

TITLE 8
ZONING REGULATIONS

Subject	Chapter
General Provisions	1
Definitions	2
Zoning Districts	3
Low Density Residential District	3A
Multi-Family Residential District	3B
GC General Commercial District	3C
Planned Unit Developments	4
Supplemental District Regulations	5
Conditional Use Permits	6
Nonconforming Lots, Uses And Structures	7
Signs	8
Administration And Enforcement Of Permits	9
Board Of Adjustment	10
Amendments	11
Violation; Penalties	12

CHAPTER 1
GENERAL PROVISIONS

SECTION:

- 8-1-1: Title
- 8-1-2: Authority
- 8-1-3: Purpose And Intent
- 8-1-4: Jurisdictional Area
- 8-1-5: Official Zoning Map
- 8-1-6: Severability

8-1-1: **TITLE:** This title shall be known and cited as the *ZONING ORDINANCE OF THE TOWN OF BEARCREEK, MONTANA*. (Ord. 02-02, 4-23-2002)

8-1-2: **AUTHORITY:** This title is adopted under the authority of the municipal zoning enabling act, Montana Code Annotated sections 76-2-301 through 76-2-238. (Ord. 02-02, 4-23-2002)

8-1-3: **PURPOSE AND INTENT:**

- A. Purpose: The purpose of this title is to promulgate and adopt such regulations that:
1. Are designed with a plan.
 2. Are designed to lessen congestion in the streets.
 3. Will secure safety from fire, panic and other dangers.
 4. Will promote health and the general welfare.
 5. Will provide adequate light and air.

6. Will prevent the overcrowding of land.
7. Will avoid undue concentration of population.
8. Will facilitate the adequate provision of transportation, water, sewerage, schools, parks and such other public requirements.
9. Give reasonable consideration to the character of the district.
10. Give reasonable consideration to the district's peculiar suitability for particular uses.
11. Give reasonable consideration to conserving the value of buildings.
12. Will encourage the most appropriate use of land throughout the jurisdictional area.

B. Intent: Further, the intent of this title is to:

1. Ensure that the land uses of a community are properly situated in relation to one another, providing adequate space for each type of development, and preventing problems associated with incompatible uses.
2. Control the density of development in each area of the community so that property can be adequately serviced by such public facilities as streets, schools, recreation and utility systems.
3. Direct new growth into appropriate areas.
4. Protect existing property by requiring that development afford adequate light, air and privacy for persons living and working within the municipality.
5. Improve the quality of the physical environment of the community.
6. Protect and maintain property values.
7. Preserve and develop the economic base of the community.
8. Encourage the provision of affordable housing for families of all income levels. (Ord. 02-02, 4-23-2002)

8-1-4: **JURISDICTIONAL AREA:** The zoning jurisdiction of the town shall include the land within the corporate limits of the town established and shown on the "official zoning map, Bearcreek, Montana". (Ord. 02-02, 4-23-2002)

8-1-5: **OFFICIAL ZONING MAP:**

A. Incorporation: The "official zoning map of Bearcreek, Montana", and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this title.

B. Maintaining And Changing:

1. The official zoning map shall be kept by the zoning administrator, and shall be the final authority as to the current status of zoning districts in the town zoning jurisdictional area.

2. The official zoning map shall bear the signature of the mayor, attested by the town clerk-treasurer, and the date of adoption hereof.

3. The official zoning map shall bear the seal of the town under the following words, "This is to certify that this is the official zoning map of Bearcreek, Montana".

4. Whenever any changes are made to district boundaries in accordance with the procedures of this title, those changes approved by the town council shall be promptly entered on the official zoning map, and a signed and dated certification attached to the map. No amendment to district boundaries shall become effective until those changes are presented to the town council by the zoning administrator. If the town council approves the changes, the changes shall be entered on the official zoning map.

5. No changes of any nature shall be made to the official zoning map except in conformity with the procedures specified in this title.

6. A copy of the official zoning map, duly certified by the zoning administrator, shall be kept by the town clerk-treasurer. Each change to the official zoning map adopted by the town council, duly certified by the zoning administrator, shall likewise be kept by the town clerk-treasurer. Any changes adopted by the town council to the official zoning map must be approved by resolution of the town council in accordance with the amendment procedures specified in chapter 11 of this title.

- C. **Loss, Damage Or Destruction:** In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the town council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new map shall be certified in the same manner as the original official zoning map, noting that it supersedes the prior map. (Ord. 02-02, 4-23-2002)

8-1-6: **SEVERABILITY:** Should any section or provision of this title be declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of this title as a whole, or any part thereof other than the part declared to be unconstitutional or invalid. (Ord. 02-02, 4-23-2002)

CHAPTER 2
DEFINITIONS

SECTION:

- 8-2-1: Rules Of Interpretation
- 8-2-2: General Definitions

8-2-1: **RULES OF INTERPRETATION:** For purposes of this title the following conditions and interpretations apply:

- A. Words used in the present tense include the future tense.
- B. Words used in the singular tense include the plural; words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.
- C. The word "person" includes a firm, association, corporation, trust, organization, partnership or company, as well as an individual.
- D. The word "lot" includes the words "parcel" or "tract".
- E. The word "shall" is mandatory; the word "may" is permissive. (Ord. 02-02, 4-23-2002)

8-2-2: **GENERAL DEFINITIONS:** As used in this title, the following words and terms shall have the meanings ascribed to them in this section:

ACCESSORY STRUCTURE OR USE: The use or structure on the same lot with, and customarily secondary or subordinate to, the principal use or structure.

AUTOMOBILE WRECKING: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or

dumping or dismantling of partially dismantled, obsolete or wrecked vehicles or their parts.

- BOARDING HOUSE:** A building, or portion thereof, where lodging for five (5) or more persons is provided for compensation whether or not meals are provided.
- BUILDING:** Any structure erected for support, shelter or enclosure of persons, animals, or property of any kind.
- BUILDING HEIGHT:** The vertical distance from the highest point of a structure to the finished grade of the ground.
- CARETAKER'S RESIDENCE:** A single-family dwelling located in conjunction with a residential, commercial or industrial land use that requires twenty four (24) hour care in order to protect or operate the use.
- CHURCH:** A building designed and used for public worship by a religious body.
- COMMUNITY RESIDENTIAL FACILITY¹:**
- A. A community group home for developmentally, mentally, or severely disabled persons, which does not provide skilled or intermediate nursing care;
 - B. A youth foster home or youth group home as defined in Montana Code Annotated section 41-3-1102;
 - C. A halfway house operated in accordance with regulations of the department of health and environmental sciences for the rehabilitation of alcoholics or drug dependent persons;
 - D. A licensed adult foster family care home.
- CONDITIONAL USE:** A use that is allowed in a specific district if the use meets certain requirements in order to maintain and assure the health and safety of the

1. MCA § 76-2-411.

	community and to maintain the character of the district.
DISTRICT, ZONING:	A geographical area designated in this title and delineated on the zoning map for which requirements for the use of land and structures and development standards are prescribed.
DRIVE-UP EATING ESTABLISHMENT:	A building or structure from which persons are served food or beverages in their vehicles or at curbside, including establishments that serve customers outside of their vehicles.
DWELLING:	A building or portion thereof used for occupancy by one or more families.
DWELLING, MULTIPLE-FAMILY:	A building or portion thereof designed for residential occupancy by two (2) or more families living separately.
DWELLING, SINGLE-FAMILY:	A building designed for residential occupancy by one family.
DWELLING, TWO-FAMILY:	A building designed for residential occupancy by two (2) families living separately.
DWELLING UNIT:	A building or portion thereof providing separate cooking, eating, sleeping and living facilities for one family.
EXPLOSIVE:	Petroleum products and/or chemicals capable of achieving rapid expansion resulting in a bursting forth of flammable energy.
FAMILY:	A basic unit in society of a group of individuals that reside under one roof.
FLAMMABLE:	Petroleum products and/or chemicals capable of being easily ignited and of burning quickly.
GRADE:	The point of elevation of the finished surface of ground at the exterior wall of the building.

**GRANDFATHER
CLAUSE:**

An existing use or lot size that does not conform to this title is what is known as grandfathered in. This means that the use may continue but shall not be enlarged or otherwise changed. A non-conforming lot may be sold and all uses allowed in the district are allowed on the lot. A non-conforming lot may not be further subdivided.

HOME OCCUPATION:

The use of a portion of a dwelling unit or accessory building for occupations at home by one or more persons residing in the dwelling unit. The activity must be clearly incidental and subordinate to the use of the building as a dwelling.

HOTEL/MOTEL:

A building, or buildings, containing six (6) or more rooms designed and rented for sleeping purposes for transients, and where only a general kitchen and dining room may be provided within the building or in an accessory building.

LIVESTOCK:

Horses, cattle, sheep, alpacas, llamas, emus, goats, swine, donkeys and mules.

**LOADING SPACE,
OFF STREET:**

An off street space conveniently located at a building to allow service pick ups and deliveries by commercial vehicles.

LOT:

A parcel or tract of land shown as an individual unit of ownership on a certificate of survey, subdivision plat, deed or other instrument of record.

LOT, CORNER:

A lot located at the intersection of two (2) or more streets.

LOT DEPTH:

The mean distance between the front and rear lot lines.

LOT FRONTAGE:

The portion of a lot nearest the street. For corner lots, the front of a lot shall be the narrowest part of the lot having street frontage.

LOT, INTERIOR:	A lot with only one frontage on a street.
LOT LINES:	The lines bounding a "lot" as defined herein.
LOT WIDTH:	The mean width of the lot measured at right angles to its depth as measured at the building setback line.
MANUFACTURED (MOBILE) HOME:	A detached residential dwelling unit fabricated at a factory, not in accordance with the standards of the uniform building code, manufactured after July 1, 1976, and conforming to the 1976 HUD code, designed for transportation on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation.
MANUFACTURED (MOBILE) HOME, CLASS A:	<p>A manufactured home fabricated after July 1, 1976, in compliance with the standards specified in 42 United States Code section 5401 (HUD code), and that satisfies each of the following additional criteria:</p> <p>A. The length does not exceed four (4) times its width.</p> <p>B. The pitch of the roof has a minimum vertical rise of three feet (3') per twelve feet (12') of horizontal run, and the roof is finished with a type of material commonly used in standard residential construction.</p> <p>C. The exterior siding consists of wood, hardboard, vinyl or aluminum siding, or other materials used in standard residential construction.</p> <p>D. The dwelling unit is secured to a permanent, continuous masonry foundation.</p> <p>E. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.</p>

**MANUFACTURED
(MOBILE) HOME,
CLASS B:**

A manufactured home fabricated after July 1, 1976, in compliance with the standards specified in 42 United States Code (HUD code), but does not meet the additional criteria necessary to qualify as a class A manufactured home.

**MANUFACTURED
(MOBILE) HOME,
CLASS C:**

A manufactured home constructed prior to July 1, 1976, and not meeting the HUD code.

**MANUFACTURED
(MOBILE) HOME
PARK:**

A tract of land providing two (2) or more spaces for lease or rent to the general public for siting manufactured homes.

