

ORDINANCE #336

ZONING

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ORDINANCE NO. 336

AN ORDINANCE DIVIDING THE TOWN OF BERTHOUD INTO ZONING DISTRICTS TO REGULATE AND RESTRICT THEREIN THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND; ESTABLISHING A "ZONING DISTRICT MAP OF THE TOWN OF BERTHOUD, COLORADO"; ESTABLISHING USE AND DENSITY SCHEDULES FOR ZONING DISTRICTS; PROVIDING REQUIREMENTS FOR SIGNS, PARKING, FENCES, LOT AREA AND LOT WIDTH, HEIGHT OF BUILDINGS, YARDS, SETBACKS AND FLOOR AREA; CREATING A BOARD OF ADJUSTMENT; PROVIDING PENALTIES AND FINES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR FIRE ZONES, ESTABLISHING PLANNING AND ZONING COMMISSIONS AND REPEALING ORDINANCES 256, 260, 263, 266, 287, 293, 306, 319 AND ALL OTHER ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

(See ord 509)

## CHAPTER 16 PLANNING AND ZONING REGULATIONS

### SECTION 1 PLANNING AND ZONING COMMISSIONS

- 16-1-1 Planning and Zoning Commissions Created
- 16-1-2 Members of Commission
- 16-1-3 Qualifications of Commission Members
- 16-1-4 Organization and Rules
- 16-1-5 Staff and Finances
- 16-1-6 Powers of Commissions
- 16-1-7 Planning Commission; Purpose in View
- 16-1-8 Zoning Commission; Purpose in View

16-1-1 Planning and Zoning Commissions Created Pursuant to the authority conferred by Articles 59 and 60, Chapter 139, Colorado Revised Statutes, 1963, there is hereby created a Planning Commission and a Zoning Commission for the Town of Berthoud. The members of the Planning Commission shall also serve, and are hereby appointed as the Zoning Commission.

16-1-2 Members of Commission The Town Planning Commission shall consist of five (5) members as follows: one member of said commission to be the Mayor; one member to be a Trustee selected by the Mayor, and three members to be appointed by the Town Board. All members of the Commission shall be bona fide residents of the municipality for the entire tenure of their membership on the Planning Commission. The term of each appointed member shall be six years or until his successor takes office, except that the respective terms of the members first appointed shall be as follows: One (1) member for a term of two (2) years, one (1) member for a term of four (4) years and one (1) member for a term of six (6) years. The respective terms of the members first appointed shall be fixed and designated by the Board at the time of appointment.

16-1-3 Qualifications of Commission Members All members of the Planning and Zoning Commission shall be bona fide residents in the Town of Berthoud and if any member ceases to reside in the Town, his membership shall immediately terminate. All members of said Commissions shall serve as such without compensation and the appointed members shall hold no other municipal office, except that one (1) such appointed member may be a member of the zoning board of adjustment.

16-1-4 Organization and Rules Each Commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall be one (1) year, with eligibility for re-election. Each commission shall hold at least one (1) regular meeting in each month and such meetings may be held consecutively on the same date. Each Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

16-1-5 Staff and Finances Each Commission, jointly or severally, may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the Town. Each Commission may also, with the consent of the Board, contract with town planners, engineers, and architects and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board which shall provide the funds, equipment, and accommodations necessary for the commissions's work.

16-1-6 Powers of Commissions Each Commission shall have all of the powers and perform each and all of the duties specified by said Chapter 139, Article 59 and 60, Colorado Revised Statutes, 1963, together with any other duties or authority which may hereafter be conferred upon them by the laws of the State of Colorado. The performance of such duties and the exercise of such authority is to be subject to each and all of the limitations expressed in such legislative enactment or enactments.

16-1-7 Planning Commission; Purpose in View In the preparation of a master plan the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality and its environs, which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

16-1-8 Zoning Commission; Purpose in View The Zoning Commission shall prepare its regulations in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air, to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulation shall be made with reasonable consideration, among other things, as to the character of the district and its particular suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

## CHAPTER 17 ZONING ORDINANCE

- 17-1-1 Purpose
- 17-1-2 Authority
- 17-1-3 Conflicting Ordinances Repealed
- 17-1-4 Ordinance Passed

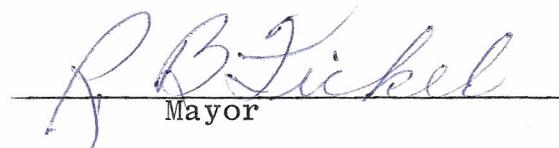
17-1-1 Purpose This ordinance shall be for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Berthoud, Colorado, by: The lessening of congestion in the streets and roads or reducing the waste of excessive amounts of roads; securing safety from fire and other dangers; providing adequate light and air; classification of land uses and the distribution of land development and utilization; protection of the tax base; securing economy in governmental expenditures; and the protection of urban and non-urban development.

17-1-2 Authority This ordinance is authorized by Article 60, Chapter 139 of the Colorado Revised Statutes, 1963, as amended, and is hereby declared to be in accordance with all provisions of these statutes.

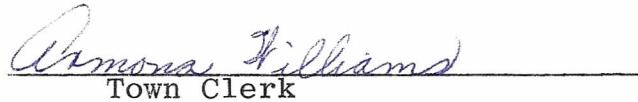
17-1-3 Conflicting Ordinances Repealed Ordinances #256, 260, 263, 266, 287, 293, 306, 319 and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

17-1-4 Ordinance Passed This ordinance was passed and approved on first reading at a regular meeting held June 10, 1969 and on second reading at a regular meeting held on August 12, 1969. This ordinance was passed, approved and adopted on third reading at a regular meeting held September 9, 1969 to take effect and be enforced thirty (30) days after publication.

Passed, adopted and approved the 9th day of September, 1969.

  
R.B. Kickel  
\_\_\_\_\_  
Mayor

Attest

  
Armona Williams  
\_\_\_\_\_  
Town Clerk

## CHAPTER - 1

### DEFINITIONS

#### Section 1

1-1-1 DEFINITIONS: When not inconsistent with the content, words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number; and the masculine includes the feminine. For the purpose of this Ordinance certain terms and words are hereby defined as follows:

ACCESSORY BUILDING. The term "accessory building" shall mean a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use.

ACCESSORY USE. The term "accessory use" shall mean a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the premises.

ALLEY. The word "alley" shall mean a public thoroughfare, not exceeding thirty five feet (35') in width which affords only a secondary means of access to abutting property.

AREA, MINIMUM LOT. The term "area, minimum lot" shall mean the total area within the property lines of the lot excluding adjacent streets.

BOARD AND ROOMING HOUSE. The term "board and rooming house" shall mean a building or portion thereof which is used to accommodate, for compensation, three (3) or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word "compensation" shall include compensation in money, services or other things of value.

