

TOWN OF BROADVIEW

ZONING RECORD BOOK

(Part of Ordinance 29).

Initial Zoning - July 29, 1974

The original zones are hereby declared to be as follows:

The Commercial Zone includes all of the following:

- All of the west half of Block 15
- All of Blocks 26 through 32
- All of Blocks 39 through 42, and
- All of the Burlington Northern  
right-of-way south of Fourth Street

The Residential and Residential Mobile Home Zone

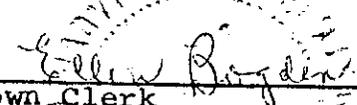
includes all other areas of the Town  
not included in the Commercial Zone.

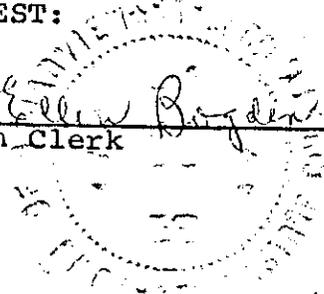
Dated: July 29, 1974

  
\_\_\_\_\_  
Mayor

(TOWN SEAL)

ATTEST:

  
\_\_\_\_\_  
Town Clerk





TOWN OF BROADVIEW ZONING PLAN

Adopted July 29, 1974

<u>ARTICLE</u>	<u>SUBJECT</u>	<u>PAGE</u>
I	<u>Title, Purpose, Scope, Map, Application Interpretation</u> .....	1
II	<u>Definitions</u> .....	3
III	<u>Zone Regulations</u>	
	Section 1 Residential and Residential Mobile Homes .....	19
	Section 2 Commercial .....	20
IV	<u>Bulk Dimensional and General Requirements</u> .....	23
V	<u>Special Exception Uses Authorized by the Town Council</u> .....	24
VI	<u>Board of Adjustment</u>	
	Section 1 Organization, Powers and Duties ....	26
	Section 2 Variances; Application Procedures ..	28
	Section 3 Request for Special Exception .....	31
	Section 4 Uses for which Special Exceptions May Be Granted and Specific Standards Relative Thereto .....	32
VII	<u>Zoning Commission</u>	
	Section 1 Organization, Powers and Duties ....	37
	Section 2 Amendments to Town Zoning Ordinance .....	37
	Section 3 Special Review by Zoning Commission	40

ARTICLE	<u>SUBJECT</u>	<u>PAGE</u>
VIII	<u>Non-Conforming Lots. Use of the Land, Structure and Premises</u>	
	Section 1 Intent .....	44
	Section 2 Non-Conforming Lots of Record .....	44
	Section 3 Non-Conforming Uses of Land .....	44
	Section 4 Non-Conforming Structures .....	45
	Section 5 Non-Conforming Uses of Structures ...	46
	Section 6 Repairs and Maintenance .....	47
IX	<u>Planned Development and Supplemental Provisions</u>	
	Section 1 Intent .....	48
	Section 2 Planned Development Procedures .....	48
	Section 3 Pre-Application Review .....	48
	Section 4 Application for Approval .....	48
	Section 5 Planned Unit Site Plan .....	48a
	Section 6 Planned Unit Written Statement .....	49
	Section 7 Review and Approval .....	49
	Section 8 Zoning Commission .....	49
	Section 9 Conclusions and Findings .....	50
	Section 10 Standards .....	51
	Section 11 Planned Shopping Center .....	52
	Section 12 P.U.D. Development Schedule .....	52
	Section 13 Administration .....	53
X	<u>Off-Street Parking and Loading Standards</u>	
	Section 1 General Requirements .....	54
	Section 2 Location .....	54