MODULAR HOME:

A dwelling constructed at a factory in accordance with the building code applicable to site built homes, and transported to the site for final assembly on a permanent foundation.

NURSING HOME:

A building used to house and care for ambulatory, aged, or infirm persons under the care and supervision of a professional staff.

**OFFICE,
PROFESSIONAL,
BUSINESS,
ADMINISTRATIVE
AND GOVERNMENT:**

Offices occupied by accountants, architects, dentists, doctors, engineers, attorneys, insurance agents, real estate agents, public employees and other professions.

**PARKING SPACE,
OFF STREET:**

A space located off any public right of way that is available for parking a motor vehicle.

**PLANNED UNIT
DEVELOPMENT:**

A land development project designed and planned as a single entity under a plan that offers a variety of land uses, housing types and densities, and design features in addition to those allowed by right or condition in the zoning district.

**RECREATIONAL
VEHICLE PARK:**

A premises used for public camping where persons can rent space to park individual camping trailers, pickup campers, motor homes, and travel trailers.

RESTAURANT:	A public eating facility that does not provide curbside or drive-up automobile service.
RETAIL SALES:	An establishment selling goods, wares, or merchandise directly to a consumer.
SETBACK:	The horizontal distance required between any structure and a lot line, measured at right angles to the lot line.
SHOPPING CENTER:	One or more buildings containing at least three (3) separate retail businesses that are planned, developed and managed as a unit, with off street parking provided on the property.
SIGN:	Any lettered or pictorial device or structure designed to inform or attract attention.
STRUCTURAL ALTERATION:	The modification of a building that changes its exterior dimension or its roofline(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. Structures include buildings, manufactured (mobile) homes, modular homes, walls, fences, and billboards or signs.
USE:	Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied in any legal activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
VARIANCE:	The approved relaxation of the strict application of the terms of these regulations, where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in an unnecessary hardship, where it will not be contrary to the public interest, and the spirit of this title will be observed and substantial justice done.

- WHOLESALE:** The sale of goods and merchandise for resale rather than for direct consumption.
- YARD, FRONT:** A required open space unoccupied by any structure or portion of a structure and extending across the full width of the lot between the front building line and the front lot line.
- YARD, REAR:** A required open space unoccupied by any structure or portion of a structure and extending across the full width of the lot between the rear building line of the principal building and the rear lot line.
- YARD, SIDE:** A required open space unoccupied by any structure or portion of a structure and extending from the side building line to a side lot line running from the front to the rear of the lot. (Ord. 02-02, 4-23-2002; amd. Ord. 02-02A, 3-20-2006; 2010 Code)

CHAPTER 3
ZONING DISTRICTS

SECTION:

- 8-3-1: Districts Established
8-3-2: Interpretation Of District Boundaries

8-3-1: **DISTRICTS ESTABLISHED:** Within the jurisdictional area specified in section 8-1-4 of this title, zoning districts are hereby established and are shown on the official zoning map described in section 8-1-5 of this title. Articles A, B and C of this chapter set forth the specific requirements which must be met by any proposed building, structure or use located within each district. (Ord. 02-02, 4-23-2002; amd. Ord. 02-02A, 3-20-2006)

8-3-2: **INTERPRETATION OF DISTRICT BOUNDARIES:** Where uncertainty may exist as to the location of district boundaries as shown on the official zoning map, the following rules shall apply in interpreting the nearest logical line to that shown:

- A. Streets, Highways Or Alleys: Boundaries shall be construed as following the centerline of streets, highways or alleys.
- B. Streams, Rivers, Canals Or Ditches: Boundaries shall be construed as following the centerline of streams, rivers, canals or ditches.
- C. Railroad Right Of Way: Boundaries shall be construed as following a line midway between the main tracks of a railroad right of way.
- D. Platted Lot Lines: Boundaries shall be construed as following platted lot lines.
- E. Town Limits: Boundaries shall be construed as following the boundaries of the incorporated town limits.

- F. **Features On Zoning Map:** Boundaries shall be construed as parallel to or extensions of features indicated on the official zoning map.
- G. **Existing Features Differ From Zoning Map:** 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. In the event there is no board of adjustment or other zoning authority, the town council shall interpret the district boundaries. (Ord. 02-02, 4-23-2002)

CHAPTER 3

ZONING DISTRICTS

ARTICLE A. LOW DENSITY RESIDENTIAL DISTRICT

SECTION:

- 8-3A-1: Purpose
- 8-3A-2: Permitted Principal Uses
- 8-3A-3: Conditional Uses
- 8-3A-4: Permitted Accessory And Temporary Uses
- 8-3A-5: Lot Area And Width
- 8-3A-6: Yard Requirements
- 8-3A-7: Building Height
- 8-3A-8: Satellite Dishes And Radio Antennas (Towers)
- 8-3A-9: Signs

8-3A-1: **PURPOSE:** This district is intended to provide for the development of single-family residences and two-family residences at a density compatible with existing residential development. This district also accommodates those institutional and public uses compatible with residential neighborhoods. (Ord. 02-02, 4-23-2002)

8-3A-2: **PERMITTED PRINCIPAL USES:** The following uses are permitted within this district:

Churches.

Group homes where licensed by the Montana department of health and environmental sciences or department of family services, group homes serving disabled persons, halfway houses providing drug or alcohol rehabilitation, adult foster family daycare facilities, and group daycare homes serving twelve (12) or fewer children.

Libraries, museums, schools; public or private.

Nursing homes.

Parks, playgrounds, recreational facilities.

Single-family dwellings constructed on site, assembled as modular homes, class A manufactured (mobile) homes, and class B manufactured (mobile) homes following special provisions as outlined in section 8-3A-3 of this chapter.

Two-family dwellings.

Youth foster homes, or youth group homes. (Ord. 02-02, 4-23-2002)

8-3A-3: **CONDITIONAL USES:** The following uses must comply with the additional conditions specified below. Approval of these conditional uses must be obtained from the zoning commission under the provisions of chapter 6, "Conditional Use Permits", of this title:

<u>Uses</u>	<u>Conditions</u>
Home occupations not conforming to subsection 8-5-7A of this title	Conditions as specified by the zoning commission pursuant to subsection 8-6-2B3 of this title.
Manufactured (mobile homes) class B	<p>A. Each manufactured home must be placed on a permanent masonry foundation, or:</p> <ol style="list-style-type: none"> 1. Provided with anchors and cable tiedowns, if so equipped, for securing the manufactured home; and 2. Skirted, entirely enclosing the bottom section within 60 days after placement. Skirting must be of materials compatible with siding of manufactured home. <p>B. Each manufactured home shall have siding material of a type customarily used on site constructed residences.</p> <p>C. The tongue, wheels, transporting lights and removable towing apparatus must be removed after placement on the lot and before occupancy.</p>

Nursing homes; 24 hour per day care facilities

A. Provide safe ingress/egress onto public streets.

B. Lot will be of adequate size and width to accommodate the proposed use, and the yard requirements.

Planned unit developments that seek waivers from district requirements, in accordance with the requirements of chapter 4 of this title

A. For PUDs containing residences, the development plan provides for placement of housing units and street and open space design and layout that ensures: 1) privacy for residents, 2) safe entry from lots onto public streets, 3) usable yard areas, 4) proper installation of utilities, and 5) access by emergency vehicles.

B. Placement of structures shall take into consideration topography, privacy, building height and orientation, drainage and aesthetics.

(Ord. 02-02, 4-23-2002)

8-3A-4: **PERMITTED ACCESSORY AND TEMPORARY USES:** The following accessory and temporary uses are permitted in this district:

Accessory buildings and uses incidental to the principal uses in section 8-3A-2 of this article.

Home occupations under the requirements of section 8-5-7 of this title.

Temporary buildings for and during construction only. (Ord. 02-02, 4-23-2002)

8-3A-5: **LOT AREA AND WIDTH:** Except for existing lots of record which, because of ownership, cannot be reassembled to conform to this requirement, the following lot areas and widths are required:

A. Single-family dwelling: Each lot shall contain a minimum of five thousand (5,000) square feet and be at least fifty feet (50') wide.

- B. Two-family dwellings: Each lot shall contain a minimum of six thousand (6,000) square feet, and be at least fifty feet (50') wide. (Ord. 02-02, 4-23-2002)

8-3A-6: **YARD REQUIREMENTS:** Every lot shall have the following yard requirements as measured from the farthest extension of the structure:

- A. Front Yard: A twenty five foot (25') yard shall be provided on all street frontages (as measured from the property line). Corner lots shall be construed as having one front yard requiring a twenty five foot (25') yard and one side yard requiring a twenty foot (20') yard.
- B. Side Yard: Side yards abutting interior lot lines shall not be less than ten feet (10').
- C. Rear Yard: A rear yard of at least fifteen feet (15') shall be provided, except where a garage is located within the rear yard, the rear yard may be reduced to three feet (3'). (Ord. 02-02, 4-23-2002)

8-3A-7: **BUILDING HEIGHT:** Maximum height for all buildings and other structures shall be thirty feet (30'). (Ord. 02-02, 4-23-2002)

8-3A-8: **SATELLITE DISHES AND RADIO ANTENNAS (TOWERS):**

- A. Satellite dishes and radio antennas or towers may be placed in the rear yard.
- B. In the event that a usable signal cannot be obtained from the rear yard, the dish, antenna, or tower may be located on the side or front yard. (Ord. 02-02, 4-23-2002)

8-3A-9: **SIGNS:**

- A. Residential Or Home Occupation Use: For residential or home occupation use, nonilluminated signs a maximum of six (6) square feet in area.

- B. **All Other Uses:** For all other uses, nonilluminated signs, including bulletin boards at schools and churches, not exceeding sixteen (16) square feet in area, provided the sign is located at least ten feet (10') from any road right of way and does not obstruct traffic visibility. (Ord. 02-02, 4-23-2002)



5

11

CHAPTER 3

ZONING DISTRICTS

ARTICLE B. MULTI-FAMILY RESIDENTIAL DISTRICT

SECTION:

- 8-3B-1: Purpose
8-3B-2: Permitted Principal Uses
8-3B-3: Conditions

8-3B-1: **PURPOSE:** This district is intended to provide for the development of a mixture of housing types, such as those permitted in article A of this chapter, as well as fourplexes, townhomes, condominiums, and apartment units. (Ord. 02-02A, 3-20-2006)

8-3B-2: **PERMITTED PRINCIPAL USES:**

All uses permitted under article A of this chapter.

Apartment units.

Condominiums.

Fourplexes.