BUILDING. The word "building" shall mean any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind and not including advertising sign boards or fences.

BUILDING HEIGHT. The term "building height" shall mean the vertical distance from the "grade" to the highest point of the roof surface.

BUILDING, PRINCIPAL. The term "building, principal" shall mean a building in which is conducted the main or principal use of the lot on which said building is situated.

DWELLING. The term "dwelling" shall mean any building or portion thereof which is used as the private residence or sleeping place of one or more human beings, but not including hotels, motels, tourist courts, resort cabins, clubs, hospitals or similar uses.

DWELLING, ONE FAMILY. The term "dwelling, one family" shall mean a detached building designed exclusively for, and occupied by, one family.

DWELLING, TWO FAMILY. The term "dwelling, two family" shall mean a building occupied by two (2) families living independently of each other.

DWELLING, MULTIPLE FAMILY. The term "dwelling, multiple family" shall mean a building occupied by three (3) or more families living independently of each other but not including motels or hotels.

DWELLING UNIT. The term "dwelling unit" shall mean one or more rooms in a dwelling designed for or occupied by one family living and cooking on the premises.

FAMILY. The word "family" shall mean any number of persons living and cooking together on the premises as a single dwelling unit, but it shall not include a group of more than three (3) individuals not related by blood or marriage.

FUNCTIONAL OPEN SPACE. The term "functional open space" shall mean landscaped or open area within a given lot, grouping of lots, or specific development exclusive of streets, parking spaces, parking accessways and buildings.

GRADE. "Grade" (ground level) is the average of the finished ground level at the center of all walls of a building. In case walls are within five feet (5') of a sidewalk, said grade shall be measured at the sidewalk.

HOSPITAL. The term "hospital" shall mean any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons and including sanitariums, but not including clinics, rest homes and convalescent homes.

HOTELS AND MOTELS. The words "hotels" and "motels" shall mean any building or portion thereof containing six (6) or more guest rooms used, designed to be used, let or hired out for occupancy by persons on more or less a temporary basis.

KENNEL. The word "kennel" shall mean any lot or premises on which four (4) or more animals at least four (4) months of age, are harbored.

LOT. The word "lot" shall mean a parcel of land occupied or to be occupied by a building or group of buildings and any accessory buildings identified with each, together with such open areas as are required under this Ordinance, and having its principal frontage on a public right of way.

LOT LINE, FRONT. The term "lot line, front" shall mean the property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line and the shorter street frontage shall be considered the front line.

LOT LINE, REAR. The term "lot line, rear" shall mean the line opposite the front lot line.

LOT LINE, SIDE. The term "lot line, side" shall mean any lot lines other than front lot lines or rear lot lines.

LOT, REVERSED CORNER. The term "lot, reversed corner" shall mean a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.

MEMBERSHIP CLUB. The term "membership club" shall mean an association of persons, whether incorporated or unincorporated for some common purpose, but not including groups organized primarily to render a service carried on as a business.

NONCONFORMING BUILDINGS. The term "nonconforming buildings" shall mean a building or structure or portion thereof built prior to the effective date of this Ordinance, or any amendment thereto, and conflicting with the provisions of this Ordinance applicable to the zone in which it is situated.

NONCONFORMING USE. The term "nonconforming use" shall mean the legal use of a structure or premises conflicting with the provisions of this Ordinance at the time of passage of this Ordinance or any amendment thereto.

OCCUPIED. The word "occupied" includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

PERSON. The word "person" shall also include association, firm, co-partnership, or corporation.

SETBACK. The word "setback" shall mean the distance extending across the full width of the lot between the center line of the adjoining street or alley and the nearest line or point of the building.

STREET. The word "street" shall mean any public or private thoroughfare which affords the principal means of access to abutting property and including, but not restricted to, such terms as "public right of way," "highway," "road" and "avenue."

STRUCTURE. The word "structure" shall mean anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than seven (7') feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

USE. The word "use" shall mean the purpose for which land or building is designed, arranged, intended or for which either is or may be occupied or maintained.

WIDTH OF LOT. The term "width of lot" shall mean the distance parallel to the front lot line measured between side lot lines through that part of a building or structure where the lot is narrowest.

YARD. The word "yard" shall mean an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

YARD, FRONT. The term "yard, front" shall mean a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

YARD, REAR. The term "yard, rear" shall mean a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

YARD, SIDE. The term "yard, side" shall mean a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building or accessory building attached thereto.

## CHAPTER 2

### DISTRICTS; MAP

#### SECTION: 2

- 2-1-1 ~~2-1~~ Establishment of Districts
- 2-1-2 ~~2-2~~ Zoning Map
- 2-1-3 ~~2-3~~ Annexed Areas

2-1-1 ESTABLISHMENT OF DISTRICTS: In order to carry out the provisions of this Ordinance, the Town is hereby divided into the following zoning districts:

|      |                         |
|------|-------------------------|
| E1   | Limited Estates .       |
| E2   | Estates                 |
| R1   | One Family              |
| R2   | Limited Multiple Family |
| R2UD | Unit Development        |
| R3   | Multiple Family         |
| R3UD | Unit Development        |
| R5   | Mobile Home             |
| C1   | Limited Commercial      |
| C2   | Commercial              |
| CM   | Commercial Industrial   |
| M1   | Limited Industrial      |
| M2   | Industrial              |
| ED   | Economic Development    |

#### 2-1-2

2-2 ZONING MAP: The boundaries and zoning classifications of districts hereby established are as shown on a map entitled "Zoning District Map of the Town of Berthoud, Colorado" dated March 1969, as approved by the Board of Trustees at a regular meeting held March 11, 1969, which map and all notations, references, data and other information shown thereon are by reference hereby made a part of this Ordinance.

In the event uncertainty shall be deemed to exist on the Zoning District Map, district boundaries shall be on section lines; lot lines; the center lines of highways, streets, alleys, railroad right of ways, or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the said Map.

Where a lot is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments, the less restrictive zone requirements may be extended within the lot into the more restrictive zoning district for a distance of not more than twenty-five feet (25').

2-1-3 2-3 ANNEXED AREAS: All property hereinafter annexed to the Town shall be permanently zoned immediately following adoption of the annexation ordinance, in accordance with the provisions of

CHAPTER 3  
GENERAL REGULATIONS

~~SECTION 3~~

~~3-1-1~~ General Application  
~~3-1-2~~ Existing Buildings

3-1-1 GENERAL APPLICATION: Except as hereinafter otherwise provided:

(A) No building shall be erected and no existing buildings shall be moved, altered, added to or enlarged, nor shall any land, building or premises be used, designated or intended to be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building, land or premises is located.

