reconstructed or moved except in conformance with the provisions of this title and the requirements of this zone.
- C. Parking Space Requirements: All uses in the commercial zone shall meet the minimum parking space requirements as provided in chapter 5, article E of this title.
- D. Signs And Advertising Structures<sup>1</sup>: Signs and advertising structures, when adjacent to or alongside of a state highway, must comply with the regulations of the Idaho state transportation department and this title.
- E. Green Space: Consistent with the surrounding uses and aesthetics, "green space", as defined by subsection 9-1-2B of this title, of not less than ten percent (10%) nor more than twenty five percent (25%) of the total lot area, is required. Any area designated to be green space shall be counted toward the area required as open space by this subsection.
- F. Access: All lots in the commercial zone shall have at least one existing "legal access" to a public street as defined in subsection 9-1-2B of this title.
- G. Site Plan: Any site plan submitted for the development of property within the commercial zone shall include sidewalks and/or bicycle paths adjacent to any city street or paved public road bordering the property, if required by the commission or the city council; provided, that nothing herein shall require the construction of sidewalks and/or bicycle paths adjacent to the city street or paved public road bordering property fully developed on the effective date hereof. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

### **9-4C-3: USES PERMITTED:**

The following uses are permitted in the commercial zone:

Churches, community halls, lodges.

Hospitals, sanitariums, clinics and veterinary clinics.

Personal and financial services; incidental repair and maintenance services and servicing.

Theatres and entertainment facilities; eating and drinking establishments, microbreweries and wineries

Rental warehouses and mini storages, provided the location is three hundred feet (300') or farther from the centerline of the nearest arterial as defined under subsection 9-1-2B of this title.

Storage of products, materials, inventory and equipment, providing all such products, materials, inventory and equipment are stored indoors or within the perimeter of a sight obscuring fence.

Transient residential uses (i.e., motel, hotel, and RV parks).

Wholesale and retail sales of up to 20,000 square feet. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Single-family dwellings; duplex dwellings; multiple-family dwellings providing that less than six residential units are allowed per parcel of land without a special use permit, also providing that on the ground floor of primary commercial frontages as determined by the planning director, only 20 feet of said primary commercial frontage width in the fronting 100 feet of the parcel depth, of any given parcel of land may be occupied by residential uses.

### **9-4C-4: SPECIAL USES:**

The following uses are permitted in the commercial zone with a special use permit:

Animal clinics, orphanages, hospitals, boarding kennels and runs, animal training schools:

A. Minimum Area: No special minimum area.

B. Housing Of Animals: All animals will be housed impermanent structures which can be physically enclosed during nighttime hours. Excluding farm

animals, but they must be in a fenced area.

- C. Distance From Dwellings: All buildings and fenced running areas will be a minimum of three hundred feet (300') from any existing dwelling other than that of the owner.
- D. Prevention Of Nuisance: The operator of such a use will maintain adequate housekeeping practices to prevent the creation of a nuisance.

#### Auto Wrecking Yard:

- A. Minimum area: Five (5) acres.
- B. A sight obscuring fence must be constructed around the entire storage area, a minimum of eight feet (8') in height or higher to conceal the sight of public nuisance.
- C. No materials, parts, automobiles or junk will be visible from any public right of way.
- D. A performance bond may be required for assurance of compliance with the provisions of this special use; said bond will be renewable every two (2) years, after inspection of the premises determines the advisability of such a renewal.

Daycare centers, but not schools.

Heliports.

Light industrial which meets the following criteria:

- A. Carried on in such a manner as to not create a hazard of fire or explosion.
- B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with

Northside fire department requirements.

Mobile home parks.

Outdoor theater.

Recreational facilities; amusement parks and facilities

Wholesale and retail sales with building footprints greater than 20,000 square feet.

Public utility complex facility:

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider the public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this title and the comprehensive plan.
- D. Conditions: Specified conditions with respect to emissions of noise, particular matters or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

Servicing, repair and maintenance of equipment and products.

Multiple-family dwellings having six or more total residential units per parcel of land.

Temporary buildings or structures may be permitted in the commercial zone for a period not to exceed ninety (90) days for the purpose of special sales, demonstrations, advertisements, displays or the like, but such temporary facilities shall be removed on expiration of the special sale, demonstration, advertisement, display, etc., or ninety (90) days, whichever is shorter. Such facilities may remain beyond ninety (90) days upon a showing of good cause and written permission issued by the planning and zoning commission and approved by the city council.