Townhomes. (Ord. 02-02A, 3-20-2006)

8-3B-3: **CONDITIONS:** All uses permitted under article A of this chapter shall remain subject to the conditions listed in article A of this chapter. The remaining uses listed in section 8-3B-2 of this article must comply with all codes set by the state of Montana and with the additional conditions set forth below:

- A. Fourplexes shall be constructed only on lots containing a minimum of ten thousand (10,000) square feet where lots are contiguous and contain a minimum of ten thousand (10,000) square feet and shall be subject to the yard requirements, building height, satellite dish, radio antenna, and sign restrictions specified in article A of this chapter.
- B. Townhomes, condominiums and apartment buildings shall be constructed only on lots containing a minimum of five thousand (5,000) square feet per ground floor dwelling unit and shall be subject to the yard requirements, building height, satellite dish, radio antenna, and sign restrictions specified in article A of this chapter.
- C. Townhomes, condominiums and apartment buildings having more than eight (8) units shall:
 - 1. Provide adequate occupant and visitor parking and garbage removal; and
 - 2. Have no adverse impact on the town's existing sewer and water systems.
- D. Any plans to mitigate adverse impacts on the town's existing water and sewer system must be approved by an engineer, certified by the state of Montana. Said plans must then be submitted to and approved, conditionally approved, or disapproved by the town council. If the town council, in its discretion, determines that review by an independent certified engineer is appropriate before approving, conditionally approving or disapproving such plans, then the council shall so inform the developer. The developer shall be required to pay for the independent engineering review.
- E. No construction of any system which will impact the town's existing water and sewer system shall begin until the developer has posted with the town, a surety, in the form of a performance bond, or irrevocable letter of credit, or other form acceptable to the town. This will expire one year and ninety (90) days from the date of acceptance and dedication of the last improvement completed by the applicant. (Ord. 02-02A, 3-20-2006)

CHAPTER 3

ZONING DISTRICTS

ARTICLE C. GC GENERAL COMMERCIAL DISTRICT

SECTION:

- 8-3C- 1: Purpose
- 8-3C- 2: Permitted Principal Uses
- 8-3C- 3: Conditional Uses
- 8-3C- 4: Permitted Accessory And Temporary Uses
- 8-3C- 5: Lot Area
- 8-3C- 6: Height Requirements
- 8-3C- 7: Yard Requirements
- 8-3C- 8: Off Street Loading
- 8-3C- 9: Signs
- 8-3C-10: Access Onto Public Roads
- 8-3C-11: Grading And Drainage
- 8-3C-12: Screening And Buffering
- 8-3C-13: Fencing
- 8-3C-14: Lighting

8-3C-1: **PURPOSE:** This district is intended to accommodate general business uses while preserving the traffic capacity of the street system and the desirability of adjacent residential development. The area should be developed as an attractive, functional and convenient commercial development. (Ord. 02-02, 4-23-2002)

8-3C-2: **PERMITTED PRINCIPAL USES:** The following uses are permitted within this district:

Amusement centers, recreational facilities located in enclosed buildings.

Auditoriums, theaters.

Bars, taverns, lounges, nightclubs in accordance with section 8-5-2 of this title.

Beverage bottling and distributing.

Building materials and equipment sales.

Clubs and lodges.

Financial institutions.

Funeral homes.

Government, educational and institutional uses.

Hotels, motels.

Libraries.

Medical and dentist offices, clinics and laboratories.

Museums and art galleries.

Nursing homes.

Offices: professional, business, administrative, government and services.

Parking areas.

Police and fire stations.

Recreational facilities.

Restaurants, drive-in eating establishments.

Retail business or services, whose activities primarily are conducted within an enclosed building.

Sales, service and repair: motor vehicles (including service stations), agricultural implements, equipment and materials.

Senior citizen centers.

Other uses commensurate with the above uses and compatible with the purpose of this district. (Ord. 02-02, 4-23-2002)

8-3C-3: **CONDITIONAL USES:** The following uses must comply with the additional conditions specified below. Approval of these conditional uses must be obtained from the zoning commission under the provisions of chapter 6 of this title:

<u>Uses</u>	<u>Conditions</u>
Shopping center	Conditions as specified by the zoning commission pursuant to subsection 8-6-2B3 of this title

(Ord. 02-02, 4-23-2002)

8-3C-4: **PERMITTED ACCESSORY AND TEMPORARY USES:**

Accessory buildings and uses incidental to the above principal uses.

Sale of Christmas trees, baked goods, clothing or like products where no permanent structure is erected.

Temporary buildings or structures used for and during construction or grading.

Temporary signs.

Temporary use of open land for meetings, circuses, carnivals. (Ord. 02-02, 4-23-2002)

8-3C-5: **LOT AREA:** Minimum lot size shall be two thousand five hundred (2,500) square feet. (Ord. 02-02, 4-23-2002)

8-3C-6: **HEIGHT REQUIREMENTS:** No building or structure may exceed forty five feet (45') in height. (Ord. 02-02, 4-23-2002)

8-3C-7: **YARD REQUIREMENTS:**

A. Front Yard: A front yard of at least three feet (3') shall be on all road frontages.

- B. Rear Yard: A rear yard of at least ten feet (10') shall be provided. (Ord. 02-02, 4-23-2002)

8-3C-8: **OFF STREET LOADING:** Off street loading areas must comply with the provisions of section 8-5-10 of this title. (Ord. 02-02, 4-23-2002)

8-3C-9: **SIGNS:** Signs within this district shall comply with the provisions of chapter 8 of this title. (Ord. 02-02, 4-23-2002)

8-3C-10: **ACCESS ONTO PUBLIC ROADS:**

- A. Width: Approaches onto public roads and highways shall be at least twenty four feet (24') wide.
- B. Distance Apart; Centerlines: Approaches onto public roads or highways shall be at least one hundred twenty five feet (125') apart. The centerline of approaches from properties on opposite sides of a public road shall be aligned at the same point on the public road. (Ord. 02-02, 4-23-2002)

8-3C-11: **GRADING AND DRAINAGE:**

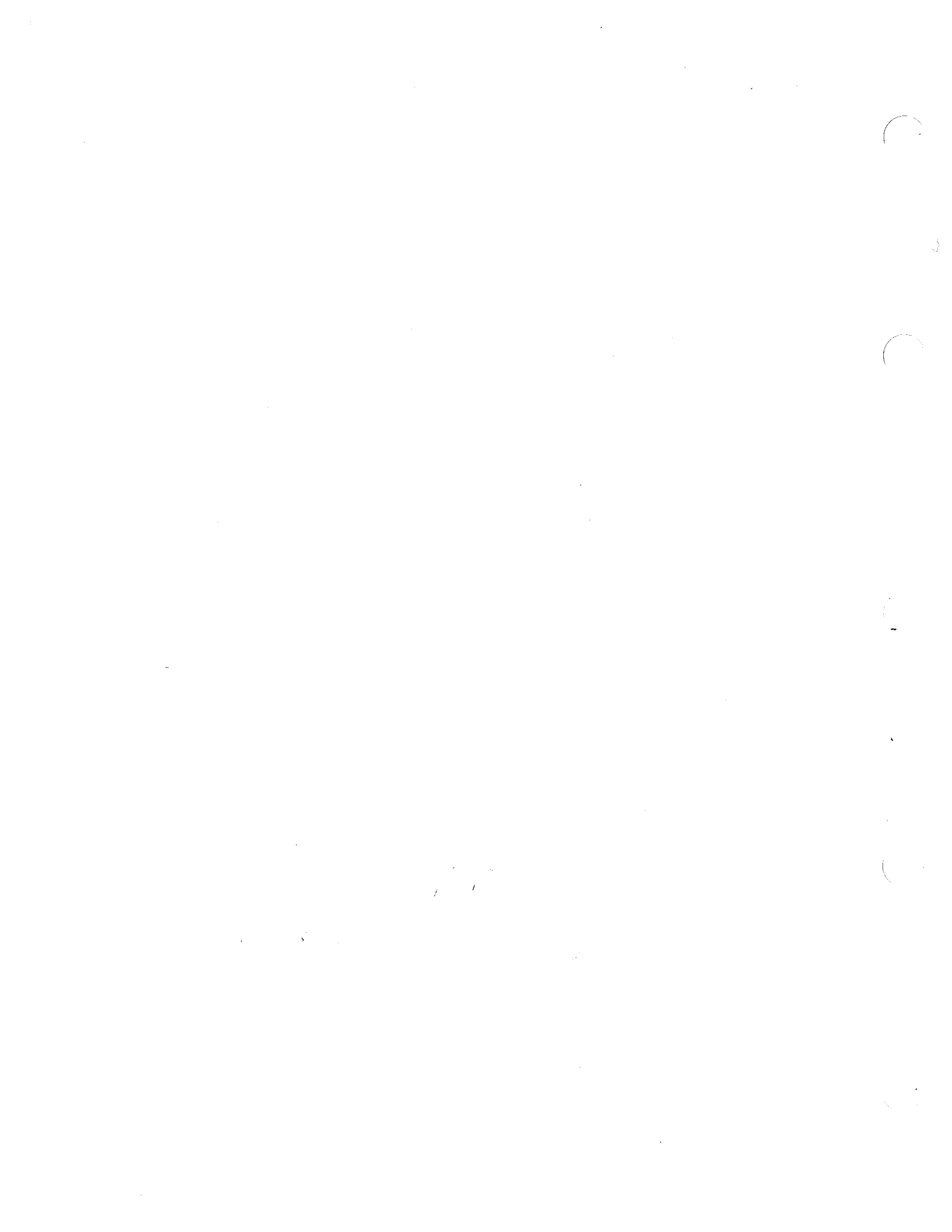
- A. The site shall be graded and appropriate drainage facilities installed to remove surface runoff waters in a manner that will not affect adjacent or nearby properties, streams, or public roads.
- B. Culverts, curbs, gutters, ditches, swales and other drainage facilities shall be installed to assure that approaches, parking areas and other traffic facilities do not obstruct drainage facilities or adversely affect public road and traffic facilities.
- C. Culverts and bridges shall be large enough to accommodate potential runoff from upstream drainage areas.
- D. Curbs and gutters or swales shall be required according to the character of the area, density of development, and nature of adjoining properties and public streets. (Ord. 02-02, 4-23-2002)

8-3C-12: **SCREENING AND BUFFERING:** Where a nonresidential use in this district abuts a residential use or district, the screening and buffering provisions of section 8-5-12 of this title must be met. (Ord. 02-02, 4-23-2002)

8-3C-13: **FENCING:** The following uses must be protected by a fence not less than six feet (6') in height:

- A. Outdoor storage of materials or equipment;
- B. Aboveground storage of flammable liquids, gases, or other material;
and
- C. Electrical substations, gas regulator stations and microwave reflectors. (Ord. 02-02, 4-23-2002)

8-3C-14: **LIGHTING:** Lighting must be shielded to avoid casting direct light on adjacent residential uses or institutional uses providing human care. (Ord. 02-02, 4-23-2002)



CHAPTER 4

PLANNED UNIT DEVELOPMENTS

SECTION:

- 8-4-1: Purpose
8-4-2: Definition
8-4-3: Application And Review

8-4-1: **PURPOSE:** The purpose of this chapter is to allow, with adequate review, flexibility in design of developments that do at least several of the following:

