

**TITLE 9**  
**ZONING REGULATIONS**

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## CHAPTER 1

**INTRODUCTION; GOALS; PURPOSE**

## SECTION:

- 9-1-1: Introduction  
 9-1-2: Goals

9-1-1: **INTRODUCTION:**

- A. The primary purpose of the comprehensive plan for the town is to accommodate growth while preserving existing values, all relative to a mandate of the citizens of this community. The plan brings to the citizens the concern for attractive, healthy, safe and convenient areas in which to live, work and play.
- B. The plan in the beginning is an attempt to awaken an interest in the needs of the community, to obtain maximum benefits from the local population and from economic resources, economic land use patterns, the system of streets, sites for schools, parks and open spaces, public buildings, utilities and other facilities. The plan indicates acknowledgment of changing situations as growth and development make their impact. (Ord. 11.01, 6-25-1981)

9-1-2: **GOALS:** The following ideas, expressed as goals, are centered on the proposition that the community citizens cherish the rural lifestyle and value open space, and that standard of living includes an awareness of the environmental qualities to be maintained for the present and future Darby residents:

## A. Historic:

1. To preserve and enhance sites and structures that are significant in Darby and in American history and culture.

2. To avoid adverse impacts on established or potentially historic properties.

**B. Comprehensive Plan:**

1. To assure that the planning process not become static, but be an ongoing process with subsequent development.

2. To provide for the orderly development and expansion of the community.

3. To plan for periodic review and modification of the plan at intervals of not more than five (5) years.

**C. Housing:**

1. To cooperate with and promote the efforts of the public-private housing programs, agencies and institutions in providing the opportunity for suitable family housing.

2. To recommend that the legislature enact enabling legislation so that residential and commercial buildings are constructed to a minimum standard for sound construction and that existing housing meets minimum safety standards.

**D. Natural Resources:**

1. To maintain and conserve the natural resources found in our community, which represent an opportunity for the quality of life enjoyed by the residents.

2. To encourage the maintenance and preservation of high quality water through the protection from pollution of underground water aquifers.

**E. Land Use:**

1. To carry out policies of land use development within the community which consider economic, social and environmental impacts.

2. To encourage expansion of public facilities and services, while keeping the expenditures at a level acceptable to Darby taxpayers.

3. To encourage those policies and plans that promote our natural environment and would appeal to the public for their recreation, touring wants and retirement living.

4. A list of some locally suggested objectives for the Darby community follows:

a. Encourage tourism.

b. Encourage mining.

c. Encourage the development of Darby as a retirement center.

d. Community support for multiple use management of natural resources on the Bitterroot national forest is necessary to maintain the existing primary industry: timber.

e. Continue support for new commercial and shopping services that fulfill local community needs.

F. Transportation:

1. To provide an adequate and functional street network for all the residents of the community.

2. To encourage the improvement of public transportation and commuter service.

G. Citizen Involvement:

1. To assure that citizens are informed and that their responses are encouraged in the development of the comprehensive plan.

2. To assure that citizens' responses do affect the decision making process.

3. To maximize the number of informed citizens reacting to the plan now and in the future.

To this end, this plan and the zoning ordinance that follows, were developed by the Darby zoning commission, the citizens of Darby and the Darby town council for the health, welfare and safety of the citizens of Darby. (Ord. 11.01, 6-25-1981)



CHAPTER 2  
**DEFINITIONS**

**SECTION:**

- 9-2-1: Construction Of Words  
9-2-2: General Definitions

9-2-1: **CONSTRUCTION OF WORDS:** Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure"; the words "shall" and "will" are mandatory and not directive; the word "may" is permissive; the word "should" is a preferred requirement; the word "lot" shall include the word "plot", "piece", and "parcel". (Ord. 11.01, 6-25-1981)

9-2-2: **GENERAL DEFINITIONS:** For the purpose of this title, certain terms and words are hereby defined:

**ACCESSORY BUILDING:** A subordinate building or structure on the same lot, or part of main building, exclusively occupied by or devoted to a use incidental to those of the main use.

**ACCESSORY USE:** A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

**AGRICULTURE:** Art and science of cultivation of the ground, including harvesting of crops, tillage, farming, horticulture; the art and science of the production of plants useful to man.

**APARTMENT:** A room or suite of rooms located in a one-, two-, or multiple-family structure, which shall include a bath and kitchen accommodations,

intended or designed for use as an independent residence by an individual or single family.

**APARTMENT  
BUILDING:**

A multiple-family dwelling originally designed and constructed to accommodate three (3) or more apartments, designed with more than one dwelling unit connecting to a common corridor or entranceway, in contrast to single- or two-family dwellings converted for multiple-family use or "attached dwellings" (party wall type) as defined herein.

**AUTOMOTIVE  
SERVICE STATION:**

Any building or premises used for the dispensing or sale of automotive fuels, lubrication oil or grease, tires, batteries, or minor automobile accessories. Services offered may include the installation of tires, batteries, and minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered as incidental to the conduct of a public garage, the premises shall be classified as a public garage.

**BLOCK:**

The property abutting on one side of a street and lying between the two (2) nearest intersecting streets and railroad right of way, waterway, or other barrier to, or gap in, the continuity of development along such street.

**BUILDING:**

Any structure, or part thereof, built for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**BUILDING AREA:**

That portion of the lot that can be occupied by structures, excluding the front, rear and side yards.

**BUILDING, MAIN:**

A structure in which is conducted the principal use of the lot on which the structure is located.

**BUILDING SITES:**

A parcel of land occupied or intended to be occupied by uses and buildings permitted thereon and which includes such size, dimension, open space, and parking as are required



in the zoning district in which such site is located; and which site abuts a public street, road or highway, or which abuts a private road conforming to approved standards.

- CONDITIONAL USE:** A use which is not allowed in the zone as a matter of right, but which is permitted upon findings of the town council that under the particular circumstances present, such use is in harmony with the principal permitted uses of the zone. Allowable conditional uses are specifically listed under the district regulations. Uses not so listed shall not be allowed as conditional uses.
- DWELLING:** A building, or portion thereof, designed or used exclusively for residential occupancy, including one-family, two-family, and multiple-family units, but not including hotels, motels, boarding or lodging houses.
- DWELLING, ATTACHED (GROUP, ROW OR TOWN HOUSE):** A dwelling joined to other dwellings by a party wall or walls.
- DWELLING, DETACHED:** A dwelling entirely surrounded by open space, said open space being on the same lot as the dwelling.
- DWELLING, MOBILE HOME:** A detached residential dwelling unit designed for transportation on streets or highways on its own wheels or upon a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, i.e., location on jacks or other temporary or permanent foundation, connections to utilities and the like. A "travel trailer" is not to be considered as a mobile home.
- DWELLING, MULTIPLE-FAMILY:** A dwelling containing three (3) or more dwelling units designed with more than one dwelling unit connecting to a common corridor or entrance-

	way, originally constructed for said purpose; and not including converted dwellings or "attached row dwellings" (party wall type) as defined herein.
DWELLING, SINGLE-FAMILY:	A detached dwelling containing accommodations for and intended for occupation by one family only.
DWELLING, TWO-FAMILY:	A dwelling designed exclusively for occupancy by two (2) families living independently of each other.
FAMILY:	One or more persons occupying a single dwelling unit; provided, that unless all members are related by blood or marriage, no such family shall contain over five (5) persons; but further provided, that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.
GARAGE, PRIVATE:	An accessory building or portion of a main building on the same lot and used for the storage only of private passenger motor vehicles, not more than two (2) of which are owned by other than the occupants of the main building.
GARAGE, PUBLIC:	A building or portion of a building, except any herein defined as a "private garage" or as a "repair garage", used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire, in which any sale of gasoline, oil and accessories is only incidental to the principal use.
GARAGE, REPAIR:	A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments, or junkyards.
HOME OCCUPATION:	An occupation conducted in a dwelling unit, provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five percent (25%) of the floor area of the dwelling shall be used in the conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three (3) square feet in area, nonilluminated, and mounted flat against the wall of the principal building;
- D. No home occupation shall be conducted in any accessory building except with permission from the town council;
- E. There shall be no sales room in connection with such home occupation;
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any

- radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- HOTEL:** A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which there are more than ten (10) sleeping rooms usually occupied singly and no provision made for cooking in any individual room or apartment.
- JUNKYARD:** Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.
- KENNEL:** A place where three (3) or more dogs or cats are kept, whether as pets or commercially.
- LODGING HOUSE:** A building or place where lodging or lodging and boarding is provided (or equipped to provide lodging regularly) by prearrangement for definite periods of time, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.
- LOT:** Land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under these regulations and having its principal frontage upon a street or officially approved place.
- LOT, CORNER:** A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, two (2) cords of which form an interior angle of one hundred thirty five degrees (135°) or less.
- LOT COVERAGE:** The area of a zoning lot occupied by the principal building or building and accessory buildings.