(B) No building shall be erected, reconstructed or structurally altered to exceed in height and maximum coverage of lot the limits hereinafter designated.

(C) No building shall be erected, nor shall any existing building be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the building site area and width, building location, yard, and floor area regulations hereinafter designated for the district in which such building or open space is located.

(D) No yard or other open space provided about any building for the purpose of complying with provisions of this Ordinance shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

3-1-2 ~~3-2~~ EXISTING BUILDINGS: The regulations contained herein are not retroactive in their application on existing buildings.

## CHAPTER 4

### USE AND DENSITY SCHEDULES

#### SECTION 4

- 4-1-1 ~~4-1~~ Reference
- 4-1-2 ~~4-2~~ Listing of Uses
- 4-1-3 ~~4-3~~ Uses Permitted on E1 and E2 Districts
- 4-1-4 ~~4-4~~ Uses Permitted in R1 District
- 4-1-5 ~~4-5~~ Uses Permitted in R2 District
- 4-1-6 ~~4-6~~ Uses Permitted in R2UD District
- 4-1-7 ~~4-7~~ Uses Permitted in R3 District
- 4-1-8 ~~4-8~~ Uses Permitted in R3UD District
- 4-1-9 ~~4-9~~ Uses Permitted in R5 District
- 4-1-10 ~~4-10~~ Uses Permitted in C1 District
- 4-1-11 ~~4-11~~ Uses Permitted in C2 District
- 4-1-12 ~~4-12~~ Uses Permitted in CM District
- 4-1-13 ~~4-13~~ Uses Permitted in M1 District
- 4-1-14 ~~4-14~~ Uses Permitted in M2 District
- 4-1-15 ~~4-15~~ Uses Permitted in ED District
- 4-1-16 ~~4-16~~ E1, E2, R1, R2, R3 Density Schedule
- 4-1-17 ~~4-17~~ Commercial and Industrial Density Schedule
- 4-1-18 ~~4-18~~ Mobile Home Density Schedule

4-1-1 REFERENCE; The following schedules of regulations applying to the use of the land, and the use, lot area, lot width, height, yards, setback and floor area of and about buildings, and all other matters contained herein, as indicated for the various districts established by this Ordinance, are hereby adopted and declared to be a part of this Ordinance, and may be amended in the same manner as any other part of this Ordinance. The regulations listed for each district as designated read either from left to right or top to bottom of each schedule.

4-1-2 ~~4-2~~ LISTING OF USES: The listing of any use in said schedule as being permitted in any particular district shall be deemed to be an exclusion of such use from a more restricted district, unless such use is specifically permitted in the more restricted district under the language set forth in the schedule.

#### 4-1-3 ~~4-3~~ USES PERMITTED IN E1 AND E2 DISTRICTS:

- (A) One family dwellings;
- (B) Accessory buildings and uses;
- (C) Fences, hedges and walls; according to the special provisions of Section ~~4-3~~ 7-1-3
- (D) Domestic animals, provided such animals are household pets and that kennels are not maintained;
- (E) Public utility mains, lines and substations where no public office or no repair or storage facilities are maintained;

(F) Signs, subject to Chapter 5.

4-1-4 ~~4-4~~

USES PERMITTED IN R1 DISTRICT:

- (A) One family dwellings;
- (B) Public schools, for elementary and high school education;
- (C) Public parks, playgrounds, libraries, museums and other public recreation facilities;
- (D) Churches and church schools, provided all buildings are located on a lot of at least one acre in size and are not less than fifty feet (50') from any side lot line;
- (E) Municipal buildings and uses;
- (F) Domestic animals, provided such animals are household pets and that kennels are not maintained;
- (G) Home occupations, according to the special provisions set forth in Section 2 of Chapter 7 of this Ordinance.
- (H) Public utility main, lines and substations, where no public office or no repair or storage facilities are maintained;
- (I) Accessory buildings and uses;
- (J) Not more than two (2) roomers in any one dwelling;
- (K) Fences, hedges and walls; according to the special provisions as set forth in Chapter 7, Section 3 of this Ordinance.
- (L) Signs, subject to Chapter 5.

4-1-5 ~~4-5~~

USES PERMITTED IN R2 DISTRICT:

- (A) All uses permitted in the R1 District as stated therefor except for churches and church schools;
- (B) Two family dwellings;
- (C) Multiple family dwellings, provided that the lot upon which any such dwelling is located is of sufficient size so that thirty percent (30%) thereof shall be devoted to functional open space;
- (D) Churches and church schools, provided all buildings are located on a lot which is at least ten thousand (10,000) square feet in size;
- (E) Unit developments subject to Chapter 8 of this Ordinance.

4-1-6 ~~4-6~~

USES PERMITTED IN THE R2UD DISTRICT:

(See Chapter 8, Unit Development)

4-1-7 ~~4-7~~

USES PERMITTED IN THE R3 DISTRICT:

- (A) All uses permitted in the R2 District as stated therefor;
- (B) Automobile parking areas;
- (C) Boarding and rooming houses;
- (D) Colleges and university buildings and uses;
- (E) Community buildings;
- (F) Fraternity and sorority houses;
- (G) Hospitals;
- (H) Medical and dental clinics;
- (I) Professional offices;
- (J) Personal service shops as accessory uses in hospitals, clinics and multiple family dwellings;
- (K) Nursery schools and day care centers for pre-school age children;
- (L) Private schools;
- (M) Rest homes, convalescent homes and nursing homes;
- (N) Membership clubs.

4-1-8 ~~4-8~~

USES PERMITTED IN R3UD DISTRICT:

(See Chapter 8, Unit Development)

4-1-9 ~~4-9~~

USES PERMITTED IN R5 DISTRICT:

- (A) Mobile home parks and mobile home camp areas; both subject to the provisions of Town of Berthoud mobile Home Ordinance.
- (B) Public utility main, lines and substations, where no public office or no repair or storage facilities are maintained;
- (C) Accessory buildings and uses;
- (D) Fences, hedges and walls, according to the special provisions contained in
- (E) Signs, subject to Chapter 5.

4-1-10 ~~4-10~~

USES PERMITTED IN C1 DISTRICT:

The following listed business uses, provided that all such uses shall be subject to the special provisions of Chapter 9 of this Ordinance entitled Undeveloped Business Areas, when such uses are to be located in a block which is less than twenty five percent (25%) occupied with business buildings at the time of passage of this Ordinance.