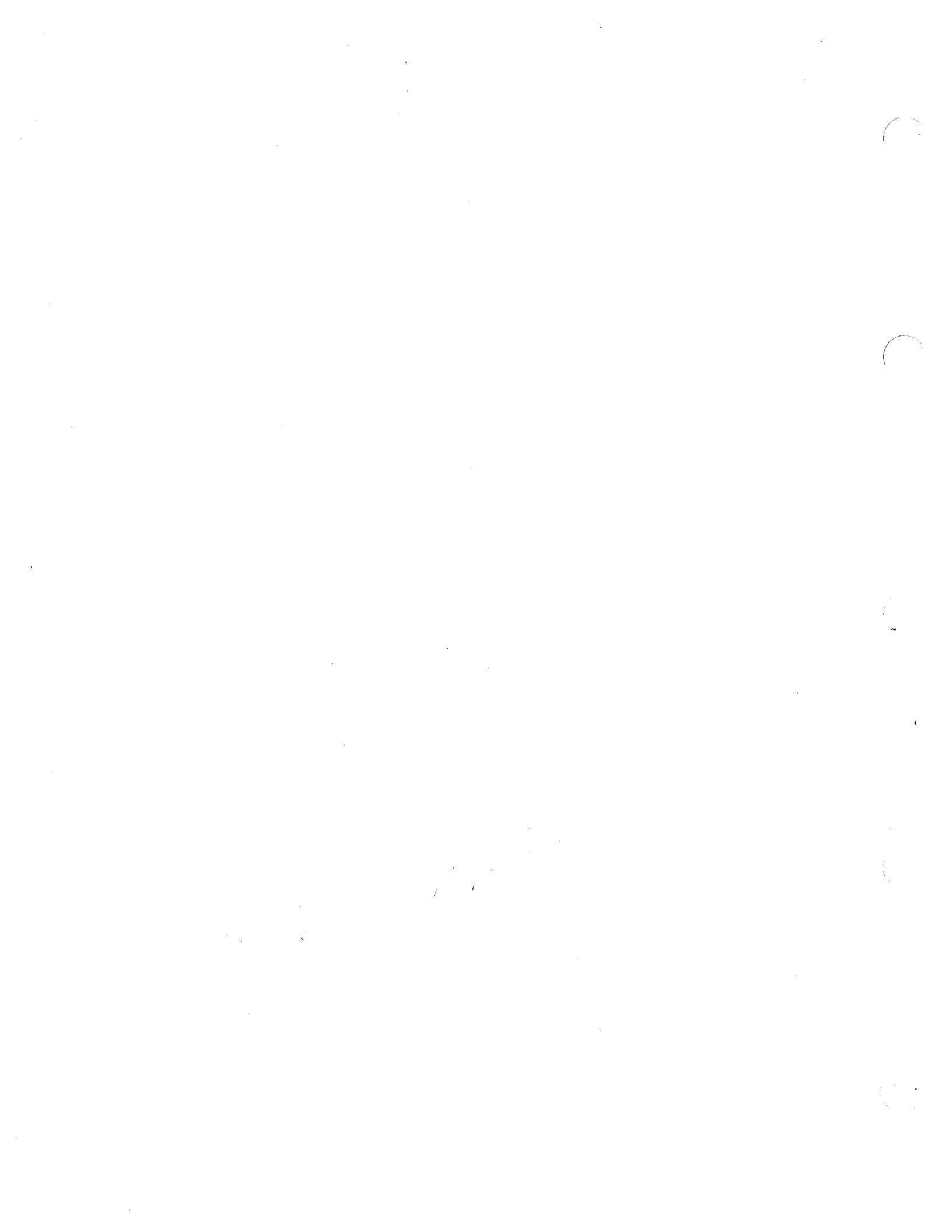
- A. Encourage development with mixed uses, particularly a variety of housing types and densities.
- B. Create or preserve usable open space and recreation areas.
- C. Preserve the natural characteristics of the land including topography, native vegetation and scenic views.
- D. Avoid construction in unsuitable areas.
- E. Encourage creativity in design, including flexibility in residential siting to achieve energy conservation.
- F. Allow efficient provision of streets, utilities and other services.
- G. Provide lower cost housing affordable by low and moderate income families within the community. (Ord. 02-02, 4-23-2002)

8-4-2: **DEFINITION:** A "planned unit development (PUD)" is a land development project designed and planned as a single entity under a plan that offers a variety of land uses, housing types and densities, and design features in addition to those allowed by right or as a conditional use in the zoning district. (Ord. 02-02, 4-23-2002)

8-4-3: APPLICATION AND REVIEW:

- A. Application: Any person requesting approval of a planned unit development shall submit an application for conditional use under the provisions of chapter 6 of this title. The application shall be accompanied by the required review fees and a PUD plan as described in subsection B of this section.
- B. PUD Plan: The PUD plan shall provide the following:
1. A vicinity map showing the location of the site in relationship to surrounding areas and showing the existing land uses and zoning of the site and surrounding properties.
 2. A map drawn to approximate scale showing:
 - a. Location, types and heights of existing and proposed buildings and other structures, including density and number of dwelling units or other uses of each structure.
 - b. Existing and proposed streets, alleys, bikeways, pedestrian walkways, and vehicle circulation patterns.
 - c. Locations, dimensions and sizes of common and open space areas, and a landscaping plan showing areas to be landscaped and those that will be left in a natural state.
 - d. Physical features such as streams, ponds, canals, rights of way, utilities.
 3. A written statement describing:
 - a. A schedule for installing improvements, developing lots and constructing structures;
 - b. Proposed types of ownership of dwelling units and other uses, and restrictive covenants, if any;
 - c. Means of providing maintenance of common facilities and open space areas.
- C. Review And Approval: A PUD will be reviewed and approved under the procedures for conditional uses pursuant to chapter 6 of this title.

- D. Compliance Required: A PUD must conform to the conditions prescribed by the zoning commission pursuant to subsection 8-6-2C of this title. (Ord. 02-02, 4-23-2002)



CHAPTER 5

SUPPLEMENTAL DISTRICT REGULATIONS

SECTION:

- 8-5- 1: Purpose
- 8-5- 2: Bars, Taverns, Lounges, Nightclubs
- 8-5- 3: Fences, Walls And Hedges
- 8-5- 4: Fire Hazards
- 8-5- 5: Flood Hazard Areas
- 8-5- 6: Height Regulations, Exceptions To
- 8-5- 7: Home Occupations
- 8-5- 8: Livestock
- 8-5- 9: Number Of Principal Structures On Lot
- 8-5-10: Off Street Loading
- 8-5-11: Parking Or Storage Of Certain Vehicles
- 8-5-12: Screening And Buffering
- 8-5-13: Structures To Have Legal And Physical Access
- 8-5-14: Visibility At Intersections
- 8-5-15: Yard Measurements

8-5-1: **PURPOSE:** Supplementary district regulations are intended to govern miscellaneous issues related to uses or conditions that occur in more than one zoning district. (Ord. 02-02, 4-23-2002)

8-5-2: **BARS, TAVERNS, LOUNGES, NIGHTCLUBS:** No building, structure or premises shall be used as a bar, tavern, lounge, nightclub or any commercial establishment that serves alcoholic beverages within six hundred feet (600') of any building used exclusively as a school, church, synagogue or other place of worship. The distance shall be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the proposed establishment. This distance restriction does not apply to establishments where sale of table wine and beer is solely in the original package for off premises consumption. (Ord. 02-02, 4-23-2002)

8-5-3: **FENCES, WALLS AND HEDGES:** Unless other provisions of this title specify otherwise, fences, walls and hedges are permitted in any required yard; provided, that no fence, wall or hedge in or along the edge of a front yard shall be more than six feet (6') in height, subject, however, to the restrictions of section 8-5-14 of this chapter. (Ord. 02-02, 4-23-2002)

8-5-4: **FIRE HAZARDS:** Any activity involving the use or storage of flammable or explosive materials must be entirely enclosed with protective fencing at least six feet (6') in height and be protected by adequate firefighting and fire prevention equipment and by normal safety devices. Such activities will be subject to the fire safety standards prescribed by the town fire chief or other appropriate authority. (Ord. 02-02, 4-23-2002)

8-5-5: **FLOOD HAZARD AREAS:** No building or structure may be built or located within any area identified by the town council as presenting a flood hazard. Any construction or location of buildings or other structures within a 100-year floodplain officially designated by the Montana department of natural resources and conservation must conform to the Carbon County floodplain management regulations. (Ord. 02-02, 4-23-2002)

8-5-6: **HEIGHT REGULATIONS, EXCEPTIONS TO:** The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances not intended for human occupancy and usually required to be placed above the roof level. (Ord. 02-02, 4-23-2002)

8-5-7: **HOME OCCUPATIONS:**

A. Requirements For Permitted Home Occupations: A home occupation may be conducted as a secondary use in a dwelling; provided, that:

1. The use of the dwelling for the home occupation clearly must be incidental and subordinate to its use for residential purposes.

2. 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 other than one sign, not exceeding six (6) square feet in

area, nonilluminated, placed anywhere on the private property where the home occupation is conducted.

3. No traffic may be generated by a home occupation in greater volume than would normally be expected in a residential neighborhood.

4. Except those normally used as passenger vehicles, vehicles used for the home occupation will be limited to two (2) tons in size and will be screened from view.

5. No equipment or process shall be used in a home occupation, which creates noise, glare, fumes, odors, or electrical interference detectable by normal senses off the lot.

6. Any equipment or materials used in connection with a home occupation shall be stored within the principal structure or in an enclosed space outside of the principal structure, or screened from view by fencing or shrubbery of at least six feet (6') in height.