<b>LOT DEPTH:</b>	The mean horizontal distance between the front and rear lot lines.
<b>LOT, DOUBLE FRONTAGE:</b>	An interior lot having frontage on two (2) parallel or approximately parallel streets.
<b>LOT, INTERIOR:</b>	A lot other than a corner lot.
<b>LOT WIDTH:</b>	The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building line.
<b>MOBILE HOME PARK:</b>	Any plot of ground upon which two (2) or more mobile homes occupied for dwelling or sleeping purposes are located; regardless of whether a charge is made for such accommodation.
<b>MOTEL:</b>	A group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, and where a garage is attached to or a parking space is conveniently located to each unit, all for the temporary use by automobile tourists or transients, and such term shall include tourist courts, motor courts, automobile courts and motor lodges.
<b>NONCONFORMING USE:</b>	Any building or land lawfully occupied by a use at the time of passage of these regulations or amendment thereto, which does not conform after the passage of these regulations or amendment thereto with the use regulations of the district in which it is situated.
<b>PARKING SPACE:</b>	A land area of not less than one hundred eighty (180) square feet exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be usable for the parking of a motor vehicle off of, but so located as to be readily accessible to, a public street or alley.

**REST HOME,  
NURSING HOME, OR  
CONVALESCENT  
HOME:**

A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for treatment of disease or injury.

**SIGNS:**

Any outdoor advertising having a permanent location on the ground, or attached to or painted on a building, including bulletin boards, billboards, and poster boards, or any device designed to inform or attract attention.

**STORY:**

That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling next above it.

**STRUCTURAL  
ALTERATIONS:**

Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

**STRUCTURE:**

Anything constructed or erected, the use of which required permanent location on the ground or attached to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

**TRAVEL TRAILER:**

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet (8') while in transit.

**USE:**

The purpose for which land or premises or a building structure thereon is designed, arranged, intended or maintained, or for which it is or may be occupied or maintained.

- USE, ACCESSORY:** A use incidental or accessory to the principal permitted use of a lot or building located on the same lot as the accessory use.
- VARIANCE:** The relaxation of the terms of the zoning regulations in relation to height, area, size, and open spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.
- WATER AND SEWER SYSTEMS, CENTRAL:** Utility systems serving a group of buildings, lots, or areas, all connected to the same source of supply or discharge point.
- WORKSHOP, PRIVATE:** An accessory building or portion of a main building on the same lot and for the use of the occupants only.
- YARD:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
- YARD, FRONT:** A yard extending across the front of the lot between the side lot lines and lying between the front property line of the lot and the nearest line of the building.
- YARD, REAR:** An open space unoccupied except for accessory buildings on the same lot with a building between the rear line of the building and the rear line of the lot, for the full width of the lot.
- YARD, SIDE:** An open, unoccupied space on the same lot with a building between the building and the side line of the lot and extending from the front lot line to the rear yard.

9-2-2

9-2-2

ZONING MAP:

The map incorporated into this title as a part hereof, designating the zoning districts. (Ord. 11.01, 6-25-1981; amd. 2006 Code)



## CHAPTER 3

**DISTRICTS ESTABLISHED; REGULATIONS**

## SECTION:

- 9-3-1: Official Zoning Map
- 9-3-2: Rules For Interpretation Of District Boundaries
- 9-3-3: Application Of District Regulations

9-3-1: **OFFICIAL ZONING MAP:**

- A. **Districts Established; Adoption:** The town is hereby divided into zones, or districts, as shown on the official zoning map. The official zoning map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this title.
- B. **Identification:** The official zoning map shall be identified by the signature of the mayor attested by the town clerk-treasurer and bearing the seal of the town under the following words: "This is to certify that this is the Official Zoning Map referred to in section 9-3-1 of the town code of the town of Darby, Montana", together with the date of the adoption hereof.
- C. **Changes:**
  - 1. **Authorized:** If, in accordance with the provisions of this title and Montana Code Annotated title 76, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the town council, with an entry on the official zoning map as follows: "On (date), by official action of the Town Council, the following (change, changes) were made in the Official Zoning Map: (brief description of nature of changes)", which entry shall be signed by the mayor and attested by the town clerk-treasurer. No amendment to this title which involves matter portrayed on the official zoning map shall become effective until after such change and entry have been made on said map.

2. Unauthorized; Penalty: No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedure set forth in this title. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this title and punishable as provided under section 9-10-4 of this title.

- D. Final Authority: Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the town clerk-treasurer, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.
- E. Replacement Of Official Zoning Map: In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, 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 official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the town clerk-treasurer, and bearing the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance Number 11.01 of the Town of Darby, Montana".

Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment. (Ord. 11.01, 6-25-1981)

9-3-2: **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES:** Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- A. Centerlines: Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.

- B. **Platted Lot Lines:** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. **Town Limits:** Boundaries indicated as approximately following town limits shall be construed as following such town limits.
- D. **Railroad Lines:** Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. **Shorelines:** Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- F. **Parallel To Or Extensions Of Features:** Boundaries indicated as parallel to or extensions of features indicated in subsections A through E of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. **Town Council Interprets Boundaries:** Where physical or cultural features that exist on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections A through F of this section, the town council shall interpret the district boundaries.
- H. **When Boundaries Divide Lot:** Where a district boundary line divides a lot which was in single ownership at the time of passage hereof, the town council may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty feet (50') beyond the district line into the remaining portion of the lot. (Ord. 11.01, 6-25-1981)

**9-3-3: APPLICATION OF DISTRICT REGULATIONS:** The regulations set by this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for

the district in which it is located. Residences may be built or rebuilt in the commercial district; however, no commercial buildings may be built or rebuilt in the residential district.

- B. No building or other structure shall hereafter be erected or altered:
1. To exceed the height or bulk;
  2. To accommodate or house a greater number of families;
  3. To occupy a greater percentage of lot area;
  4. To have narrower or smaller rear yards, front yards, side yard or other open spaces;
- than herein required, or in any other manner contrary to the provisions of this title.
- C. No part of a yard, or other open space, or off street parking or loading space required about or in connection with any building for the purpose of complying with this title, shall be included as part of a yard, open space, or off street parking or loading spaces similarly required for any other building.
- D. No yard or lot existing at the time of passage hereof shall be reduced in dimension or area below the minimum requirements set forth herein. Any change in boundary lines of any lot/lots must first be approved by the town council. Yards or lots created after the effective date hereof shall meet at least the minimum requirements established by this title.
- E. All territory which may hereafter be annexed to the town shall be considered to be in the single-family district until otherwise classified.
- F. Nothing in this title shall be construed to in any way effect or repeal any provision of any chapter relating to fire limits or fire hazards. (Ord. 11.01, 6-25-1981)

## CHAPTER 3

## DISTRICTS ESTABLISHED; REGULATIONS

**ARTICLE A. R-1 ONE-FAMILY RESIDENTIAL DISTRICT**

## SECTION:

9-3A-1:	Intent
9-3A-2:	Uses And Structures
9-3A-3:	Minimum Lot Requirements
9-3A-4:	Minimum Yard Requirements
9-3A-5:	Maximum Lot Coverage
9-3A-6:	Maximum Height
9-3A-7:	Off Street Parking And Loading
9-3A-8:	Signs

9-3A-1: **INTENT:** The R-1 one-family residential district is established to allow low density dwelling areas and certain public utilities to be protected from encroachment of incompatible uses and to protect the health, safety and general welfare of persons residing in the district. (Ord. 11.01, 6-25-1981)

9-3A-2: **USES AND STRUCTURES:**

## A. Permitted principal uses and structures:

Agriculture.