- (A) All uses permitted in the R3 District as stated therefor;
- (B) Places serving food or beverages for consumption inside of an enclosed building;
- (C) Membership clubs;
- (D) Offices and clinics;
- (E) Neighborhood business uses, including grocery stores, drugstores, gift shops, hardware stores, florist shops, banks, and similar indoor business uses primarily serving the daily needs of the immediate neighborhood, but excluding department stores, discount stores, gasoline service stations and similar business outlets serving a large trading territory. Each individual business in these neighborhood centers shall be operated independently of adjoining uses within an enclosed space not exceeding fifteen thousand (15,000) square feet in area;
- (F) Personal service shops, including barber shops, beauty parlors, shoe repair shops, dry cleaning outlets, and self-service laundries;
- (G) Signs, subject to Chapter 5 and subject to Chapter 9 when applicable;
- (H) Public utility mains, lines and substations, where no repair or storage facilities are maintained; and
- (I) Accessory buildings and uses.

4-1-11 ~~4-1-11~~ USES PERMITTED IN C2 DISTRICT:

The following listed uses, provided that all such uses shall be subject to the special provisions of Chapter 9, Undeveloped Business Areas, when such uses are to be located in a separate block or tract of land which is less than twenty five percent (25%) occupied with business buildings at the time of passage of this Ordinance.

- (A) All uses permitted in the C1 District subject to the use provisions stated therefor;
- (B) Places for the conduct of general retail business, including but not limited to the following:
  - Automobile sales;
  - Automobile repair, when conducted inside a building;
  - Bakeries;
  - Banks, savings and loan and finance;
  - Churches and other places of assembly;

Drugstores;  
Dry goods stores;  
Furniture stores;  
Gasoline service stations;  
Grocery stores and supermarkets  
Hardware stores;  
Hotels and motels;  
Multiple family dwellings;  
Parking lots and parking garages;  
Parks and playgrounds;  
Prinitng and newspaper offices;  
Recreation uses and theaters;  
Restaurants, bars and other eating and drinking places;  
Retail stores;  
Studios;  
T. V. and small appliance repair shops;  
Undertaking establishments;

- (C) Signs, subject to Chapter 5 and subject to Chapter 8 when applicable;
- (D) Where C2 allows mobile home parks and areas for temporary parking of travel trailers, campers and similar traveling units;
- (E) Public utility mains, lines and substations, where no storage facilities are maintained; and
- (F) Accessory buildings and uses.

~~4-1-12 A-12~~ USES PERMITTED IN CM DISTRICT:

- (A) All uses permitted in the C2 District; and
- (B) Commercial, storage and service uses, including but not limited to the following:

Automobile repair shops;  
Blacksmith shops;  
Bottling works;  
Builders' supply yards and lumber yards;  
Cabinet making and carpenter shops;  
Commercial dairies;  
Commercial laundries;  
Dairy processing and distribution plants;  
Dry cleaning plants;  
Frozen food lockers, not including slaughtering on the premises;  
Furniture upholstering;  
Greenhouses;  
Heavy equipment sales and repair;  
Ice and cold storage plants;  
Machine shops;  
Pet stores and veterinary hospitals;  
Plumbing, electrical and carpenter shops;  
Publishing plants;  
Roofing shops;  
Sheet metal shops;  
Tire vulcanizing;  
Transportation depots;  
Warehouses and enclosed storage;

- (C) Signs, subject to Chapter 5;

- (D) Public utility facilities; and
- (E) Accessory buildings and uses;

*4-1-13* ~~4-13~~ USES PERMITTED IN THE M1 DISTRICT:

Any kind of scientific research or manufacturing, compounding, assembling; processing or treatment of products provided the following limitations are on all such uses:

- (A) All permitted principal uses shall be operated entirely within a completely enclosed structure;
- (B) Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which such use is located and be controlled in accordance with the State Air Pollution Laws;
- (C) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing.

*4-1-14* ~~4-14~~ USES PERMITTED IN THE M2 DISTRICT:

- (A) All uses permitted in the CM District as stated therefor;
- (B) Any industrial or manufacturing operation provided the following limitations are placed on all such uses:
  1. Dust, fumes, odors, smoke, vapor, and noise shall be confined to the M2 District and be controlled in accordance with the State Air Pollution Laws;
  2. Outdoor storage, equipment and refuse areas shall be concealed from view from abutting right of ways and from adjoining residential districts.

*4-1-15* ~~4-15~~ USES PERMITTED IN THE ED DISTRICT:

- (A) All uses permitted in the R2 District as stated therefor;
- (B) Special developments such as scientific research laboratories, planned industrial parks, office complexes, limited manufacturing operations, semi-public uses, recreational projects, and similar uses which can be designated, constructed and operated to be compatible with surrounding residential development. No building, structure or premises shall be used, erected or altered for any use until and unless a site plan showing the location of

proposed buildings and other improvements shall have been approved by the Planning Commission following public notice and hearing and subject to the following special conditions and findings:

1. That the contemplated development will be of sustained desirability and stability;
2. That it will be in harmony with the character and appearance of the surrounding neighborhood;
3. That it will be consistent with the overall long range plans of the Town;
4. That it will not result in undue traffic congestion or traffic hazards;
5. That it will be adequately landscaped, buffered and screened;
6. That the area will have traffic access to a major arterial or highway; without passing through a residential area; and
7. That the area will otherwise promote the health, safety and welfare of the Town.

(C) An ED District shall automatically be reconsidered for rezoning to its original classification if a site plan for the area is not approved within one year of the date of the rezoning or if construction is not started in the area within eighteen (18) months after the ED designation is approved for the area.

*4-1-16*  
~~4-1-16~~ E1, E2, R1, R2, R3 DENSITY SCHEDULE: All E1, E2, R1, R2 and R3 Districts shall comply with the following density schedule:

|   | E1 Limited<br>Estate | E2 Estate | R1<br>One<br>Family  | R2 Limited<br>Multiple<br>Family | R3<br>Multiple<br>Family |
|---|----------------------|-----------|--|----------------------------------|--------------------------|
| (1) Minimum Lot Area<br>(sq. ft.) per<br>dwelling | 1 acre               | 10,000    | 6,600  | 6,000                            | 6,000                    |
| per dwelling unit                                 |                      |           |  | 3,500                            | 1,250                    |
| (2) Minimum Lot Width<br>(ft.) per dwelling       | 160                  | 80        | 60   | 60                               | 60                       |
| (3) Minimum Front Yd.<br>(ft.) principal bldg.    | 30                   | 30        | 25   | 25                               | 25                       |
| accessory bldg.                                   | 60                   | 60        | 60   | 45                               | 45                       |
| (4) Minimum Side Yard<br>(feet)                   |                      |           | One (1) ft. for every 2 1/2 ft. or<br>fraction thereof of building height,<br>except no side yard shall be less than<br>5 ft. for any residential use nor less<br>than 25 ft. for any other permitted use. |                                  |                          |