- B. Procedures For Permitting: Any person considering the establishment of a home occupation must submit an application to the zoning administrator under the procedures specified in section 8-9-4 of this title.
- C. Home Occupations Allowed As Conditional Uses: Where a proposed home occupation would not conform to any one of the conditions specified in subsection A of this section, the home occupation must be reviewed as a conditional use under the procedures of chapter 6 of this title. (Ord. 02-02, 4-23-2002)

8-5-8: **LIVESTOCK:** "Livestock", as defined in section 8-2-1 of this title, shall be allowed in any district within the corporate boundaries of the town by application for and receipt of a conditional use permit. Livestock shall be kept enclosed in an area of not less than two thousand five hundred (2,500) square feet per animal. (Ord. 02-02, 4-23-2002)

8-5-9: **NUMBER OF PRINCIPAL STRUCTURES ON LOT:** In any district, more than one structure housing a permitted or conditional principal use may be erected on a single lot; provided, that minimum yard areas and other requirements of this title are met for each structure as though it were located on an individual lot. (Ord. 02-02, 4-23-2002)

8-5-10: OFF STREET LOADING:

- A. Intent: The intent of off street loading requirements is to avoid traffic hazards and minimize congestion of streets by requiring that off street loading areas be provided on the same lot as the building served by delivery trucks, and that such areas be adequate in size and number to provide the service needed without affecting adjacent properties.
- B. Design Of Loading Spaces:
1. Off street loading spaces shall be provided on the same lot as the use they serve, and shall not occupy the front yard of the lot.
 2. Each loading space shall be designed to have access to a street or alley in a manner that does not interfere with traffic movement.
 3. Each loading space shall be designed to accommodate the largest service trucks expected to serve the use.
 4. All or part of the off street loading requirements may be met by loading facilities within buildings.
 5. A special consideration may be given in case of hardship and/or inaccessibility.
- C. Number Of Off Street Loading Spaces: One off street loading space shall be provided for every industrial, institutional and commercial use having a gross floor area of five thousand (5,000) square feet, plus one additional loading space for each additional ten thousand (10,000) square feet of floor space. (Ord. 02-02, 4-23-2002)

8-5-11: PARKING OR STORAGE OF CERTAIN VEHICLES: No more than one automotive vehicle without current license plates may be parked or stored on any residentially zoned property, except those in completely enclosed buildings, or screened from view by solid fencing not less than six feet (6') in height, or green plantings not less than six feet (6') in height. (Ord. 02-02, 4-23-2002)

8-5-12: SCREENING AND BUFFERING: Whenever a nonresidential use abuts a residential use, the use shall be effectively screened at the property line on all sides which adjoin or face the

residential district or institutional use by an acceptably designed, sight obscuring wall, fence or planting screen. The fence, wall or planting screen shall be not less than four feet (4') nor more than six feet (6') in height and shall be maintained in good condition. Where terrain or other natural features effectively serve as a screen, no wall, fence or planting screen is required. (Ord. 02-02, 4-23-2002)

8-5-13: STRUCTURES TO HAVE LEGAL AND PHYSICAL ACCESS:

Every principal building erected or placed on a lot shall have legal and physical access to a public street, other than an alley or an approved private street, and all structures shall be so located on lots to provide required safe and convenient access for emergency vehicles. (Ord. 02-02, 4-23-2002)

8-5-14: VISIBILITY AT INTERSECTIONS: On a corner lot in any district for a distance of twenty feet (20') from the point of intersection along each street, nothing may be erected, placed, or allowed to grow over four feet (4') in height, or in a manner that would impede the visibility of vehicles entering the intersection. (Ord. 02-02, 4-23-2002)

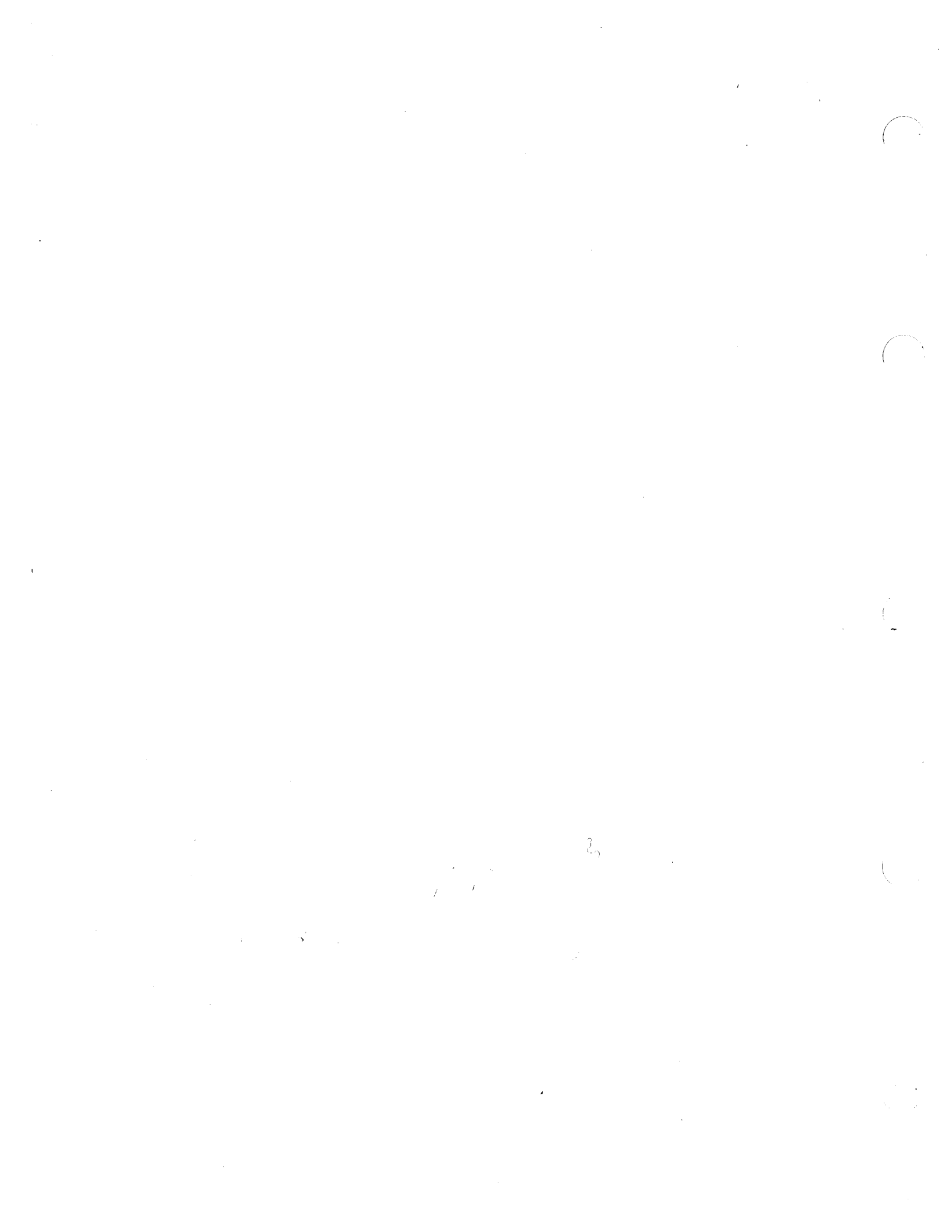
8-5-15: YARD MEASUREMENTS:

A. Front Yard: Depth of required front yards is measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, will be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines will be parallel.

B. Rear Yard:

1. Width: Width of a required rear yard is measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line.

2. Depth: Depth of a required rear yard is measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line. (Ord. 02-02, 4-23-2002)



CHAPTER 6

CONDITIONAL USE PERMITS

SECTION:

- 8-6-1: Purpose
8-6-2: Conditional Uses; Requirements
8-6-3: Procedures For Permit

8-6-1: **PURPOSE:**

- A. The purpose of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate in the district under certain safeguards or conditions.
- B. The conditional use permitting process is intended to provide a detailed and comprehensive review of proposed developments that potentially could have significant adverse impacts on the community. (Ord. 02-02, 4-23-2002)

8-6-2: **CONDITIONAL USES; REQUIREMENTS:**

- A. Approval Required: No structure or land may be used for any purpose in any district where the use is not permitted, unless the use is listed as a conditional use within that district and the approval for the use is obtained through these procedures.
- B. Listed In District Requirements: Conditional uses and the required conditions are listed as part of the requirements for each district.
- C. Additional Conditions: Conditional uses also must comply with any additional conditions prescribed by the zoning commission relating to the following:

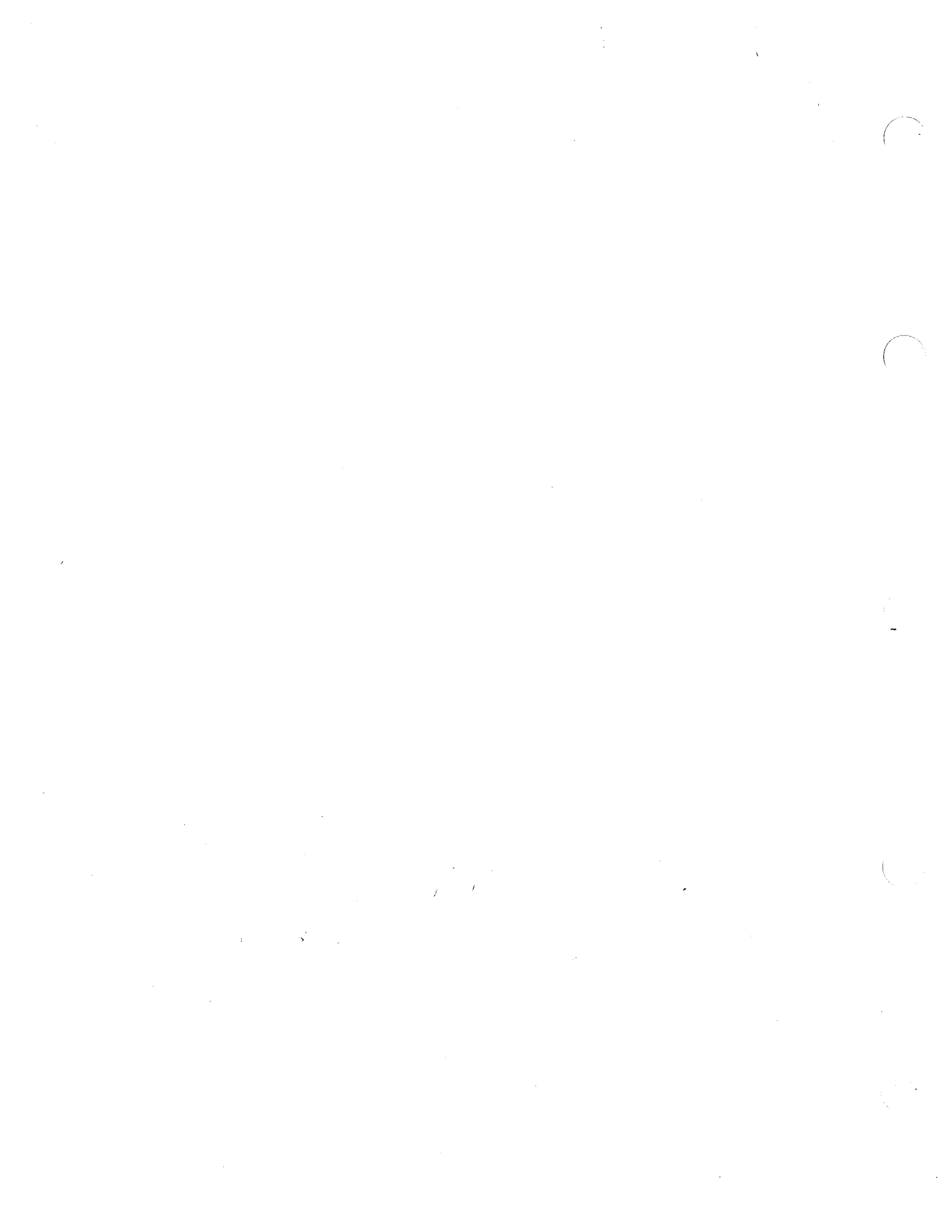
1. Ingress And Egress: Adequate ingress and egress to property and proposed structures with particular concern for automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
2. Off Street Parking And Loading Areas: Adequate off street parking and loading areas, where required, with particular attention to access, traffic flow and vehicular and pedestrian safety.
3. Garbage: Location of garbage containers and garbage pick up with respect to traffic flow and access, odor, and vehicular and pedestrian safety.
4. Utilities: Availability and compatibility of utilities in suitable locations.
5. Screening And Buffering: Adequate screening and buffering, with attention to type, dimensions and character.
6. Signs: Signs with attention to preventing glare and promoting traffic safety and harmony with adjacent properties.
7. Yards And Open Space: Required yards and open space.
8. Compatibility With Other Properties: General compatibility with adjacent and other properties. (Ord. 02-02, 4-23-2002)

8-6-3: **PROCEDURES FOR PERMIT:** The following procedures must be followed before the zoning commission may grant a conditional use permit:

- A. Application: The applicant must submit an accurate and complete written application for a conditional use to the zoning commission through the zoning administrator. All applications for conditional use permits must be accompanied by reasons for requesting a conditional use permit (i.e., topography, access, etc.), plans drawn to approximate scale, showing the approximate dimensions and shape of the lot to be built upon; the approximate size and location on the lot of buildings already existing, if any; the location and dimensions of the proposed buildings or alterations; and information which clearly states how the conditions for the use will be met; and all applicable fees.