Churches.

Community centers.

Libraries.

One-family dwellings.

Parks.

Playgrounds.

Schools.

B. Permitted accessory uses and structures:

1. Uses: Home occupations.

2. Structures:

Garage.

Storage shed.

Workshop.

C. Special exceptions: After public notice and hearing and appropriate safeguards, the board of adjustment may permit as special exceptions prohibited uses and structures.

D. Prohibited uses and structures: Mobile home not on cement or cement block foundation, skirted and with plumbing and electric meeting the Montana state code. (Ord. 11.01, 6-25-1981)

9-3A-3: **MINIMUM LOT REQUIREMENTS:** The minimum area and width of the lots shall be seventy five feet by one hundred twenty five feet (75' x 125') (9,375 square feet). The house shall be a minimum of eight hundred (800) square feet. (Ord. 11.01, 6-25-1981)

9-3A-4: **MINIMUM YARD REQUIREMENTS:**

A. Depth of front and rear yard:

1. Front: Twenty five feet (25').

2. Rear:

a. Principal structure: Twenty five feet (25').

b. Accessory structure: Seven and one-half feet (7 $\frac{1}{2}$ ').

- B. Width of side yard: Five feet (5') on each side except on a corner lot, in which case, there shall be not less than fifteen feet (15') on street side. (Ord. 11.01, 6-25-1981)

9-3A-5: **MAXIMUM LOT COVERAGE:** The maximum lot coverage by all buildings shall be seventy five percent (75%). (Ord. 11.01, 6-25-1981)

9-3A-6: **MAXIMUM HEIGHT:** The maximum height of structures shall be two (2) stories (24 feet from eaves of roof)<sup>1</sup>. (Ord. 11.01, 6-25-1981)

9-3A-7: **OFF STREET PARKING AND LOADING<sup>2</sup>:** Two (2) parking spaces per family unit. (Ord. 11.01, 6-25-1981)

9-3A-8: **SIGNS:** No signs intended to be read off the premises shall be permitted except as stated in supplemental district regulations, section 9-4-5 of this title. (Ord. 11.01, 6-25-1981)

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1. See title 7, chapter 1 of this code.

2. See also subsection 9-6-4B of this title.





## CHAPTER 3

## DISTRICTS ESTABLISHED; REGULATIONS

**ARTICLE B. R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

## SECTION:

- 9-3B-1: Intent
- 9-3B-2: Uses And Structures
- 9-3B-3: Minimum Lot Requirements
- 9-3B-4: Minimum Yard Requirements
- 9-3B-5: Maximum Lot Coverage
- 9-3B-6: Maximum Height
- 9-3B-7: Off Street Parking And Loading
- 9-3B-8: Signs

9-3B-1: **INTENT:** The R-2 multiple-family residential district is established to provide for desired expansion of apartment houses and other multiple-dwelling units. (Ord. 11.01, 6-25-1981)

9-3B-2: **USES AND STRUCTURES:**

## A. Permitted principal uses and structures:

Same as R-1.

Condominiums.

Mobile home park with special permit on three and one-half (3<sup>1</sup>/<sub>2</sub>) acre site.

Multiple-family dwellings.

## B. Permitted accessory uses and structures:

Buildings for recreation.

Garages.

Storage sheds.

- C. Special exceptions: Same as R-1.
- D. Prohibited uses and structures: Same as R-1. (Ord. 11.01, 6-25-1981)

**9-3B-3: MINIMUM LOT REQUIREMENTS:**

- A. Two-family double lot: One hundred fifty feet by one hundred twenty five feet (150' x 125') (10,000 square feet).
- B. Three-family; three lots: Two hundred twenty five feet by one hundred twenty five feet (225' x 125') (12,000 square feet).
- C. Over three units: Two thousand (2,000) square feet per family unit. (Ord. 11.01, 6-25-1981)

**9-3B-4: MINIMUM YARD REQUIREMENTS:**

- A. Depth of front and rear yard:
  - 1. Front: Twenty five feet (25').
  - 2. Rear:
    - a. Principal structure: Twenty feet (20').
    - b. Accessory structure: Seven and one-half feet (7<sup>1</sup>/<sub>2</sub>').
- B. Width of side yard: Same as R-1. (Ord. 11.01, 6-25-1981)

- 9-3B-5: MAXIMUM LOT COVERAGE:** The maximum lot coverage by all buildings shall be ninety four percent (94%). (Ord. 11.01, 6-25-1981)

9-3B-6

9-3B-8

9-3B-6:       **MAXIMUM HEIGHT:** The maximum height of structures shall be the same as the R-1 district. (Ord. 11.01, 6-25-1981)

9-3B-7:       **OFF STREET PARKING AND LOADING:** Off street parking and loading per family unit shall be as required in subsection 9-6-4B of this title. (Ord. 11.01, 6-25-1981; amd. 2006 Code)

9-3B-8:       **SIGNS:** Limitations on signs are the same as R-1. (Ord. 11.01, 6-25-1981)



## CHAPTER 3

## DISTRICTS ESTABLISHED; REGULATIONS

**ARTICLE C. C-1 COMMERCIAL DISTRICT**

## SECTION:

9-3C-1:	Intent
9-3C-2:	Uses And Structures
9-3C-3:	Minimum Lot Requirements
9-3C-4:	Minimum Yard Requirements
9-3C-5:	Maximum Lot Coverage
9-3C-6:	Maximum Height
9-3C-7:	Off Street Parking And Loading
9-3C-8:	Signs

9-3C-1: **INTENT:** The C-1 commercial district is established to provide a centralized location for general business retail activities so as to be compatible with other adjacent uses and to strengthen the business level of certain commercial uses. (Ord. 11.01, 6-25-1981)

9-3C-2: **USES AND STRUCTURES:**

## A. Permitted principal uses and structures:

Auto and truck repair garages.

Bowling alleys.

Churches.

Clinics.

Commercial uses necessary to neighborhood.

Community centers.

Dry cleaning.  
Food services.  
Hospitals.  
Hotels and apartments.  
Laundromats.  
Libraries.  
Motels.  
Offices.  
Parks.  
Playgrounds.  
Private clubs and lodges.  
Rental shops.  
Repair shops.  
Residences.  
Schools.  
Service stations.  
Stores.  
Taverns.  
Theaters.

- B. Permitted accessory uses and structures: Accessory buildings and uses customarily incident to uses permitted in this district.
- C. Special exceptions: Same as R-1.

D. Prohibited uses and structures:

Same as R-1.

Junkyard and salvage. (Ord. 11.01, 6-25-1981)

9-3C-3: **MINIMUM LOT REQUIREMENTS:**

- A. Dwellings: Minimum requirements for dwellings are the same as R-1 or R-2.
- B. Commercial: There are no commercial minimum lot requirements. (Ord. 11.01, 6-25-1981)

9-3C-4: **MINIMUM YARD REQUIREMENTS:**

- A. Depth of front and rear yard:
  - 1. Front: Fifty feet (50') for parking only.
  - 2. Rear: As required for loading area.
- B. Width of side yard: No side yard required except on corner lots, in which case there shall be a side yard of not less than fifteen feet (15') on the street side. If the street is on a state or federal highway, the side yard shall be not less than fifteen feet (15') when abutting a dwelling in the district. (Ord. 11.01, 6-25-1981; amd. 2006 Code)

9-3C-5: **MAXIMUM LOT COVERAGE:** The maximum lot coverage by all buildings shall be ninety six percent (96%). (Ord. 11.01, 6-25-1981)

9-3C-6: **MAXIMUM HEIGHT:** The maximum height of structures shall be the same as the R-1 district. (Ord. 11.01, 6-25-1981)

9-3C-7: **OFF STREET PARKING AND LOADING:**

Dwelling same as R-1 or R-2.

9-3C-7

9-3C-8

Loading space same as M-1.