When no dedicated or  
platted alley exists

1 required side yard shall not be less  
than 10 feet except for corner lots  
(does not apply to lots established or  
platted prior to March 11, 1969 ).

|     |   |      |      |      |     |     |
|-----|---|------|------|------|-----|-----|
| (5) | Minimum Rear Yard (ft.)<br>principal bldg.      | 20   | 20   | 20   | 20  | 20  |
|     | A garage with its en-<br>trance facing an alley | 15   | 15   | 15   | 15  | 15  |
|     | Other accessory bldg.                           | 5    | 5    | 5    | 5   | 5   |
| (6) | Minimum Floor Area (sq. ft.)<br>Per dwelling    | 1000 | 1000 | 1000 | 780 | 780 |
|     | Per dwelling Unit                               |      |      |      | 650 | 400 |

4-1-17 ~~4-17~~ COMMERCIAL AND INDUSTRIAL DENSITY SCHEDULE: All C1, C2, CM,  
M1 and M2 Districts shall comply with the following density  
schedule:

|     |  | C1 Lim.<br>Comm. | C2<br>Comm. | CM<br>Comm. | M1 Lim.<br>Ind. | M2<br>Ind. |
|-----|--|------------------|-------------|-------------|-----------------|------------|
| (1) | Minimum Front Setback<br>(ft. from centerline<br>of street)          | 50               | 50          | 50          | 50              | 50         |
| (2) | Minimum Rear Setback<br>(ft. from centerline<br>of alley)            | 20*              | 15*         | 10          | 10              | 10         |
| (3) | Floor Area Ratio<br>(ratio of total floor<br>area to total lot area) | 1:3              | 2:1         | 2:1         | 1:2             | 1:1        |

\*Except that where more than 50 percent of the lots in the block are developed with buildings with less rear setback, the average of such developed lots shall be the minimum requirement for all new buildings or additions in such block.

4-1-18 ~~4-18~~ MOBILE HOME DENSITY SCHEDULE: All R5 Districts shall comply  
with the following density schedule:

|     | Park Site  | Mobile Home Site |
|-----|--|------------------|
| (1) | Minimum Area   | 5 acres          |
| (2) | Minimum Lot Width (ft.)  | 200              |
| (3) | Minimum Yards (ft.)<br>(distance of any building or<br>mobile home from a lot line of<br>the park) | 30               |

## CHAPTER 5

### SIGNS

#### SECTION: 5

5-1-1 ~~5-1~~ Residential Areas  
5-1-2 ~~5-2~~ C1, C2, CM and ED Districts  
5-1-3 ~~5-3~~ M1 and M2 Districts  
5-1-4 ~~5-4~~ General Sign Requirements

5-1-1 RESIDENTIAL AREA: The following signs shall be permitted in the E1, E2, R1, R2, R2UD, R3, R3UD and R5 Districts:

- (A) One identification sign per residential use provided such sign does not exceed one square foot in area and is unlighted.
- (B) One identification sign per public or semi-public use provided such sign does not exceed twenty (20) square feet in area.
- (C) One identification sign per mobile home park or mobile home camp area provided such sign does not exceed twenty (20) square feet in area and is unlighted.
- (D) One sign for the prospective rental or sale of a property provided such sign does not exceed six (6) square feet in area and is unlighted.

5-1-2 ~~5-2~~ C1, C2, CM and ED DISTRICTS: All signs in the C1, C2, CM and ED Districts:

- (A) Shall be for identification of a business or products sold on the premises.
- (B) Shall not be limited in surface area when located within fifteen inches (15") of the exterior walls of the building.
- (C) When projecting or free standing, shall be limited to a total surface area of one square foot of sign (or total signs) for each lineal foot of business building frontage, provided no one sign shall exceed one hundred fifty (150) square feet in area.
- (D) Shall be limited to a maximum height of thirty five feet (35') above ground level.

5-1-3 ~~5-3~~ M1 and M2 DISTRICTS:

- (A) Shall not be limited in surface area or height above ground when located within fifteen inches (15") of the exterior walls of the building.
- (B) Shall be limited to a maximum height of thirty five feet (35') above ground level.
- (C) Shall be limited in surface area of each face of the sign to three hundred (300) square feet.

5-1-4 ~~5-4~~ GENERAL SIGN REQUIREMENTS:

- (A) No "revolving beacon" or "fountain" signs shall be permitted in any district.
- (B) No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.

## CHAPTER 6

### PARKING REGULATIONS

#### SECTION 6

6-1-1 ~~6-1~~ Space Required  
6-1-2 ~~6-2~~ Description of Spaces  
6-1-3 ~~6-3~~ Reduction

6-1-1 ~~6-1~~ SPACE REQUIRED: There shall be required in connection with the construction or addition to any of the following buildings and uses, off-street parking space as hereinafter designated:

- (A) One and two family dwellings -- one space for each dwelling unit;
- (B) Triples and above -- 1 1/2 spaces for each dwelling unit;
- (C) Churches, hospitals, and other public buildings (except schools) -- one space for every two hundred (200) square feet of floor space;
- (D) Medical and dental clinics and professional offices -- one space for every two hundred (200) square feet of floor space;
- (E) Hotels, motels, rooming and boarding houses and similar accommodation units -- one space for every rental unit;
- (F) All business and commercial uses to be located in a block not more than twenty five percent (25%) covered with buildings at the time of passage of this Ordinance -- one space for every four hundred (400) square feet of total floor area.

6-1-2 ~~6-2~~ DESCRIPTION OF SPACES:

- (A) Each off-street parking space shall be not less than ten feet (10') wide and twenty feet (20') long.
- (B) Direct accessways shall be provided from off-street parking to a street or alley, which accessways shall have a minimum width of at least ten feet (10') to a parking lot. The sidelines of accessways shall intersect the abutting street lines approximately at right angles (variations not to exceed twenty (20) degrees).
- (C) All off-street parking areas shall be paved with asphalt, concrete, or equivalent, except parking areas for one and two family dwellings, where surfacing of coarse gravel shall be permitted. All parking areas shall be properly drained.
- (D) All off-street parking areas shall be located within convenient walking distance of the principal building for which the parking area is required.
- (E) All parking aisles and parking spaces shall be entirely within the lot lines, and not on a public right of way. Parking spaces shall be so arranged that no part of any vehicle overhangs the public right of way or obstructs the sidewalk.

6-1-3 ~~6-3~~ REDUCTION: No part of an off-street parking space required for any building or use for the purpose of complying with the provisions hereof shall be included as a part of an off-street parking space similarly required for another building or use.