- B. **Additional Information:** The application must include any other information as may be required by the zoning administrator, including descriptions of proposed uses of land and buildings; the number of families, dwelling units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this title.
- C. **Notice:** Notice shall be published at least seven (7) days in advance of a public hearing before the zoning commission. The owner of the property for which a conditional use is sought or his agent shall be notified of the hearing by mail.
- D. **Public Hearing:** At the public hearing, any party may appear in person or through an agent or attorney.
- E. **Written Findings:** Before granting a conditional use permit, the zoning commission shall make a written finding that the proposed use will comply with the specific conditions governing the use and other requirements of this title, and that the conditional use will not adversely affect the character of the district.
- F. **Review As A Subdivision:** Where the proposed conditional use is subject to review as a subdivision under the Montana subdivision and platting act¹, the zoning commission and city/county planning board shall hold joint and concurrent review, including a joint public hearing(s). Notice of each hearing shall be given in the manner prescribed by this title and the town regulations. (Ord. 02-02, 4-23-2002)

1. MCA § 76-3-101 et seq.



CHAPTER 7

NONCONFORMING LOTS, USES AND STRUCTURES

SECTION:

- 8-7-1: Purpose
- 8-7-2: Nonconforming Lots Of Record
- 8-7-3: Nonconforming Uses Of Land And Structures
- 8-7-4: Nonconforming Structures
- 8-7-5: Nonconforming Manufactured (Mobile) Homes

8-7-1: **PURPOSE:**

- A. Within the districts established by this title, lots, structures, and uses of land and structures may exist which were lawful at the time this title was adopted or amended, but which would be prohibited or regulated under the terms of this title or future amendment. The intent of this chapter is to permit these nonconformities to continue under the grandfather clause. This title intends that nonconformities shall not be enlarged, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Nonconforming uses are declared by this title to be incompatible with permitted uses in the same district. However, to avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this title and which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction; provided, that work shall be carried on diligently. (Ord. 02-02, 4-23-2002)

8-7-2: NONCONFORMING LOTS OF RECORD:

- A. In any district, notwithstanding other limitations imposed by this title, structures permitted in a district may be established on any two (2) lots of record on the effective date hereof. The lots must be in separate ownership and not of contiguous frontage with other lots of the same ownership. A lot of record that does not meet lot area or lot width requirements must meet all other requirements of the district. Minimum size requirements for building are five thousand (5,000) square feet for residential, and two thousand five hundred (2,500) square feet for commercial.
- B. If two (2) or more nonconforming lots with contiguous frontage in single ownership are of record at the time of passage or amendment hereof, and if any of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of this parcel shall be used or sold in a manner which diminishes compliance; nor shall any division of any parcel be made which creates a lot with width or area that fails to meet the requirements stated in this title. (Ord. 02-02, 4-23-2002)

8-7-3: NONCONFORMING USES OF LAND AND STRUCTURES:

Where, at the time of passage hereof, a lawful use of land or a structure exists which would not be permitted by the regulations imposed by this title, the use may be continued where it remains otherwise lawful, provided:

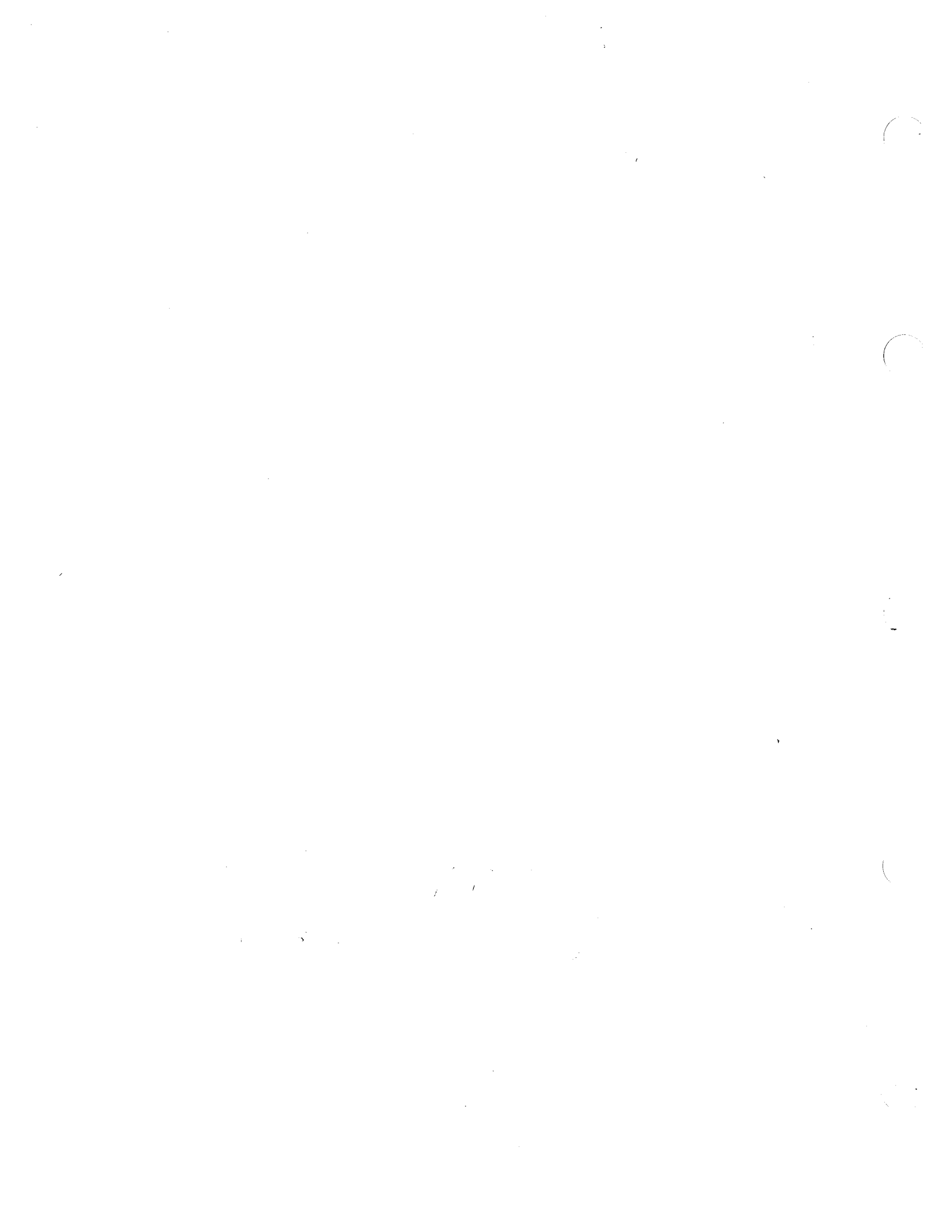
- A. **Enlarged Or Increased:** A nonconforming use may not be enlarged or increased, nor extended to occupy a greater area of land or structures than was occupied on the effective date of adoption or amendment hereof.
- B. **Moved In Whole Or In Part:** No nonconforming use may be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of adoption or amendment hereof.
- C. **Cease In Use:** Should any nonconforming use cease for any reason for a period of more than one year, any subsequent use of the land or structure shall conform to the regulations specified by this title for the district in which such land is located.

- D. **Erection Of Additional Nonconforming Structure:** No additional nonconforming structure shall be erected in connection with such nonconforming use of land or structures. (Ord. 02-02, 4-23-2002)

8-7-4: **NONCONFORMING STRUCTURES:** Where a lawful structure exists on the effective date of adoption or amendment hereof but becomes nonconforming under the terms of this title by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued, provided it remains otherwise lawful, subject to the following provisions:

- A. **Enlarged Or Altered:** A nonconforming structure may not be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. **Destruction:** Should a nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, as determined by the fire chief and/or a licensed agent from the property owner's insurance company, it shall not be reconstructed except in compliance with the provisions of this title, or by variance.
- C. **Moved:** Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. **Repair And Maintenance:** Nothing in this title shall be deemed to prevent the routine repair and maintenance of a nonconforming structure.
- E. **Strengthening Or Restoring To Safe Condition:** Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any officials charged with protecting the public safety, upon order of such official. (Ord. 02-02, 4-23-2002)

8-7-5: **NONCONFORMING MANUFACTURED (MOBILE) HOMES:**
Any manufactured home which lawfully exists on the effective date hereof, but which becomes nonconforming under this title, shall be allowed to continue. (Ord. 02-02, 4-23-2002)



CHAPTER 8

SIGNS

SECTION:

- 8-8-1: Purpose
- 8-8-2: Signs Permitted In All Districts Without A Permit
- 8-8-3: On Site Signs
- 8-8-4: Off Site Signs
- 8-8-5: Temporary Signs

8-8-1: **PURPOSE:** Sign regulations are intended to promote and protect the public safety and welfare by regulating existing and proposed outdoor advertising signs and signs of all types. The purpose of this chapter is to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is further intended to reduce signs or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights of way, provide more open space, curb the deterioration of the natural environment and enhance community development. Nothing in this regulation is intended to interfere with constitutional rights related to free speech. (Ord. 02-02, 4-23-2002)

8-8-2: **SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT:** The following signs are permitted in all zoning districts and do not require a permit:

- A. Sale, Lease Or Rental Of Premises: Signs advertising the sale, lease or rental of the premises upon which the sign is located, and which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet.

- B. Identification Of Premises: Signs bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- C. Government Flags And Insignia: Flags and insignia of any government except when displayed in connection with commercial promotions.
- D. Legal Notices; Identification, Information Or Directional Signs: Legal notices; identification, information or directional signs erected or required by governmental bodies.
- E. Integral Decorative Or Architectural Features: Integral decorative or architectural features of buildings except letters and trademarks.
- F. Directing And Guiding Traffic And Parking: Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- G. Bulletin Boards: Bulletin boards for churches, schools, or other public, religious or educational institutions, provided the sign is located a minimum of ten feet (10') from the established right of way line of any street or highway and does not obstruct traffic visibility at street or highway intersections.
- H. Political Or Campaign Signs: Political or campaign signs erected temporarily and removed no later than fifteen (15) days following the election. (Ord. 02-02, 4-23-2002)

8-8-3: **ON SITE SIGNS:** All on site signs permitted as accessory uses in business and industrial districts are subject to the following provisions:

- A. Projection: Projection of wall signs may not exceed two feet (2') measured from the face of the building. No wall sign may project above the highest point of the roof structure of the building to which it is attached.
- B. Setback: No on site freestanding sign may be set closer to the lot line adjacent to a street than the required minimum setback for the principal uses permitted in the district. No sign may be erected or placed closer than fifty feet (50') from a side or rear lot line abutting a residential district.