Off street parking and loading shall be as required in subsection 9-6-4B of this title. (Ord. 11.01, 6-25-1981)

9-3C-8:       **SIGNS:** Limitations on signs are the same as in the R-1 district. (Ord. 11.01, 6-25-1981)



CHAPTER 3  
DISTRICTS ESTABLISHED; REGULATIONS  
**ARTICLE D. M-1 LIGHT INDUSTRY**

## SECTION:

9-3D-1:	Intent
9-3D-2:	Uses And Structures
9-3D-3:	Minimum Lot Requirements
9-3D-4:	Minimum Yard Requirements
9-3D-5:	Maximum Lot Coverage
9-3D-6:	Maximum Height
9-3D-7:	Off Street Parking And Loading
9-3D-8:	Signs

9-3D-1: **INTENT:** The M-1 industrial district is established for the purpose of allowing certain industrial uses which do not:

- A. Require intensive land coverage.
- B. Generate large volumes of vehicular traffic.
- C. Create obnoxious sounds, glare, dust or odor. (Ord. 11.01, 6-25-1981)

9-3D-2: **USES AND STRUCTURES:**

- A. Permitted principal uses and structures: Uses as permitted in the C-1 district and industries not objectionable because of smoke, dust, odor or noise and are compatible to adjoining district.
- B. Permitted accessory uses and structures: Accessory buildings and uses customarily incident to uses permitted in this district.
- C. Special exceptions: Same as R-1.

9-3D-2

9-3D-8

D. Prohibited uses and structures: Same as C-1. (Ord. 11.01, 6-25-1981)

9-3D-3: **MINIMUM LOT REQUIREMENTS:** Same as C-1. (Ord. 11.01, 6-25-1981)

9-3D-4: **MINIMUM YARD REQUIREMENTS:**

A. Depth of front and rear yard: Same as C-1.

B. Width of side yard: Same as C-1. (Ord. 11.01, 6-25-1981)

9-3D-5: **MAXIMUM LOT COVERAGE:** The maximum lot coverage by all buildings shall be ninety six percent (96%). (Ord. 11.01, 6-25-1981)

9-3D-6: **MAXIMUM HEIGHT:** The maximum height of structures shall be the same as the R-1 district. (Ord. 11.01, 6-25-1981)

9-3D-7: **OFF STREET PARKING AND LOADING<sup>1</sup>:**

A. Off street loading:

1. Loading Space Defined: A space logically and conveniently located for bulk pick ups and delivery vehicles expected to be used.

2. Not Included In Off Street Parking: Required off street loading space is not to be included as off street parking in computation of required off street parking space.

B. Off street parking: Same as C-1. (Ord. 11.01, 6-25-1981)

9-3D-8: **SIGNS:** Limitations on signs are the same as in the R-1 district. (Ord. 11.01, 6-25-1981)

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1. See also subsection 9-6-4B of this title.

## CHAPTER 4

**SUPPLEMENTAL DISTRICT REGULATIONS**

## SECTION:

- 9-4-1: Visibility At Intersections
- 9-4-2: One Principal Structure Per Lot
- 9-4-3: Exceptions To Height Regulations
- 9-4-4: Access
- 9-4-5: Signs

9-4-1: **VISIBILITY AT INTERSECTIONS:** On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet ( $2\frac{1}{2}'$ ) and ten feet (10') above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty feet (50') from the point of the intersection. (Ord. 11.01, 6-25-1981)

9-4-2: **ONE PRINCIPAL STRUCTURE PER LOT:** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot; provided, that yard and other requirements of this title shall be met for each structure as though it were on an individual lot. (Ord. 11.01, 6-25-1981)

9-4-3: **EXCEPTIONS TO HEIGHT REGULATIONS:** The height limitations contained in chapter 3, articles A through D of this title do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. (Ord. 11.01, 6-25-1981)

9-4-4:       **ACCESS:** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off street parking. (Ord. 11.01, 6-25-1981)

9-4-5:       **SIGNS:**

A.   Regulations Governing Location, Area, And Types Permitted: The following regulations shall govern the location, area, and types of signs permitted:

1. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended or supported so that they will not be a menace to the safety of persons or property.

2. No sign, outdoor commercial advertising device, or lighting device constituting a nuisance to an adjacent residential district because of lighting glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.

3. No revolving beacon or fountain signs shall be permitted in any district.

4. No sign in any district shall conflict in any manner with the clear and obvious appearances of public devices controlling public traffic.

5. Ground signs shall not be located on public property except by specific approval of the town council.

6. Temporary signs or banners on or over public property may be authorized by the town council for a period not to exceed ten (10) days.

7. Signs projecting over a street, alley or other public space shall conform with federal highway administration and Montana state highway commission regulations.

8. Roadside market signs advertising produce grown and sold on the premises on which they are located shall not remain continuously erected more than six (6) months of any calendar year; signs shall not be located within the road right of way.

9. It is prohibited to erect, paint, or attach any notice, political poster, handbill, advertisement, or any other sign upon any power or telephone pole, bridge, fire hydrant, official public sign, or in any portion of a public right of way.

10. Streamers or banners shall not be constructed or used out of doors as a desire to attract or promote the operation of a business or activity except by special permission of the town council.

**B. Residential Uses Of Signs:**

1. One unlighted identification sign shall be permitted per residential use provided such sign does not exceed three (3) square feet in area; said sign must be flat against the building.

2. One sign of a temporary nature, such as "For Sale" or "For Rent" shall be permitted for residential use, provided such sign does not exceed six (6) square feet and is not lighted; said sign may be wall, pedestal or ground type.

**C. Public Or Quasi-Public Uses Of Signs:** One identification sign shall be permitted per public or semipublic use provided such sign shall not exceed twenty (20) square feet in area; said sign may be wall, pedestal, ground or projecting type.

**D. Commercial And Industrial Districts:** One sign advertising the particular use of the property shall be permitted, provided such sign does not exceed two hundred (200) square feet in area, is posted eight feet (8') from right of way, overhangs no closer than three feet (3') from right of way and does not exceed a height of thirty five feet (35'). (Ord. 11.01, 6-25-1981)



## CHAPTER 5

**NONCONFORMING LOTS, USES AND STRUCTURES**

## SECTION:

- 9-5-1: Intent
- 9-5-2: Nonconforming Lots Of Record
- 9-5-3: Conditions For Continued Nonconforming Use Of Land
- 9-5-4: Nonconforming Structures
- 9-5-5: Nonconforming Uses Of Structures Or Of Structures And Premises
- 9-5-6: Repairs And Maintenance
- 9-5-7: Uses Under Special Exception Provisions

9-5-1: **INTENT:**

- A. Existing Nonconformities: Within the districts established by this title, or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this title or future amendment. It is the intent of this title to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Declared Incompatible: Nonconforming uses are declared by this title to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage hereof by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

- C. **Construction Begun Prior To Enactment:** 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 hereof or amendment hereto, and upon 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. (Ord. 11.01, 6-25-1981)

**9-5-2: NONCONFORMING LOTS OF RECORD:**

- A. **Existing Lots:** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this title, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not in continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and width, or both, that are generally applicable in the district; provided, that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the action of the town council.
- B. **Two Or More Lots In Single Ownership:** If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment hereof, and if all or part 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 said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title. (Ord. 11.01, 6-25-1981)

- 9-5-3: CONDITIONS FOR CONTINUED NONCONFORMING USE OF LAND:** Where, at the time of passage hereof, lawful use of land exists which would not be permitted by the regulations imposed by this title, and where such use involves no individual structure with a



replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

- A. **Enlarged Or Increased:** No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title.
- B. **Moving Nonconforming Use:** No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment hereof.
- C. **Use Ceases:** If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located.
- D. **Erection Of Additional Structures:** No additional structures not conforming to the requirements of this title shall be erected in connection with such nonconforming use of land. (Ord. 11.01, 6-25-1981)

9-5-4: **NONCONFORMING STRUCTURES:** Where a lawful structure exists at the effective date of adoption or amendment hereof that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Enlarged Or Altered:** No such nonconforming structure may 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 such nonconforming structure or nonconforming portion of such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.
- C. **Moving Nonconforming Structure:** Should such structures 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. (Ord. 11.01, 6-25-1981)