## CHAPTER 7

### SUPPLEMENTARY REGULATIONS

#### SECTION: 3

- 7-1-1 ~~7-1-1~~ Uses Permitted
- 7-1-2 ~~7-1-2~~ Home Occupations
- 7-1-3 ~~7-1-3~~ Fences
- 7-1-4 ~~7-1-4~~ Minimum Lot Area and Lot Width
- 7-1-5 ~~7-1-5~~ Minimum Height of Buildings
- 7-1-6 ~~7-1-6~~ Minimum Yards and Setbacks
- 7-1-7 ~~7-1-7~~ Minimum Floor Area

7-1-1 ~~7-1-1~~ USES PERMITTED: In any zoning district where a building, structure or use is enumerated, any other building, structure, or use which is similar to those enumerated and not more obnoxious or detrimental to the area in which it is located shall be permitted.

7-1-2 ~~7-1-2~~ HOME OCCUPATIONS: In any district where home occupations are permitted, the establishment and continuance of a home occupation shall be subject to the following requirements:

- (A) Such use shall be conducted entirely within a dwelling and carried on by the inhabitants there and no others.
- (B) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.
- (C) The total area used for such purposes shall not exceed one-half (1/2) the first floor area of the user's dwelling unit.
- (D) There shall be no advertising or other display or indications of home occupation.
- (E) There shall be no retailing or wholesaling of stocks, supplies or products conducted on the premises.
- (F) There shall be no exterior storage on the premises of material used in the home occupation, nor of any highly explosive or combustible material.
- (G) There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (H) A home occupation, including studios or rooms for instruction, shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation.
- (I) In particular, a home occupation includes, but is not limited to the following, provided all requirements contained herein are met: Art studio, dressmaking or millinery work, office for professional services, office for insurance or real estate sales and teaching.
- (J) Ordinarily a home occupation shall not be interpreted to include the following: Clinic, hospital, nursing home, tourist home, animals hospital, or restaurant.

7-1-3

~~7-3~~ FENCES: The following regulations shall govern all fences now

existing or to be constructed within the Town:

- (A) There shall be no barbed wire, electric wire, tin or sheet metal fences constructed within the Town.
- (B) No fence shall be permitted until a plat plan has been presented and a permit has been issued in the manner now provided for the issuance of building permits.
- (C) No fence, wall or other obstruction shall be constructed between the street line and the front setback line of any street, except it shall be permissible to construct a fence of such material or in such manner that visibility through said fence shall not be less than fifty percent (50%), said fence not to exceed forty two inches (42") in height from ground level.
- (D) On any reverse corner lot, no fence shall be constructed between the street line and the front setback line of the adjacent residence whose side yard is the rear line of the corner lot, that shall exceed forty two inches (42") in height from ground level and that does not permit visibility through said fence of a least fifty percent (50%).
- (E) On all corner lots within any residence zones, no fence, wall, shrubbery or sign shall be erected, placed, planted or allowed to grow or maintained within the triangular yard space formed by the intersection of the center lines of the intersecting streets and a line joining points on said street lines sixty feet (60') from the point of intersection of the street center lines.
- (F) Except as hereinabove set forth, fences shall be permitted that do not exceed seven feet (7') in height.
- (G) The Town Superintendent, at his discretion, may require a gate or gates to be placed in any fence constructed in conformance with this Ordinance for the purpose of providing access for fire protection, for meter reading or for the use and maintenance of any existing easement, and is further authorized to promulgate rules as to the location of any such gates.

7-1-4

~~7-4~~ MINIMUM LOT AREA AND LOT WIDTH:

- (A) Established lots. Where an individual vacant lot was held in separate ownership from adjoining properties or was platted and recorded prior to March 11, 1969, and has less area and/or less width than required in other Sections of this Ordinance, such a lot may be occupied according to the permitted uses provided for the district in which such lot is located provided no such lot shall be less than five thousand (5,000) square feet in area nor less than forty feet (40') in width. Two (2) adjacent lots each twenty five feet (25') in width shall be considered one fifty foot (50') lot for purpose of this exception.
- (B) Reduction. No part of an area or width required for a lot for the purpose of complying with the provisions of this Ordinance shall be included as an area or width required for another building.
- (C) Unsubdivided areas. Every dwelling hereinafter erected upon a tract of ground that is not subdivided shall be built on a lot of not less than fourteen thousand (14,000) square feet and a width of not less than one hundred twenty feet (120').
- (D) Street Frontage. No lot shall have a front lot line or street frontage of less than forty feet (40').

## CHAPTER 8

### UNIT DEVELOPMENTS

#### SECTION 8

- 8-1-1 ~~8-1~~ Unit Developments
- 8-1-2 ~~8-2~~ Special Requirements
- 8-1-3 ~~8-3~~ Procedure
- 8-1-4 ~~8-4~~ Information Required
- 8-1-5 ~~8-5~~ Rezoning

8-1-1 ~~8-1~~ UNIT DEVELOPMENTS: A unit development is a project which is permitted to vary minimum lot area, minimum lot width, and minimum yard requirements in order to provide variety and diversity of design while still preserving the unique features of the side and protecting the surrounding neighborhood.

8-1-3 ~~8-2~~ SPECIAL REQUIREMENTS:

- (A) The tract or parcel of land involved shall contain at least two (2) acres and shall be held either in one ownership or be the subject of an application filed jointly by the owners of all the property to be so included.
- (B) In residential areas, the minimum amount of functional open space (exclusive of streets, parking and buildings) shall be thirty percent (30%) of the total acreage.
- (C) Residential unit developments which are within a R3UD District or have at least fifty percent (50%) of their boundaries adjacent to an R3 District or to non-residential Town zoning districts shall have a maximum density of thirty (30) dwelling units per acre. R2UD Districts shall not exceed twelve (12) dwelling units per acre.
- (D) Areas and facilities of joint use shall be retained in title by the developers or deeded to an organization composed of all owners in the development.

8-1-3 ~~8-3~~ PROCEDURE: A unit development proposal shall be processed in the following manner:

- (A) A pre-application discussion should be held between the developer, the Town Superintendent and the Planning Commission.
- (B) The necessary information as specified herein shall be submitted to the Town Office for presentation to the Planning Commission and to the Board of Trustees for their review and approval, if, in their opinion, all conditions required herein are being met.
- (C) Following approval of the Board of Trustees and before a building permit is issued, the unit development plan shall be recorded with the Town Clerk.
- (D) A unit development plan may be amended by the addition of adjacent tracts of land (which may be less than two (2) acres in size) or the original design may be amended, provided all procedures followed are the same as those required for initial approval and that the basic concept of the original plan is preserved.