- C. Roof Signs: No sign may be placed on the roof of any building.
- D. Moving Devices: No sign or part thereof may contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Devices such as strings of lights may not be used for the purpose of advertising or attracting attention.
- E. Lighting: For the purpose of advertising or attracting attention, an illuminated sign or lighting device may emit only light of constant intensity, and no sign may be illuminated by or contain flashing, intermittent, rotating, or moving lights. An illuminated sign or lighting device may not be placed or directed so that the beams and illumination therefrom cause glare or reflection that may constitute a traffic hazard or nuisance. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the state electrical code.
- F. Height: No freestanding sign shall exceed thirty feet (30') in height.
- G. Height Clearance: Signs that extend over a sidewalk or walkway shall have a vertical clearance of at least eight feet (8').
- H. Number Of Signs Permitted: In business districts, each use is permitted one wall sign. In addition, one freestanding sign is permitted for each building, regardless of the number of businesses conducted in the building.
- I. Permitted Surface Area: The total surface area of all signs is limited to two (2) square feet of sign for each linear foot of front width of the business building; provided, that the maximum total surface area for all signs does not exceed one hundred (100) square feet. (Ord. 02-02, 4-23-2002)

8-8-4: **OFF SITE SIGNS:**

- A. Setback: No off site freestanding sign may be set closer to the lot line adjacent to a street than the required minimum setback for the principal uses permitted in the district. No sign may be erected or placed closer than fifty feet (50') from a side or rear lot line abutting a residential district.
- B. Lighting: Any illuminated sign or lighting device may employ only light emitting a light of constant intensity, and no sign may be

illuminated by or contain flashing, intermittent, rotating, or moving lights. An illuminated sign or lighting device may not be placed or directed so that the beams emit illumination therefrom causing glare or reflection that may constitute a traffic hazard or nuisance. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the state electrical code.

- C. Area: No off site sign may exceed thirty two (32) square feet in area.
- D. Height: No off site sign shall exceed thirty five feet (35') in height as measured from the normal grade at the sign. (Ord. 02-02, 4-23-2002)

8-8-5: **TEMPORARY SIGNS:** Temporary signs may not exceed fifty (50) square feet in area and may be erected for a period of sixty (60) days, plus the construction period. (Ord. 02-02, 4-23-2002)

CHAPTER 9

ADMINISTRATION AND ENFORCEMENT OF PERMITS

SECTION:

- 8-9-1: Zoning Administrator
- 8-9-2: Zoning Commission
- 8-9-3: Permits Required
- 8-9-4: Procedures For Application, Reviewing And Granting Permits
- 8-9-5: Schedule Of Fees

8-9-1: **ZONING ADMINISTRATOR:**

- A. Designation: The town council shall designate a zoning administrator to administer and enforce this title. The town council may direct town personnel or departments to provide assistance as appropriate.
- B. Duties:
 - 1. The zoning administrator shall receive applications for zoning permits, conditional use permits and variance requests; review applications and plans; issue zoning permits; and coordinate inspection of premises and properties.
 - 2. Where the zoning administrator finds that any of the provisions of this title are being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes; or shall take any other action authorized by this title to ensure compliance with or to prevent violation of its provisions.
 - 3. The zoning administrator shall:
 - a. Serve as an advisor to the zoning commission, board of adjustment and town council on matters relating to administration and enforcement of this title.

b. Prepare staff reports as required under this title.

c. Prepare and maintain records of all proceedings required or authorized under this title. (Ord. 02-02, 4-23-2002)

8-9-2: **ZONING COMMISSION:** The town council shall establish a zoning commission and appoint members to the commission. The zoning commission shall have the following duties:

- A. Amendments: Review proposals and make recommendations to the town council regarding proposals for the amendment of this title and the official zoning map.
- B. Conditional Use Permits: Review and approve applications for conditional use permits under the procedures set forth in chapter 6 of this title. (Ord. 02-02, 4-23-2002)

8-9-3: **PERMITS REQUIRED:**

A. Zoning Permit:

1. Required: A zoning permit must be obtained from the zoning administrator before any building, structure or land may be used or occupied, or before any building or structure permitted under this title may be erected, placed, moved, expanded, or structurally altered. A zoning permit may be issued only when the proposed building, structure, parcel or use will meet the requirements of this zoning title.

2. Required Information And Documentation: To obtain a zoning permit, applicant must submit to the zoning administrator:

a. Certificate of survey.

b. Detailed plot plan showing size and location of proposed structures, including setback measurements. (Ord. 02-02, 4-23-2002)

c. A receipt from the town clerk-treasurer showing that all connection fees for town municipal water and sewer systems have been paid, with the exception of fences, billboards, signs, and storage sheds not to exceed three hundred twenty (320) square feet. (Ord. 02-02, 4-23-2002; amd. 2010 Code)

d. All applicable review fees.

B. Conditional Use Permit:

1. Required: A conditional use permit must be obtained before those uses specified as conditional uses within certain zoning districts may be established. A conditional use permit may be issued only when the proposed use will meet both the requirements of the particular district involved and the conditions specified for the use.

2. Required Information And Documentation: To obtain a conditional use permit, applicant must submit to the zoning administrator:

a. Certificate of survey.

b. Statement giving reason for requesting conditional use permit, i.e., topography, access, etc.

c. Detailed plot plan showing size and location of proposed structures, including setback measurements. (Ord. 02-02, 4-23-2002)

d. A receipt from the town clerk-treasurer showing that all connection fees for town municipal water and sewer systems have been paid, with the exception of fences, billboards, signs, and storage sheds not to exceed three hundred twenty (320) square feet. (Ord. 02-02, 4-23-2002; amd. 2010 Code)

e. All applicable review fees.

C. Zoning Requirements Operate In Addition To Other Town Codes: The requirements of this title operate in addition to those requirements established under other town codes, except that where conflicts with other town codes may occur, this title shall govern. (Ord. 02-02, 4-23-2002)

8-9-4: **PROCEDURES FOR APPLICATION, REVIEWING AND GRANTING PERMITS:**

A. Procedures For Applying For A Zoning Permit:

1. Required: A zoning permit must be obtained from the zoning administrator before any building, other structure, or land may be used or occupied, or before any building or other structure permitted under this title may be erected, placed, moved, expanded, or

structurally altered. The zoning administrator may issue a zoning permit only when the proposed building, structure, parcel or use will meet the requirements of this title.

2. Application: Before conducting a use, or constructing, erecting, expanding, altering or modifying a building or structure, a person must submit a completed zoning application form to the zoning administrator, with all of the required information, including plans drawn to scale, showing the actual dimensions and shape of the lot, the exact sizes and location of existing and proposed buildings and other structures. The application shall include such other information as may be required by the zoning administrator, including uses of buildings and land; the number of families, dwelling units, or rental units proposed; conditions existing on the lot; and such other matters as may be necessary to determine conformance with this title, including, but not limited to, a certificate of survey, a receipt showing that all connection fees for town municipal water and sewer systems have been paid, and all applicable review fees.

B. Reviewing And Issuing A Zoning Permit:

1. Review By Zoning Administrator: The zoning administrator shall review the application to ensure the required information is submitted and is complete, including all appropriate fees. When the application and submitted information are complete, the zoning administrator shall determine whether the proposed building, structure, alteration, or use is permitted at the proposed location, and whether the proposal will comply with the requirements of the applicable district and these regulations.

2. Issuance Of Permit: Should the zoning administrator find that the proposal is permitted in the applicable district and will conform to all requirements, he shall issue the applicant a zoning permit.

3. Denial Of Permit: Should the zoning administrator find that the proposal either is not permitted in the applicable district or will not conform to all requirements of this title, he shall deny the application and state, in writing, that the application is denied, and explain the reasons for denial. The statement accompanied by one copy of the application shall be sent to the applicant.

4. Compliance With Approved Plans: Construction, installation, alteration, placement or use must comply with the plans approved by the zoning administrator.

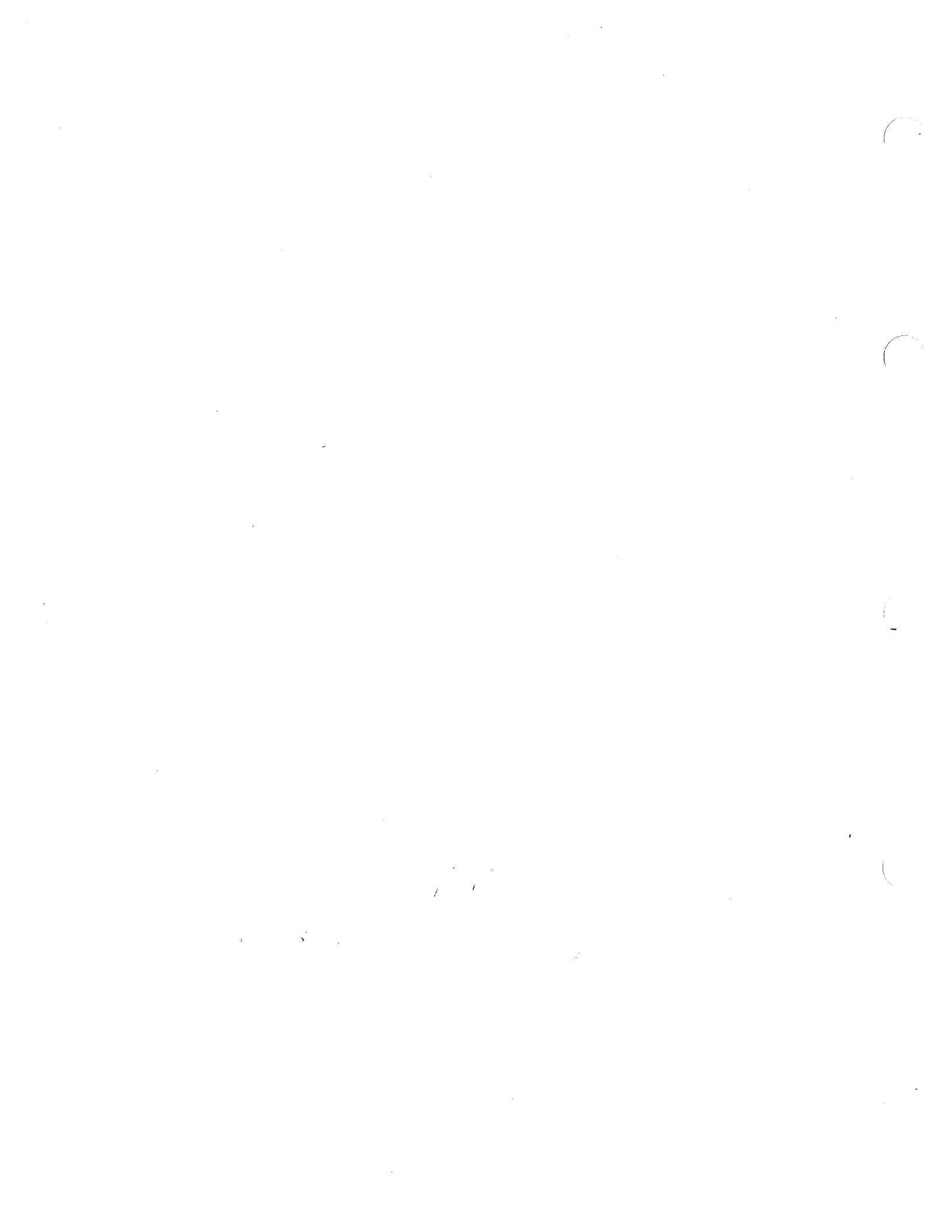
5. Term: A zoning permit shall be in effect for one year from the date of approval. (Ord. 02-02, 4-23-2002)