**9-5-5: NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES:**

If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of a structure and premises in combination, exists at the effective date of adoption or amendment hereof, that would not be allowed in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Enlarged, Extended, Constructed, Reconstructed, Moved Or Structurally Altered:** No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. **Use Extended Beyond Building:** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment hereof, but no such use shall be extended to occupy any land outside such building.
- C. **Changed To Another Nonconforming Use:** If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may, as a special exception, be changed to another nonconforming use provided that the town council, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the town council may require appropriate conditions and safeguards in accord with the provisions of this title.
- D. **Superseded By Permitted Use:** Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- E. **Discontinued Or Abandoned:** When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government

action impedes access to the premises), the structure, or structures and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

- F. **Removal Or Destruction:** Where nonconforming use status applies to a structure or structures and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction", for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction. (Ord. 11.01, 6-25-1981)

**9-5-6: REPAIRS AND MAINTENANCE:**

- A. **Ordinary Repairs Permitted:** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of a structure as the case may be; provided, that the cubic content existing when it became nonconforming shall not be increased.
- B. **Structure Becomes Unsafe:** If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
- C. **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 official charged with protecting the public safety, upon order of such official. (Ord. 11.01, 6-25-1981)

**9-5-7: USES UNDER SPECIAL EXCEPTION PROVISIONS:** Any use which is permitted as a special exception in a district under the terms of this title (other than a change through town council action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. (Ord. 11.01, 6-25-1981)



## CHAPTER 6

**OFF STREET PARKING AND LOADING**

## SECTION:

- 9-6-1: Purpose  
 9-6-2: Definitions  
 9-6-3: General Regulations  
 9-6-4: Off Street Parking Space Requirements  
 9-6-5: Nonconforming Off Street Parking And Loading

9-6-1: **PURPOSE:** The off street parking and loading regulations establish design standards to reduce on street parking and promote traffic safety. (Ord. 11.01, 3-13-1995)

9-6-2: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**ANGLE PARKING SPACE:** Any parking space not parallel to traffic flow that is a minimum of nine feet (9') wide and eighteen feet (18') long, not including access drives, yards, or ramps.

**GROSS FLOOR AREA:** The total area of all floors of a commercial or industrial building which includes all space intended for occupation.

**LOADING SPACE:** An area used for loading and unloading, located entirely on private property with a minimum vertical clearance of fourteen feet (14'), and provided with permanent independent access.

**OFF STREET PARKING SPACE:** An area used for parking a motor vehicle, located entirely on private property with

- permanent independent access for use by occupants, patrons or residents of the property.
- PARALLEL PARKING SPACE:** A parking space parallel to the traffic flow that is a minimum of eight feet (8') wide and twenty two feet (22') long, except that when it abuts only one or no other parallel space the length may be twenty feet (20').
- PARKING LOT:** Any off street parking facility with four (4) or more parking spaces. (Ord. 11.01, 3-13-1995)

**9-6-3: GENERAL REGULATIONS:**

- A. **Provision And Maintenance Required:** The property owner or the authorized representative is responsible for the continuous provision and maintenance of off street parking for employees and customers and loading space. Compliance with these regulations shall be verified whenever a facility's use is established, enlarged, or changed.
- B. **Submittal Of Plan:** A plan of the proposed parking area, including location, curb cuts, pedestrian walks, screening, lights, drainage retention, landscaping, traffic control devices, and any other features shall be submitted.
- C. **Surfacing Requirements:** Off street parking, loading and access drive surfaces shall have compacted four inches (4") gravel base and shall be paved with a durable dust free surface or an approved substitute. Paint or other devices shall be used to mark spaces. Single-family and two-family dwellings are excluded. All permanent off street parking spaces and access areas thereto shall be designed and constructed to allow proper drainage.
- D. **Criteria For Sharing Parking Lots:** Parking lots may be shared if:
1. The total number of spaces used together is not less than the sum required for each use if computed separately;
  2. A parking study, submitted by the applicant, demonstrates significantly different peak hours of demand for the shared parking;
  3. The shared parking lot is adjacent to the uses it serves; and

- 4. A written legal agreement signed by the affected parties and recorded with the county clerk and recorder shall assure that the number and location of shared parking spaces will continue to be available.
- E. Lighting: Lighting shall not be a nuisance to adjacent residential districts.
- F. Screening: A parking lot of seven (7) or more spaces shall be visually screened to a height of four feet (4') from institutional, public, or residential property unless separated by a street or alley.
- G. Landscaping: In parking lots of twenty (20) or more spaces, a minimum of five percent (5%) of the lot shall be landscaped. (Ord. 11.01, 3-13-1995)

**9-6-4: OFF STREET PARKING SPACE REQUIREMENTS:**

**A. Handicapped Parking:**

- 1. Spaces shall be designed in accordance with state codes;
- 2. Any lot with a minimum of seven (7) and a maximum of twenty five (25) parking spaces shall have one reserved for handicapped;
- 3. Any lot with twenty six (26) to fifty (50) parking spaces shall have two (2) spaces reserved for the handicapped;
- 4. Any lot with greater than fifty (50) parking spaces shall reserve two percent (2%) of the parking spaces for the handicapped.

**B. Spaces Required:**

<u>Use</u>	<u>Required Spaces</u>
Banks, offices, and research facilities	1 space per 300 square feet.
Bowling alleys	4 spaces per alley.
Community centers, recreation buildings, private clubs, lodges, churches, theaters, auditoriums, stadiums, and areas of open assembly, and mortuaries	1 space per 30 square feet of assembly area, or 1 space per 4 fixed seats in the assembly area.

<u>Use</u>	<u>Required Spaces</u>
Daycare	1 space per 3 employees and 1 space per 5 children.
Drive-through eating establishments	3 spaces per service window, plus 2 spaces.
Dwellings:	
Single-family	2 spaces.
Two-family	2 spaces.
Multiple-family:	
1 bedroom	1.50 spaces per dwelling unit.
2 bedrooms	1.75 spaces per dwelling unit.
3+ bedrooms	2.00 spaces per dwelling unit.
Studio	1.25 spaces per dwelling unit.
Furniture and appliance stores, machinery and motor vehicle sales, wholesale stores, and related services and repair shops	1 space per 400 square feet of floor area.
Gasoline station	1 parking space per 2 employees, plus 2 spaces.
High schools	1 per certified or noncertified employee, plus 1 per 5 students.
Hospitals, nursing homes, group care facilities	1 space per 3 beds, plus 1 per staff doctor and 1 per staff employee, plus 1 space per office and examining room.
Hotels and motels	1.1 space per room for rent.
Libraries, art galleries, museums	1 space per 300 square feet of floor area.
Medical clinics, outpatient clinics and healthcare offices	1 per staff employee, plus 1 space per office and examin- ing room.



<u>Use</u>	<u>Required Spaces</u>
Motor freight establishments, warehouse and storage buildings and other light and heavy industrial uses	1 parking space per 400 square feet of office space, plus 1 space per 600 square feet of accessory space.
Personal service establishments including shoe repair, barber and beauty shops, and self-service laundries	1 parking space per 200 square feet of floor area.
Plumbing and building supply	1 space per 300 square feet of office space, plus 1 space per 400 square feet of interior sales space, plus 1 space per 1,000 square feet of storage/warehousing space.
Restaurants, taverns, cocktail lounges, or other eating and dining establishments	1 parking space per 50 square feet of public service area, plus 10 percent.
Retail sales and shopping center	1 space per 250 square feet.
Schools (except high schools)	1 per certified or noncertified employee, plus 10 spaces.

(Ord. 11.01, 3-13-1995)

**9-6-5: NONCONFORMING OFF STREET PARKING AND LOADING:**

- A. Intent: The nonconforming off street parking and loading and uses, hereafter called "nonconformities parking and loading system", section is established to enable building sites, buildings, and uses that existed:
1. Before March 13, 1995, and lawful under the regulations adopted prior to that date, to continue to be lawful when specified conditions are met.
  2. This section only applies to off street parking and loading.

**B. Kinds Of Nonconformity:**

1. Access to, area, or width of building site does not meet minimum requirements for the district in which it is located.
2. Area, height, and/or yard setbacks for a building do not meet minimum requirements for the district in which it is located.
3. The use of the building site and/or structure is not allowed in the district in which it is located.