8-1-4 ~~8-4~~ INFORMATION REQUIRED: An application for unit development shall contain the following information:

- (A) Proposed name of the area;
- (B) Total acreage;
- (C) A site plan showing the proposed location and dimensions of all structures;
- (D) Designation of land to be retained as functional open space, the purpose for which it is to be used, and an explanation of how such open space will be preserved and maintained;
- (E) A circulation plan for vehicles and pedestrians;
- (F) Uses to be developed in the area, and the proposed density of development;
- (G) Topography at two foot (2') intervals;
- (H) A legal description of the property;
- (I) The proposed construction time schedule;
- (J) Screening and major landscape plans; and
- (K) Such additional information as may be requested by the Planning Commission and Board of Trustees in order to grant the exceptions required by the unit development.

*8-1-5 8-5* REZONING: An R2UD or R3UD District shall automatically be reconsidered for rezoning to its original classification, to be established as R1 zoning for new annexations, if a site plan for the area is not approved within one year of the date of the zoning or rezoning or if construction is not started in the area within eighteen (18) months after the R2UD or R3UD designation is approved for the area.

## CHAPTER 9

### UNDEVELOPED BUSINESS AREAS

#### ~~SECTION 9~~ 9-1-1 Undeveloped Business Areas

9-1-1 UNDEVELOPED BUSINESS AREAS: The owner of any unified business center or grouping of business buildings to be located on an undeveloped block (less than twenty five percent (25%) occupied with business uses at the time of the passage of this Ordinance) in a C1 or C2 District shall submit the following information to the Planning Commission and shall agree to comply with the following standards prior to issuance of a building permit for any new construction:

(A) Information regarding the economic feasibility:

1. Proposed trading area,
2. Number of potential customers in the area,
3. Purchasing power of the area, and
4. Existing competition serving the same area.

(B) Description of proposed facilities:

1. Type of stores planned, and
2. Site design, including dimensions of building locations, parking, access points, fences, walls, pedestrian areas, signs, loading and storage areas and landscaping areas.

(C) Proposed time schedule or staging sequence for development.

(D) Required development standards:

1. Off-street parking spaces shall be provided on a minimum basis of two (2) square feet of parking for every one square foot of total business building floor area;
2. Off-street loading spaces shall be provided separate from the off-street parking facilities and removed from pedestrian walks;
3. Large parking areas should be subdivided by landscaping or other physical separations;
4. Whenever a business use abuts or is across a street or alley from a residential zoning district, a solid fence or wall at least six feet (6') in height or a landscaped area at least fifteen feet (15') in width shall be constructed to separate the two (2) districts;
5. All outside storage areas shall be enclosed by a solid fence or wall at least six feet (6') in height;

6. Lights shall not create a glare which is objectionable beyond the boundaries of the business area;

7. Excessive dust, fumes, noise and odors shall be confined within the boundaries of the business area.

CHAPTER 10  
NONCONFORMING BUILDINGS AND USES

SECTION 10

- 10-1-1 Continuation
- 10-1-2 Repairs and Maintenance
- 10-1-3 Restoration
- 10-1-4 Abandonment
- 10-1-5 Change in Use
- 10-1-6 Extensions

10-1-1 ~~10-1~~ CONTINUATION: Except as provided in this Chapter, the lawful use and location of any building or land existing at the time of enactment of this Ordinance or any amendments to this Ordinance, may be continued even though such use or location does not conform to the requirements of this Ordinance.

10-1-2 ~~10-2~~ REPAIRS AND MAINTENANCE: Ordinary repairs and maintenance of a non-conforming building shall be permitted.

10-1-3 ~~10-3~~ RESTORATION: A nonconforming building which has been damaged by fire or other unavoidable causes may be restored to its original condition, provided such work is commenced within one year of such calamity.

10-1-4 ~~10-4~~ ABANDONMENT: Whenever a nonconforming use has been discontinued for a period of sixty (60) days, such use shall not thereafter be re-established, and any future use shall be in conformance with the provisions of this Ordinance.

10-1-5 ~~10-5~~ CHANGE IN USE: A nonconforming use shall not be changed to a use of less restrictive classification; such nonconforming use may, however, be changed to another use of the same or more restrictive classification.

10-1-6 ~~10-6~~ EXTENSIONS: A nonconforming use shall not be extended except as herein provided.

## CHAPTER 11

### AMENDMENTS

#### ~~SECTION~~

11-1-1 ~~11-1~~ General Procedure  
11-1-2 ~~11-2~~ Special Procedure

11-1-1 GENERAL PROCEDURE: Amendments to this Ordinance shall be in accordance with the laws of the State of Colorado which require the following action before adoption of any such amendments:

- (A) Study and recommendation regarding the proposed amendment by the Planning Commission of the Town.
- (B) Completion of a public hearing before the Board of Trustees after at least fifteen (15) days' notice of the time and place of such hearing shall have been given by at least one publication in a newspaper of general circulation within the Town.

11-1-2 ~~11-2~~ SPECIAL PROCEDURE: Before submitting a report and recommendation on any proposed amendment to this Ordinance as required above, the Planning Commission shall hold a public hearing on the proposed amendment in which event the following special conditions shall be required:

- (A) Notice of said hearing shall be published once in a newspaper of general circulation within the Town at least seven (7) days prior to the hearing date.
- (B) For proposed amendments to the Zoning District Map, a fee of fifty dollars (\$50.00) shall be charged to cover the cost of advertising and processing. For all other proposed amendments a fee of twenty five dollars (\$25.00) shall be charged to cover such costs.

## CHAPTER 12

### BOARD OF ADJUSTMENT

SECTION: 12

12-1-1 Organization  
12-1-2 Appeals  
12-1-3 ~~Procedure~~

12-1-3

12-1-1 ORGANIZATION: The Board of Adjustment of the Town shall have the following functions and powers in respect to this Ordinance.

- (A) Members: The Board of Adjustment shall consist of five (5) members who shall be appointed by the Town for at least one year immediately preceding the date of their appointment, and shall not hold any other office or position in the Town administration.
- (B) Term of Office: Appointments to the Board of Adjustment shall be for a period of three (3) years, except when vacancies occur prior to the expiration of a regular term, they shall be filled in the same manner as regular appointments but shall serve only until the expiration of the term in which they vacancy occurred, and except that the original appointments to said Board shall be two (2) members for three (3) years, two (2) members for two (2) years and one member for one year.
- (C) Chairman: Members of the Board of Adjustment shall elect from among themselves a chairman to serve for a term of one year.
- (D) Voting: The concurring vote of four (4) members of the Board of Adjustment shall be required to approve any matter presented to such Board.
- (E) Expenses: Members of the Board of Adjustment shall not receive compensation for personal services.
- (F) Removal of Members: The Board of Trustees shall have the power to remove any member of the Board of Adjustment for cause after official public hearing.