8-9-5: **SCHEDULE OF FEES:**

- A. Established By Council: The town council shall establish a schedule of fees and charges and a collection procedure for zoning permits, conditional use permits, variances and zoning amendments.
- B. Payment Required Before Action On Application: Until all applicable fees and charges have been paid in full, no action may be taken on any application or appeal.
- C. Fee Summary:

Conditional use permit	\$200.00
Variance (board of adjustment):	
Single-family residential	50.00
All other	100.00
Zoning amendment	400.00
Zoning permit:	
Single-family residential	50.00
All other	100.00

(Ord. 02-02, 4-23-2002)



CHAPTER 10

BOARD OF ADJUSTMENT

SECTION:

- 8-10-1: Established; Membership
- 8-10-2: Powers
- 8-10-3: Proceedings
- 8-10-4: Procedure For Variance Requests
- 8-10-5: Requirements Governing Granting Of Variances
- 8-10-6: Appeals From Zoning Administrator
- 8-10-7: Stay Of Proceedings
- 8-10-8: Appeals From Board Of Adjustment

8-10-1: **ESTABLISHED; MEMBERSHIP:**

- A. Established: A board of adjustment (hereinafter referred to as "the board"), is hereby established in accordance with Montana Code Annotated sections 76-2-321 through 76-2-328.
- B. Appointment; Terms: The town council shall appoint five (5) members to the board, each for a term of three (3) years, except that in the initial appointment, one member shall be appointed for a term of one year, two (2) members for a term of two (2) years, and two (2) members for a term of three (3) years.
- C. Removal: Members of the board may be removed from office by the town council for cause upon written charges and after public hearing.
- D. Vacancies: Vacancies on the board shall be filled by resolution of the town council for the unexpired term of the member affected. (Ord. 02-02, 4-23-2002)

8-10-2: **POWERS:** The board shall have the following powers:

- A. Hear And Decide Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or

determination made by an administrative official in the enforcement of this title.

- B. Grant Variances: To grant variances from the standards of this title where the board determines: 1) that granting the variance will not be contrary to the public interest, 2) where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship, and 3) where 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. More specifically, the board may approve, conditionally approve, or deny any request to modify the following requirements of this title:
1. Setback requirements.
 2. Yard requirements.
 3. Area requirements.
 4. Height and width requirements.
 5. Parking requirements.
 6. Loading requirements. (Ord. 02-02, 4-23-2002)

8-10-3: **PROCEEDINGS:**

- A. Appointment Of Chairman; Rules: The board shall select one of its members as chairman and shall adopt rules necessary to conduct its affairs in keeping with the provisions of this title.
- B. Meetings: Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. Meetings shall be open to the public.
- C. Minutes And Records: 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, and immediately file in the office of the board. The board shall make its records and minutes available for public inspection. (Ord. 02-02, 4-23-2002)

8-10-4: PROCEDURE FOR VARIANCE REQUESTS:

- A. **Application:** Any person may submit an application for a variance to the board of adjustment as provided by the rules of the board by filing the application with the zoning administrator.
- B. **Grounds For Requesting Variance:** The application for variance must specifically set forth the grounds for requesting the variance, as indicated on the application form.
- C. **Notice Of Hearing:** The board shall fix a reasonable time for the hearing on the variance request, publish notice of the hearing in a newspaper of general circulation at least seven (7) days prior to holding a public hearing, and shall notify, by mail, the person requesting the variance.
- D. **Hearing:** At the hearing, any party may appear in person or be represented by agent or by attorney. (Ord. 02-02, 4-23-2002)

8-10-5: REQUIREMENTS GOVERNING GRANTING OF VARIANCES:

- A. **Criteria For Approval:** To grant a variance, the board must make a finding that the granting of the variance will be in harmony with the general purpose and the intent of this title, will not be injurious to the neighborhood, is the minimum variance that will make possible the reasonable use of the land, building or structure, and will not be detrimental to the public welfare.
- B. **Additional Determinations:** In addition, the board must determine that:
 - 1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - 2. 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. The special conditions and circumstances do not result from the action of the applicant.

4. 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.
- C. Use Not Permitted By Title: Under no circumstances may the board of adjustment grant a variance, nor the town council grant an appeal, that would allow a use not permissible under the terms of this title in the district involved, or any use expressly or by implication prohibited by the terms of this title in the district.
- D. Neighboring Nonconforming Uses Not Grounds For Issuance: Neither the nonconforming use of neighboring lands, structures or buildings in the same district, nor the permitted or nonconforming use of lands, structures or buildings in other districts are grounds for the issuance of a variance. (Ord. 02-02, 4-23-2002)

8-10-6: **APPEALS FROM ZONING ADMINISTRATOR:**

- A. Power To Hear And Decide: The board of adjustment shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by any administrative official or body in the enforcement of this title.
- B. Notice Of Appeal: Any person or any officer of the town may file a notice of appeal of any decision made by an administrative person or body within sixty (60) days of the date the subject decision was made. The notice of appeal submitted to the zoning administrator must comply with the rules adopted by the board of adjustment.
- C. Transmittal Of Notice And Records To Board: The zoning administrator shall promptly transmit to the board of adjustment the notice of appeal and all papers constituting the record of the subject decision.
- D. Hearing; Notice: The board of adjustment shall fix a reasonable time for a hearing of the appeal, give public notice and notify the affected parties. At the hearing, any party may appear in person or be represented by agent or attorney.
- E. Action Of Board: The board of adjustment, in conformity with the provisions of this title, may reverse, affirm, wholly or in part, or modify the order, decision or action appealed and may make such order, decision, or action as deemed necessary and, to that end,

shall have the powers of the administrative official whose decision is appealed. (Ord. 02-02, 4-23-2002)

8-10-7: **STAY OF PROCEEDINGS:** An appeal stays all proceedings in furtherance of the action appealed, unless the administrative official from whom the appeal is taken certifies to the board of adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be ordered by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and for due cause. (Ord. 02-02, 4-23-2002)

8-10-8: **APPEALS FROM BOARD OF ADJUSTMENT:** Appeals from decisions of the board of adjustment may be made in accordance with Montana Code Annotated sections 76-2-327 and 76-2-328.

- A. Filing Of Petition: Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, any taxpayer, or any officer or department of the town 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 of the board.

- B. Writ Of Certiorari: Upon presentation of such petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the appellate's attorney, which may not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

- C. Return On Writ: The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from, and shall be verified.

- D. Evidence; Action Of Court: If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law. Such evidence shall constitute a part of the proceedings upon which the determination of the court will be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- E. Costs: Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from. (Ord. 02-02, 4-23-2002)

CHAPTER 11
AMENDMENTS

SECTION:

- 8-11-1: Initiation
- 8-11-2: Requirements For Map Amendments
- 8-11-3: Public Hearings Required

8-11-1: **INITIATION:** Proposals to amend, supplement, modify or repeal any of the provisions or the district boundaries established by this title or hereafter established, may be initiated by the town council, the zoning commission, or by petition of any interested resident or property owner. Such a petition shall be submitted to the town council through the zoning administrator, who shall review the petition, consider its merits and make a recommendation to the town council. (Ord. 02-02, 4-23-2002)

8-11-2: **REQUIREMENTS FOR MAP AMENDMENTS:**

- A. Map Certified By County Tax Assessor: In addition to an accurate and completed amendment application any petition to amend a zoning classification shall include a current map drawn to scale showing all parcels of land included in the petition and the name of the owner of each parcel certified by the county tax assessor from the records of his office.
- B. Legal Description: A legal description of the property for which a petition to amend a zoning classification is requested shall be included in such petition. (Ord. 02-02, 4-23-2002)

8-11-3: **PUBLIC HEARINGS REQUIRED:**

- A. Public Hearings; Notice: The zoning commission (in the event that there is no current zoning commission, the town council) shall hold

public hearings on proposed amendments, and interested parties and citizens shall have an opportunity to comment at the hearing. Notice of the time and place of the hearing shall be published in the local newspaper at least fifteen (15) days prior to the hearing.

- B. Notice By Mail Required: If the proposed change involves an amendment to the official zoning map, notice of the hearing shall be mailed to all property owners within the affected area and all owners of property within one hundred fifty feet (150') of the affected area.
- C. Recommendation To Council: After the hearing(s), the zoning commission (if there is established a current zoning commission) shall make a recommendation to the town council.
- D. Public Hearing: After the zoning commission (if there is established a current zoning commission) makes its recommendation, the town council shall hold a public hearing on the issue after giving notice in accordance with the procedures above.
- E. Absence Of Zoning Commission Or Other Qualified Agency: In the event there is no current zoning commission nor any other qualified agency, the above listed duties revert to the town council.
- F. Protests: When a proposed amendment affects the zoning classification of property, and a protest against such change is signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred fifty feet (150') therefrom, or of those directly opposite thereto extending one hundred fifty feet (150') from the street frontage of such opposite lots, then such amendments may not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the town council. (Ord. 02-02, 4-23-2002)

CHAPTER 12

VIOLATION; PENALTIES

SECTION:

- 8-12-1: Filing A Complaint
8-12-2: Penalties

8-12-1: **FILING A COMPLAINT:** Whenever a violation of this title occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis of the violation, shall be filed with the zoning administrator. He shall properly record the complaint and immediately investigate and take action as provided by this title. (Ord. 02-02, 4-23-2002)

8-12-2: **PENALTIES:**

- A. **Violation:** Violation 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 grant of variances or conditional uses or any of the requirements for conditions imposed by the town council, shall constitute a misdemeanor. Any person who violates this title or fails to comply with any of its requirements shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and punishable as such¹. (Ord. 02-02, 4-23-2002; amd. 2010 Code)
- B. **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 be found guilty of a separate offense and suffer the penalties specified above.

1. MCA § 76-2-315.

- C. Additional Remedies: Nothing set forth in this section shall prevent the town from taking other lawful action as is necessary to prevent or remedy any violation. (Ord. 02-02, 4-23-2002)