Temporary residential structure:

- A. The use shall carry a specified time limit for removal not to exceed a one-year period. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)



# ARTICLE D. INDUSTRIAL ZONE

## 9-4D-1: GENERAL APPLICATION:

This article provides which uses are permitted in the industrial zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4D-2: LOT RESTRICTIONS AND ACCESS REQUIREMENTS:

- A. Lot Size: Minimum lot size shall be fifteen thousand (15,000) square feet.
- B. Compliance Required: No building in the industrial zone shall be altered, erected, reconstructed or moved except in conformance with the provisions of this title and the requirements of this zone.
- C. Parking Space Requirements: All uses in the industrial zone shall meet the minimum parking space requirements as provided in chapter 5, article E of this title.
- D. Green Space: In the discretion of the planning and zoning commission, and consistent with the surrounding uses and aesthetics, "green space" as defined by subsection 9-1-2B of this title, not to exceed twenty five percent (25%) of the total lot area, may be required.
- E. Access: All lots in the industrial zone shall have at least one existing "legal access" to a public street as defined in subsection 9-1-2B of this title.
- F. Additional Specific Conditions: The planning and zoning commission and the city may add specific conditions to any industrial district to require compatibility with surrounding uses and to assure compliance with the intent of this title and the health and safety of the public. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4D-3: USES PERMITTED:

The following uses are permitted in the industrial zone:

Golf courses and other athletic facilities.

Light Industrial and small-scale manufacturing, processing, fabrication or assembly of products that meet the following criteria:

~~Manufacturing, processing, fabrication or assembly of products that meet the following criteria:~~

- A. Carried on in such a manner as to not create a hazard of fire or explosion.
- B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, inventory, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements. All storage structures must comply with the structure setback requirements of this title.

Equipment and automobile maintenance or repair facilities, provided that they do not have a retail store front.

Rental warehouses, storage facilities and mini storages

- A. No commercial sales of any kind are permitted onsite.
- B. All storage must be indoors or within a six foot (6') high, sight obscuring fence.
- C. All lighting shall be confined to the premises and shall produce no glare visible from adjacent properties or rights of way. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

~~Storage. All storage must be indoors or within a six foot (6') high, sight obscuring fence. All storage structures must comply with the structure setback requirements of this title; provided, no commercial sales shall be permitted from such storage facility.~~

Sales of goods produced on site.

Single-family dwelling

- A. The single-family residential use must be secondary in nature to the industrial use occurring on-site.
- B. May be attached to or detached from the industrial structure located on-site.

C. Must comply with all applicable building and fire codes.

D. May not be used in a transient residential capacity (i.e., no short term or vacation rentals)

E. The site must contain a minimum of two designated parking spaces for the residential use.

#### **9-4D-4: SPECIAL USES:**

The following uses are permitted in the industrial zone with a special use permit:

Heavy Industrial, Factories, Mining related activities, Asphalt Batch Plants and Concrete Plants, which meet the following criteria.

A. Carried on in such a manner as to not create a hazard of fire or explosion.

B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.

C. C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements.

~~Animal clinics, orphanages, hospitals, boarding kennels and runs, animal training schools:~~

~~A. Minimum Area: No special minimum area.~~

~~B. Housing Of Animals: All animals will be housed in permanent structures which can be physically enclosed during nighttime hours. Excluding farm animals, but they must be in a fenced area.~~

Auto wrecking yards:

A. Minimum area: Five (5) acres.



- B. A sight obscuring fence must be constructed around the entire storage area, a minimum of eight feet (8') in height or higher to conceal the sight of public nuisance.
- C. No materials, parts, automobiles or junk will be visible from any public right of way.
- D. A performance bond may be required for assurance of compliance with the provisions of this special use; said bond will be renewable every two (2) years, after inspection of the premises determines the advisability of such a renewal.

Food processing plants, not including slaughterhouses and rendering plants.

Heliports.

Plants for the manufacture of explosives.

Public utility complex facility:

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider the public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this title and the comprehensive plan.
- D. Conditions: Specified conditions with respect to emissions of noise, particulate matter or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

~~Rental warehouses and mini storages, provided the location is three hundred feet (300') or farther from the centerline of the nearest arterial as defined under subsection 9-1-2B of this title.~~

~~A. No outdoor storage or commercial sales of any kind.~~

~~B. All lighting shall be confined to the premises and shall produce no glare visible from adjacent properties or rights of way. (Ord. 6-2e, 2000; Ord. 6-~~

2f, 2002; Ord. 2007-5, 6-4-2007)

# ARTICLE E. RECREATIONAL ZONE

## 9-4E-1: GENERAL APPLICATION:

This article provides which uses are permitted in the recreational zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-4E-2: STANDARDS AND RESTRICTIONS:

- A. Detailed Plan Required: In any development on property in the recreational zone, the sponsor of the proposal shall submit a detailed plan that shows the relationship between the development and the following:
1. The proposed physical and legal ingress and egress to the site.
  2. The surrounding neighboring land uses.
  3. The availability of water and wastewater treatment services.
  4. Site drainage and features.
  5. Topographical features.
  6. The proposed building's size, shape and location on the property, including dimensions, total square feet of each structure, and site area dimensions.
  7. Parking facilities.
- B. Design, Operation And Maintenance: Any development in the recreational zone shall be designed, operated and maintained in a manner which is harmonious with, and appropriate in appearance to, the existing or intended general character of the area; and so that the development will not substantially change the character of the area.
- C. Access: All lots in the recreational zone shall have at least one existing "legal access" to a public street as defined ~~in subsection~~ in subsection 9-1-2B of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

### **9-4E-3: USES PERMITTED:**

The following uses are permitted in the recreational zone:

Commercial resorts, with a minimum lot size of one acre, which are operated for profit and which may include facilities for food and beverage sales, rented seasonal living units, and retail sales of recreational and sporting equipment, supplies or services so long as such sales are incidental to operation of the resorts.