12-1-2 ~~12-2~~ APPEALS:

- (A) By Whom Taken: Appeals to the Board of Adjustment may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of this Ordinance. Appeals may be taken by any officer, department, board or bureau of the Town affected by the granting or refusal of a building permit or other decisions of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of this Ordinance.
- (B) Appeals to the Board of Adjustment must be made in writing and filed with the Board of Adjustment within sixty (60) days of the act or failure to act or decision appealed from.
- (C) Powers of the Board of Adjustment Upon Appeals: Upon appeals, the Board of Adjustment shall have the following powers:
  1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this Ordinance.

2. To hear and decide, in accordance with the provisions of this Ordinance as hereafter provided, requests for special exceptions or for interpretation of the Zoning Map or for conditional use permits as may be provided in this Ordinance.

3. Whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Ordinance or by reason of exceptional topographic conditions of such piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar and exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship; provided however, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this zoning Ordinance or the comprehensive plans of the Town; that there are exceptional circumstances applying to the specific piece of property which do not apply generally to the remaining property in the same zoning area or neighborhood.

4. To permit the extension of a nonconforming use throughout a lot or any building thereon upon such terms and conditions as the Board of Adjustment shall deem just and proper; provided, that such extension may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

*12-13 12-3*  
PROCEDURE:

- (A) All meetings and hearings of the Board of Adjustment shall be open to the public.
- (B) All hearings of the Board of Adjustment upon any appeal shall be held not earlier than fifteen (15) days from the date that publication of the notice of said hearing in a newspaper of general circulation in the Town shall have been made. Such publication shall contain the name of the applicant, the description of the property involved, a statement of the nature of the request, and the time and place of the hearing.
- (C) Upon application for variances relating to the use requirements of this Ordinance, the Board of Adjustment shall send a written notice of said hearing by first class mail at least seven (7) days prior to the hearing date to owners of property within three hundred feet (300') of the property in question as such ownership is available in the Town office. Failure to mail such notice to every owner shall not affect the validity of any hearing or determination of the Board of Adjustment.
- (D) Upon application for variances which do not relate to the use requirements of this Ordinance, the Board of Adjustment shall send a written notice of said hearing by first class mail at least seven (7) days prior to the hearing date to owners of property adjacent to the property in question as such ownership is available in the Town office. Failure to mail such notice to every owner shall not affect the validity of any hearing or determination of the Board of Adjustment.
- (E) Unless otherwise stated in the Board of Adjustment's minutes no building permit for a variance granted by the Board of Adjustment shall be issued after six (6) months from the date such variance was authorized.
- (F) A fee of thirty dollars (\$30.00) shall be charged for all variance requests which relate to the use requirements of this Ordinance. For all other variance requests a fee of fifteen dollars (\$15.00) shall be charged.

## CHAPTER 13

### INTERPRETATION; VALIDITY; ENFORCEMENT

#### ~~SECTION 13~~

13-1-1 ~~13-1~~ Interpretation

13-1-2 ~~13-2~~ Validity

13-1-3 ~~13-3~~ Enforcement

13-1-3

13-1-1 ~~13-1~~ INTERPRETATION: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

13-1-2 ~~13-2~~ VALIDITY: Should any Section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be invalid.

13-1-3 ~~13-3~~ ENFORCEMENT: It shall be unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the Town without obtaining a zoning permit from the Building Inspector or his authorized representative, and no permit shall be issued unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to the zoning regulations then in effect. For all zoning permits required, a fee set by the Board of Trustees shall be charged by the Town, except that all construction with a total cost of less than fifty dollars (\$50.00) shall be exempt from paying a zoning permit fee.

CHAPTER 14  
VIOLATIONS; PENALTY

SECTION: 14

14-1-1 ~~14~~ General  
14-1-2 ~~14~~ Legal Action

14-1-1 ~~14~~ GENERAL: It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any provision of this Ordinance, or any amendment thereof. Any person, either as owner, lessee, occupant or otherwise, who violates any of the provisions of this Ordinance, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety (90) days or both. Each day during which such violation shall continue shall be deemed to be a separate offense.

14-1-2 ~~14~~ LEGAL ACTION: In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or any land is proposed to be used, in violation of any provision of this Ordinance or any amendment thereof, the Board of Trustees, the Town Attorney or any owner of real estate within the Town, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

CHAPTER 15

FIRE ZONES

15-1-1 ~~15-1~~ Fire Zone No. 1 shall include all areas zones as C1, C2, CM, M1, M2 and ED.

15-1-1 ~~15-2~~ Fire Zone No. 2 shall include all areas zoned as R3 and R3UD.

15-1-2 ~~15-3~~ Fire Zone No. 3 shall include all areas zoned as E1, E2, R1, R2, R2UD and R5.

7-1-5 ~~7-5~~ MINIMUM HEIGHT OF BUILDINGS: Basement Structures. All dwellings

shall be constructed with at least seventy five percent (75%) of the roof surface higher than eight feet (8') from grade.

7-1-6 ~~7-6~~ MINIMUM YARDS AND SETBACKS:

- (A) Major Highway Setbacks. The setback for any yard adjacent to an official U. S. or State designated right of way shall be one hundred ten feet (110') from the centerline of the right of way; except that where more than fifty percent (50%) of the block is developed with buildings having less setback, the average front line of such buildings shall be the minimum setback requirement for all new construction in such developed block.
- (B) Developed Areas. In an E1, E2, R1, R2 and R3 District, where lots comprising fifty percent (50%) or more of the frontage on one side of a street between intersecting streets have been improved with buildings at the time of passage of this Ordinance, the average front yard or setback of such buildings shall be the minimum front yard or setback required for all new construction in such block.
- (C) Reduction. No part of a yard required for any building for the purpose of complying with the provisions of this Ordinance shall be included as a yard for another building, and all yards shall be open and unobstructed except as otherwise provided herein.
- (D) Architectural Features. Cornices, canopies, eaves or similar architectural features may extend into a required yard not more than two feet (2').
- (E) Fire Escapes. Fire escapes may extend into a required yard not more than six feet (6').
- (F) Reversed Corner Lots. The side yard along the street side of a reversed corner lot shall be not less than the required front yard for principal buildings along such side street.
- (G) Normal Corner Lots. The side yard along the street side of a normal corner lot (not a reverse corner lot) shall be one-half (1/2) the front yard requirement for the zone in which such lot is located.
- (H) Accessory Buildings. Permitted accessory buildings may be located in the required side or rear yard for a principal building provided such accessory buildings are located at least seven and one-half feet (7 1/2') from any principal building, or other accessory buildings.

7-1-7 ~~7-7~~ MINIMUM FLOOR AREA: In determining the minimum floor area as required, all measurements shall be along outside walls of the living area, not including garage or carport area.