**C. Allowed Nonconformities:**

1. Existing building sites, consisting of the thirty foot (30') wide lots, platted from street to alley, within the commercial district of the original town site of Darby.
2. An existing building site which does not conform to these regulations shall be deemed lawful if it:
  - a. Conformed to ordinances in effect when it was created;
  - b. Belonged to one owner of record or was subject to a contract for deed;
  - c. Is not adjacent to other land belonging to the same owner; and
  - d. Was created through an approved subdivision or through a variance by the town council.
3. An existing building site which, after a governmental entity acquired a portion of it, no longer conformed to these regulations shall be deemed lawful if:
  - a. The area decreased no more than twenty percent (20%), and
  - b. The yard facing any road was decreased no more than fifty percent (50%).

**D. Change In Nonconforming Use: A nonconformity may be changed to another nonconformity on a case by case basis provided the town council:**

1. Finds the proposed use is at least as appropriate to the district as the previous use; and
2. Imposes standards from this title appropriate to the proposed use. (Ord. 11.01, 3-13-1995)



## CHAPTER 7

**TRAILER INSTALLATION ON PRIVATE PROPERTY**

## SECTION:

- 9-7-1: Lot Requirements And Setbacks
- 9-7-2: Corner Lot Setbacks
- 9-7-3: Wheels
- 9-7-4: Minimum House Size
- 9-7-5: Concrete Pad
- 9-7-6: Piers
- 9-7-7: Electrical And Plumbing
- 9-7-8: Skirting
- 9-7-9: Noncompliance

9-7-1: **LOT REQUIREMENTS AND SETBACKS:**

- A. Front: Twenty five feet (25') from the front of the lot.
- B. Back: Twenty five feet (25') from the back of the lot.
- C. Side: Seven and one-half feet ( $7\frac{1}{2}'$ ) from the side of the lot. (Ord. 11.01.141, 8-15-1994)

9-7-2: **CORNER LOT SETBACKS:**

- A. Front: Twenty five feet (25') from the front of the lot.
- B. Back: Twenty five feet (25') from the back of the lot.
- C. Sides: Seven and one half feet ( $7\frac{1}{2}'$ ) from the sides of the lot. (Ord. 11.01.141, 8-15-1994)

- 9-7-3: **WHEELS:** Wheels must be removed. (Ord. 11.01.141, 8-15-1994)

9-7-4: **MINIMUM HOUSE SIZE:** Minimum house size is eight hundred (800) square feet. (Ord. 11.01.141, 8-15-1994)

9-7-5: **CONCRETE PAD:** Under each lengthwise beam (single and double) set at ten foot (10') centers shall be a twenty four inch by twenty four inch (24" x 24") concrete pad a minimum of eight inches (8") thick. Top of concrete pads to be at grade level. (Ord. 11.01.141, 8-15-1994)

9-7-6: **PIERS:** Cement blocks or approved concrete mobile home piers are to be used for leveling. If concrete blocks are used, they shall be installed in pairs with alternating directions on each course. (Ord. 11.01.141, 8-15-1994)

9-7-7: **ELECTRICAL AND PLUMBING:** Mobile homes must meet all applicable state, local and federal codes pertaining to electrical and plumbing. (Ord. 11.01.141, 8-15-1994)

9-7-8: **SKIRTING:** Mobile homes shall be skirted within sixty (60) days of placement. Skirting shall be of similar material to blend aesthetically with the mobile home and be installed as to restrict entry under said mobile home. (Ord. 11.01.141, 8-15-1994)

9-7-9: **NONCOMPLIANCE:** The fine for noncompliance of any portion of this chapter is as provided in section 1-4-2 of this code. Assessment of this fine in no way acknowledges and/or approves of the noncompliance. (Ord. 11.01.141, 8-15-1994; amd. 2006 Code)

## CHAPTER 8

**MANUFACTURED/MOBILE HOME PARK REGULATIONS**

## SECTION:

- 9-8-1: General Provisions
- 9-8-2: Definitions
- 9-8-3: Procedures
- 9-8-4: General Requirements
- 9-8-5: Certificate Of Occupancy
- 9-8-6: Applicability
- 9-8-7: Minimum Requirements
- 9-8-8: Fees
- 9-8-9: Existing Manufactured/Mobile Home Parks

9-8-1: **GENERAL PROVISIONS:**

- A. **Purpose And Intent:** The purpose of this chapter is to establish minimum standards and requirements for the occupancy of manufactured/mobile homes and for the construction and operation of manufactured/mobile home parks, in order to protect and secure the public health, safety and general welfare of citizens in the planning area.
- B. **Location Of Manufactured/Mobile Home Parks:** All manufactured/mobile home parks shall be located pursuant to and in compliance with all sanitary regulations and other regulations adopted by the town council. (Ord. 127, 7-11-2000)

9-8-2: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

<b>ACCESSORY BUILDING OR USE<sup>1</sup>:</b>	The use of land or a subordinate building, or a portion of a main building, such use being secondary to or incidental to the principal use or structure.
<b>AWNING:</b>	Any stationary structure use in conjunction with a manufactured/mobile home, other than a window awning, for the purpose of providing shelter from the sun and rain and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.
<b>BUILDING:</b>	Any structure built for support, shelter, or enclosure of person, animals, chattels or property of any kind.
<b>CARPORT:</b>	A stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.
<b>ENGINEER:</b>	A professional registered engineer.
<b>MANUFACTURED HOME:</b>	A dwelling unit fabricated in an off site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the federal manufacturing housing construction and safety standard act of 1974 (42 USC 5401 et seq.) which became effective June 15, 1976.
<b>MANUFACTURED/MOBILE HOME LOT:</b>	A designated portion of a manufactured/mobile home park designed for the accommodation of one manufactured/mobile home and its accessory buildings or structure for the exclusive use of the occupants.
<b>MANUFACTURED/MOBILE HOME STAND:</b>	That area of a manufactured/mobile home lot which has been prepared for the placement of a manufactured/mobile home.

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1. See also definitions at section 9-2-2 of this title.



<b>MOBILE HOME:</b>	A factory assembled structure or structures equipped with the necessary connections and made so as to be readily movable as a unit or units on its (their) own running gear and designated to be used as a dwelling unit(s) with or without a permanent foundation.
<b>MODULAR HOME:</b>	A structure intended for residential use and manufactured off site in accord with the local and state building code.
<b>PERMIT:</b>	A written permit issued by the town council before construction, improvement or alteration of a manufactured/mobile home park court can be commenced.
<b>PLANNING AREA:</b>	All land within the corporate limits of the town of Darby.
<b>PLANNING BOARD:</b>	The town of Darby planning board for the town of Darby.
<b>RAMADA:</b>	A stationary structure having a roof extending over a manufactured home or mobile home or trailer which may also extend over a patio or parking space for motor vehicles and is used principally for protection from sun and rain.
<b>SUBDIVIDER:</b>	The developer or owner or their designated agents, who are proposing to construct, alter, extend and/or operate a manufactured/mobile home park.
<b>TOWN COUNCIL:</b>	The Darby town council. (Ord. 127, 7-11-2000; amd. 2006 Code)

**9-8-3: PROCEDURES:**

A. **Permits And Licenses:** To construct, alter, extend and/or operate a manufactured/mobile home park in the planning area, a subdivider must hold:

1. A valid annual license issued by the state department of health and environmental sciences.

2. A permit issued by the town council before construction or improvements at the manufactured/mobile home park site can begin.
  3. An annual town business license shall be required for all manufactured/mobile home parks.
  4. It shall be unlawful for any person to construct, alter, extend, and/or operate any manufactured/mobile home park in the planning area without the permits and licenses described above. Penalties for violation are given in subsection 9-8-4G of this chapter.
- B. Procedures: The law states because a manufactured/mobile home park and condominiums are legally "subdivisions" as defined by the "Montana subdivision and platting act", all provisions of the act must be complied with. Also, to be complied with are the provisions of Montana Code Annotated governing sanitary and public health requirements for subdivisions, manufactured/mobile home parks and travel trailer parks.
- C. Preapplication Conference: A concept plan and plat, as outlined in title 10 of this code, will be necessary for the conference.
- D. Presentation Of Preliminary Plans And Plat: The preliminary plan and plat shall:
1. Be prepared as per section 10-1-1 of this code and presented to the planning board for review prior to the public hearing.
  2. Meet the subdivision regulations of the state of Montana and the town.
  3. Following approval or conditional approval of the preliminary plan and plat, the subdivider shall make the required changes in the preliminary plat and plan and shall submit the final plans and plat to the planning board for review.
- E. Presentation Of Final Plan And Plat: The final plan and plat shall be:
1. Prepared as per section 10-1-1 of this code.
  2. Presented to the planning board for review.
  3. Within twenty (20) days of the submission of the final plat by the subdivider to the planning board, the planning board shall

recommend approval or disapproval of the final plat to the town council.