Public Parks and Civic Facilities

### **9-4E-4: SPECIAL USES:**

The following uses are permitted in the recreational zone with a special use permit:

Mobile home parks.

Private resorts, with a minimum lot size of one acre, which may contain facilities for nonprofit outdoor recreational uses including boating, camping, swimming, skiing, golfing and shooting, and areas for group meetings. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Single-family dwellings

# ARTICLE A. PROPERTY LINE SETBACK AND HEIGHT REGULATIONS

## 9-5A-1: COMPLIANCE REQUIRED:

Unless otherwise specified by setback and height regulations in state law or in other sections of this chapter, the provisions contained in this article shall be adhered to. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-5A-2: VISIBILITY AT INTERSECTIONS:

On the corner lot in any zone, nothing shall be erected, placed, planted or allowed to grow where the sight obstruction constitutes a potential traffic hazard. In no case shall the sight obstruction extend more than two and one-half feet (2<sup>1</sup>/<sub>2</sub>') or less than ten feet (10') in height above the centerline grades of the intersecting streets within the vision triangle. The boundaries of the vision triangle are defined by measuring along the edges of the two (2) intersecting streets twenty-five feet (25') from the point of intersection and connecting the two (2) points with a straight line. This restriction shall not apply to public traffic or highway signs. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

## 9-5A-3: PROPERTY LINE SETBACKS:

A. Residential, Rural And Recreational Zones: Property line setbacks for structures in the residential, rural and recreational zones shall be as follows:

1. From the front of any structure to the edge of the lot, fifteen feet (15'); excepting front porches or entryways.
2. From the rear of any structure to the edge of the lot, five feet (5');
3. From the side of any structure to the edge of the lot, five feet (5');
4. From the side of any structure to the edge of the lot in the case of a flanking street, ten feet (10');
5. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
6. From the front of any front porch or entryway to the edge of the lot, five feet (5')
7. From any front facing garage or carport to the front edge of the lot, twenty

(20')

B. Multiple-Family Dwellings: Property line setbacks for multiple-family dwellings in any zone shall be as follows:

1. For all structures not exceeding eighteen feet (18') in height or one story:
  - a. From the front of any structure to the edge of the lot, twenty feet (20');
  - b. From the rear of any structure to the edge of the lot, twenty feet (20');
  - c. From the side of any structure to the edge of the lot, fifteen feet (15').
2. For all structures not exceeding twenty-eight feet (28') in height or two (2) stories:
  - a. From the front of any structure to the edge of the lot, twenty feet (20');
  - b. From the rear of any structure to the edge of the lot, twenty feet (20');
  - c. From the side of any structure to the edge of the lot, twenty feet (20').
3. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
4. With the approval of the planning and zoning commission the property line setbacks may be reduced to zero feet (0') where buildings are designed with common party walls or, where the proposed use is part of a neighborhood subarea plan, shopping center, mall, PUD or other development that has an overall plan approved by the planning and zoning commission.

C. Commercial And Industrial Zones: Property line setbacks for structures in commercial and industrial zones shall be as follows:

1. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
2. The minimum property line setback from all other streets and legal accesses shall be forty-five feet (45') from the center of the street or legal access right of way or twenty-five feet (25') from the edge of the right of way, whichever is greater. The minimum property setback from a recorded private access right of way shall be twenty-five feet (25'), measured from the edge of the

right of way.

3. The minimum property line setback from all other property lines shall be ten feet (10'); provided, if the adjoining property is zoned residential, the minimum property line setback for commercial structures shall be twenty-five feet (25').
  4. With the approval of the planning and zoning commission, the property line setbacks may be reduced to zero feet (0') where buildings are designed with common party walls or, where the proposed use is part of a, neighborhood subarea plan, shopping center, mall, PUD or other development that has an overall plan approved by the planning and zoning commission.
- D. From Lakes, Rivers, Streams Or Other Bodies Of Water: Property line setbacks for all zones and for all uses from lakes, rivers, streams or other bodies of water shall be as follows:
1. No structure shall be erected closer than forty feet (40') from the mean highwater elevation of any lake, river, stream, channel or other body of public water.
- E. Administrative Exception: An administrative exception, not to exceed two feet (2') of the required property line setbacks for front, side, rear and flanking street setbacks, may be granted by administrative action of the planning director without public notice and without public hearing. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

#### **9-5A-4: HEIGHT RESTRICTIONS:**

Height restrictions are as follows:

- A. Maximum Height: No structure, in any zone, shall be over ~~two (2)~~ three (3) stories in height; provided, that structures in commercial and industrial zones may exceed this height restriction upon approval by, the planning and zoning commission.
- B. Exceptions: The restrictions on the height of any structure under this title do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and which are not intended for human occupancy; provided, that no such appurtenance may be erected or maintained which constitutes a hazard to the safe landing and takeoff of aircraft at an established airport; further provided, that the height limitation contained in subsection B of this section does not apply to uninhabited attic space,. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)