4. Following this written recommendation, the town council shall accept or refuse to accept the plan based on the requirements of the Montana subdivision and platting act and the town.

5. The final plan and plat shall be designated as the as built plan that shall be certified by a professional registered engineer.

6. If accepted, the final plan and plat shall be filed with the Ravalli County clerk and recorder and the town clerk-treasurer.

7. When the final plat has been filed, the town council shall issue the appropriate permits.

- F. **Enforcement And Inspection:** It shall be the duty of the town council and its designated agents to enforce the provisions of this chapter. The town and/or its designated agents are hereby authorized to make periodic inspections of all manufactured/mobile home parks. The purpose of these inspections is to determine and/or enforce any provisions of this chapter or any other town, county or state regulations applicable to the conduct and operation of said parks. Additional inspections may be made by the state and local health departments. (Ord. 127, 7-11-2000)

**9-8-4: GENERAL REQUIREMENTS:**

- A. **Site Selection:** The site must be bounded on at least one side by a public collector street or road on which the potential paving width is not less than sixty feet (60'). The topography must be favorable to good drainage, minimum grading, manufactured/mobile home placement and ease of maintenance. The site must be readily accessible to utilities, including water, sewage, electricity, telephones and firefighting devices.
- B. **Manufactured/Mobile Home Setback Requirements:** A manufactured/mobile home park shall be of sufficient size and shall be designed so that no manufactured/mobile home is located closer than twenty five feet (25') from the right of way of any public street, or ten feet (10') from the park's interior street lines, and fifteen feet (15') from interior park boundaries.

- C. **Home Age Restriction:** No manufactured/mobile home over ten (10) years old will be allowed without inspection by the town building inspector.
- D. **Site Improvements:** The physical improvements of the site which the subdivider must provide shall be as follows:
1. **Access:** A convenient means of pedestrian and vehicular access to each manufactured/mobile home space and parking area.
  2. **Water:** An adequate supply of potable water which meets the requirements of the state department of health and environmental sciences.
  3. **Hydrants:** Adequate hydrants of a type approved by the state or local fire prevention authority shall be installed at all locations designated by such fire prevention authority and shall be maintained in good operating conditions.
  4. **Electricity:** Electrical service for lighting and power.
  5. **Telephone:** Public telephone service.
  6. **Compliance With Codes:** All state and local building, health, fire, electrical and plumbing codes must be met.
  7. **Sanitary Sewage, Utilities And Water Facilities:** All sanitary sewage utilities and water facilities, including connections provided to individual lots, shall meet the requirements of the state department of health and environmental sciences and the appropriate health department.
  8. **Plumbing Connections:** The plumbing connections to each manufactured/mobile home lot shall be constructed so that all lines are protected from freezing, from accidental bumping or from creating any type of nuisance or health hazard.
  9. **Storm Drainage Facilities:** Storm drainage facilities, where necessary, shall be so constructed as to protect those that will reside in the manufactured/mobile home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of water in or adjacent to the park.

10. Electric And Telephone Lines: All electric, telephone and other lines from supply poles to each manufactured/mobile home lot shall be underground. When meters are installed they shall be uniformly located.

11. Fuel Lines: All fuel lines except propane or fuel oil, leading to manufactured/mobile home lots shall be underground and so designed as to conform with any state code that is found to be applicable.

12. Trash And Garbage Facilities: Facilities for the storage and disposal of trash and garbage in a sanitary and lawful manner shall be provided in each manufactured/mobile home park.

13. Lighting: Street and yard lights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night, and shall be effectively related to buildings, trees, walks, steps, and ramps. Supply lines must be underground.

14. Compliance With Health Regulations: All manufactured/mobile home parks developed under this chapter shall comply with Montana state department of health regulation 54-500 or any amendment thereto.

E. Density: Determination must be made in the initial planning stage (preliminary plan) on the number of independent manufactured/mobile homes to be accommodated.

1. Manufactured/Mobile Home Space Size: Each independent manufactured/mobile home space shall not be less than five thousand (5,000) square feet in area and at least fifty feet (50') wide.

2. Spacing Of Manufactured/Mobile Homes: The minimum spacing between manufactured/mobile homes and buildings shall be:

Side to side spacing	Twenty four feet (24')
End to end spacing	Twenty feet (20')

3. Manufactured/Mobile Home Lot Improvements: Each manufactured/mobile home pad shall be surfaced with at least four inches (4") of gravel or hard surfaced with asphalt pavement or concrete of a minimum thickness of four inches (4"). All accessory permanent or temporary storage buildings, porches, awnings, carports, and ramadas shall meet the minimum spacing and yard requirements of manufactured/mobile homes.

#### 4. Roads, Walks, Parking And Storage Areas:

a. **General Circulation:** Safety and convenience must be a major consideration in the layout of roads, walks, and parking areas within the manufactured/mobile home park. All main roads must be continuous.

b. **Service:** Suitable vehicular access for firefighting equipment, delivery of fuel, removal of garbage and for other necessary services must be provided.

c. **Road Width:** Interior roadways shall be a minimum of thirty feet (30').

d. **Parking:** A minimum of two (2) off street parking spaces for each manufactured/mobile home lot, plus one guest parking space for each ten (10) manufactured/mobile home lots, shall be provided. The minimum size of each parking space shall be two hundred (200) square feet, exclusive of service and access drives. No truck parking allowed other than delivery, excluding pickups.

e. **Storage:** Adequate fenced storage area shall be provided for each manufactured/mobile home park for storage such as boats, unoccupied vacation trailers in dead storage, campers and related equipment owned by the park residents. Such items will be stored in a storage area and not be parked beside the manufactured/mobile home.

5. **Refuse Handling:** The storage, collection and disposal of refuse in the manufactured/mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be stored in galvanized container with flytight, secured lids, which shall be located not more than one hundred fifty feet (150') from any manufactured/mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse between collections. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be designed so as to prevent containers from being tipped, to minimize spillage and container deterioration and facilitate cleaning around and under them. All refuse containing garbage shall be collected at least weekly. All refuse shall be collected and transported in covered vehicles or covered containers. The operator or owner of the manufactured/mobile home park shall be responsible for providing this service.

6. **Park Land Requirement:** The town council shall waive dedication and cash or donation requirements for a subdivision to be created by rent or lease where the subdivider agrees to develop parks or playgrounds within the subdivision. At least one-ninth ( $\frac{1}{9}$ ) of the area of the manufactured/mobile home park shall be developed for park or playground area. The area shall be located as to conveniently serve the residents of the entire manufactured/mobile home park. Recreation areas may include space for community buildings and facilities.

7. **Landscaping:** Existing trees and other vegetation shall be preserved where possible. Planting may be required for buffering, screening, or soil erosion protection, and is subject to approval by the town council.

8. **Skirting, Canopies And Awnings:**

a. If not placed on a foundation, each manufactured/mobile home should be skirted within sixty (60) days after establishment in a manufactured/mobile home park.

b. Skirting shall be of all weather, fire resistant material of equal strength and so constructed and attached to the manufactured/mobile home so as to deter and prevent the entry of rodents, flies, or other insects. Straw bales or similar material may not be used.

c. Canopies and awnings may be attached to any manufactured/mobile home but they shall not exceed eight feet (8') in width, or the length or height of the manufactured/mobile home. Building permits may be required and shall be applied for at the town hall.

F. **Site Engineering:** Grading and drainage must be performed so that water will drain away from manufactured/mobile home spaces, buildings, service and recreational areas and off the site in a manner which will provide reasonable freedom from erosion. Walks, driveways and retaining walls must be so constructed as not to interfere with drainage.

G. **Violations:**

1. **Written Notices Of Violations:** Whenever an inspection by the town and/or its designated agent indicates that any of the provisions of these regulations or any other applicable law is violated, the town and/or its designated agent shall notify the owner/manager of the manufactured/mobile home park of the violation. The owner/manager

shall be notified of the necessary steps to correct the violation. The steps to correct the violation must be commenced within twenty four (24) hours, and to continue thereafter diligently and continuously until the violation has been abated. (Ord. 127, 7-11-2000)

2. Abatement, Hearing, Fine: If the owner/manager of a manufactured/mobile home park does not take immediate steps to abate the violation, a report thereof shall be made to the town council. A written notice shall be served on the manufactured/mobile home park owner/manager stating a time and place for a hearing before the town council to determine whether or not a violation has taken place. At the hearing, if the town council determines that a violation has taken place and not corrected as specified above, then they may revoke the manufactured/mobile home business license/permit. Any person, firm or corporation found guilty of violating this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-2 of this code. (Ord. 127, 7-11-2000; amd. 2006 Code)

- H. Complaints Regarding Violations: Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the mayor of the town. He shall record properly such complaint, immediately investigate, and take action thereon as provided in this chapter. (Ord. 127, 7-11-2000)

9-8-5: **CERTIFICATE OF OCCUPANCY:** Upon the completion of any manufactured/mobile home park and prior to the use thereof, the owner or operator of said park shall make an application to be in writing upon a form to be provided by the building inspector. The application shall be filled out not less than ten (10) days and not more than twenty (20) days before the park is ready for use. The building inspector shall thereupon make a final inspection of the park named in said application. If the building inspector finds the park to be in conformity with the requirements of this and other regulations of the town council, he/she shall forward to the state department of health and environmental sciences a copy of the written certificate of occupancy. (Ord. 127, 7-11-2000)

9-8-6: **APPLICABILITY:** These regulations shall apply to any manufactured/mobile home park constructed, altered, or enlarged during the year 2000 or thereafter in the planning area. (Ord. 127, 7-11-2000)



9-8-7:       **MINIMUM REQUIREMENTS:** In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern. (Ord. 127, 7-11-2000)

9-8-8:       **FEES:** At the time of the formal application for approval of the preliminary plan and plat is made, the subdivider shall pay to the town council fees according to the interim procedures policy of the town. (Ord. 127, 7-11-2000)

9-8-9:       **EXISTING MANUFACTURED/MOBILE HOME PARKS:**  
These regulations shall not apply to manufactured/mobile home parks in existence prior to July 11, 2000. An "existing manufactured/mobile home park" shall be defined as one for which a license has been issued by the Montana state department of health and environmental sciences and a current town business license has been issued. Any expansion, alteration or improvement of an existing manufactured/mobile home park will make the alteration, expansion or improvement subject to the ordinance regulating manufactured/mobile home parks adopted by the town and applicable at the time of the alteration, expansion or improvement. (Ord. 127, 7-11-2000)



CHAPTER 9  
**ZONING COMMISSION**

SECTION:

- 9-9-1: Creation
- 9-9-2: Duties
- 9-9-3: Meetings
- 9-9-4: Public Hearing
- 9-9-5: Submission Of Zoning Ordinance
- 9-9-6: Compensation

9-9-1:       **CREATION:** Be it ordained by the mayor and council of the town, that there shall be and is hereby created a zoning commission for the town which shall consist of not less than five (5) nor more than fifteen (15) members, including a chairman, to be appointed by the mayor with the consent of the council. (Ord. 11.00, 1-14-1980)

9-9-2:       **DUTIES:** The zoning commission shall study the zoning questions in the town, and shall prepare a report and suggested ordinance for the regulation of the height of buildings and structures, setback lines or building lines, the intensity of the use of lot areas, the location of trades and industries and buildings designated for industrial, business, residential or other uses, and dividing the town into various use, height, and other districts for the purposes of establishing and enforcing adequate and proper zoning regulations. (Ord. 11.00, 1-14-1980)

9-9-3:       **MEETINGS:** The zoning commission shall meet at such times as may be determined by it, and special meetings of the commission may be held upon call by the chairman or of any three (3) members thereof. There shall be a secretary appointed for the record keeping of the zoning commission, unless provision to the contrary shall be made by the town council. (Ord. 11.00, 1-14-1980)

9-9-4:       **PUBLIC HEARING:** After the preparation of a tentative report and ordinance, the zoning commission shall hold a public meeting thereon, public notice of which hearing shall be published in a newspaper not more than thirty (30) nor less than fifteen (15) days prior thereto, and such notice shall state the place where copies of the tentative ordinances are available for examination. (Ord. 11.00, 1-14-1980)

9-9-5:       **SUBMISSION OF ZONING ORDINANCE:** Within thirty (30) days after the final adjournment of its hearing, the zoning commission shall make a report and submit a proposed ordinance to the town council, which thereupon may enact such proposed ordinance with or without change or may refer it back to the zoning commission for further study. (Ord. 11.00, 1-14-1980)

9-9-6:       **COMPENSATION:** Members of the zoning commission shall not receive compensation for their services. (Ord. 11.00, 1-14-1980)

## CHAPTER 10

**ADMINISTRATION AND ENFORCEMENT**

## SECTION:

- 9-10-1: Building Permits And Certificates Of Zoning Compliance
- 9-10-2: Minimum Requirements
- 9-10-3: Complaints Regarding Violations
- 9-10-4: Penalty

**9-10-1: BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE:**

- A. Administration And Enforcement: The town council shall administer and enforce this title. If the town council shall find that any of the provisions of this title are being violated, it shall notify, in writing, the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this title to ensure compliance with or to prevent violation of its provisions.
- B. Building Permits: Building permits are required as stated in section 7-1-2 of this code.
- C. Application For Building Permit:
  - 1. All applications for building permits shall be presented to the town clerk-treasurer two (2) weeks prior to the regular town council meeting, accompanied by plans, in triplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the town council, including existing or

proposed building or alteration; existing or proposed use of land, the number of families, housekeeping 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.

2. One copy of the plans shall be returned to the applicant after such copy has been marked either approved or disapproved and attested to by the signature of the mayor and the town clerk-treasurer. The original and one copy of the plans, similarly marked, shall be retained by the town council. Building permits must be applied for within ninety (90) days of the approval of plans. (Ord. 11.01, 6-25-1981)

**D. Expiration Of Building Permit:**

1. **Work Begun:** If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the town council and written notice shall be given to the persons affected.

2. **Completion Of Work:** If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance, said permit shall expire and be cancelled by the town council, and written notice shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (Ord. 11.01, 6-25-1981)

9-10-2: **MINIMUM REQUIREMENTS:** In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standard shall govern. (Ord. 11.01, 6-25-1981)

9-10-3: **COMPLAINTS REGARDING VIOLATIONS:** Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the town council. The town council shall record properly such complaint, immediately investigate and take action thereon as provided by this title. (Ord. 11.01, 6-25-1981)

**9-10-4: PENALTY:**

- A. **Misdemeanor:** 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 grants of variances or special exceptions) 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 1-4-2 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. (Ord. 11.01, 6-25-1981; amd. 2006 Code)
- B. **Those Culpable:** 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 in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- C. **Additional Remedies:** Nothing herein shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 11.01, 6-25-1981)





CHAPTER 11  
**AMENDMENTS**

**SECTION:**

- 9-11-1: Public Hearing; Notice  
9-11-2: Protest Against Change

9-11-1: **PUBLIC HEARING; NOTICE:** The regulations, restrictions, and boundaries set forth in this title may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the town. (Ord. 11.01, 6-25-1981)

9-11-2: **PROTEST AGAINST CHANGE:** When a proposed amendment affects the zoning classification of property and in case 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 to the rear thereof extending fifty feet (50') therefrom, or of those directly opposite thereto extending fifty feet (50') from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of the town council. (Ord. 11.01, 6-25-1981)