<u>ARTICLE</u>	<u>SUBJECT</u>	<u>PAGE</u>
X (cont)	Section 4 Non-Confirming Uses .....	54
	Section 5 Mix Occupancies .....	55
	Section 6 Uses Not Specified .....	55
	Section 7 Joint Use .....	55
	Section 8 Conditions Required for Joint Use ..	55
	Section 9 Table of Minimum Standards- Off-Street Parking .....	56
	Section 10 Off-Street Loading: Retail and Commercial .....	58
	Section 11 Off-Street Loading: Warehouse and Wholesale .....	58
	Section 12 Traffic Control Devices .....	58
	Section 13 Screening Required .....	59
	Section 14 Lighting Restrictions .....	59
	Section 15 Maintenance .....	59
	Section 16 Waiver of Parking Provisions .....	59
	Section 17 Parking and Storing of Vehicles .....	59
	Section 18 General Requirements; fences .....	60
	Section 19 Arterial Safety Setback .....	60
	Section 20 Transitional Uses .....	61
	Section 21 Storage of Vehicles .....	61
	Section 22 Plats Recorded After Effective Date .	61
	Section 23 General Rules .....	62
	Section 24 Classification of Newly Included Lands Within the Jurisdictional Area .....	62
	Section 25 Location of Buildings and Structures on Property .....	63

<u>ARTICLE</u>	<u>SUBJECT</u>	<u>DATE</u>
XI	<u>Administration and Enforcement</u>	
	Section 1 Zoning Enforcement .....	64
	Section 2 Zoning Compliance Permit Required ...	64
	Section 3 Penalty for Violations.....	65
XII	<u>Conflicts; Separability, Repeal of Conflicting Ordinances; Fees; Effective Date</u>	
	Section 1 Conflict with Other Laws .....	66
	Section 2 Separability Clauses .....	66
	Section 3 Repeal of Conflicting Ordinances ....	66
	Section 4 Schedule of Fees, Charges, and Expenses	66
	Section 5 Effective Date .....	67

## ARTICLE XII

### CONFLICTS; SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES; FEES; EFFECTIVE DATE

#### Section 1 - Conflict with Other Laws

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deeds, restrictions or covenants, the most restrictive or that imposing the higher standards, shall govern.

#### Section 2 - Separability Clause

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not effect the validity or constitutionality of the remaining portions of this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

#### Section 3 - Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

#### Section 4 - Schedule of Fees, Charges and Expenses

The Town Council, shall establish a schedule of fees, charges, expenses and collection procedure for building permits, appeals, and other matters pertaining to this Ordinance.

No certificate, special exception, or variance shall be issued unless, or until such costs, charges, fees or expenses listed below have been paid in full nor shall any action be taken on proceedings before the Board of Adjustment unless or until charges and fees have been paid in full.

SCHEDULE OF APPLICATION FEES

Special Exception . . . . .	\$ 75.00
Change of Zone . . . . .	\$ 75.00
Variance . . . . .	\$ 25.00
Planned Unit Development . . . . .	\$100.00

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When a combination of applications is involved, only one filing shall be charged.

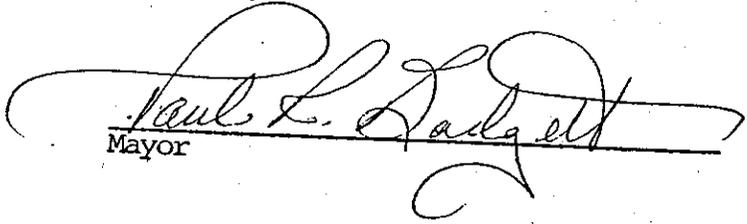
Fees may be waived by the Town Council in hardship cases.

Section 5 - Effective Date

This Ordinance shall be in full force and effect 30 days after its passage and approval.

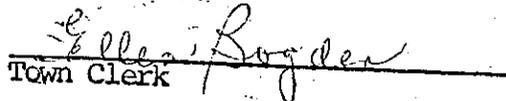
Passed by the Town Council and approved by the Mayor this  
29th day of July, 1974.

APPROVED:

  
\_\_\_\_\_  
Mayor

(TOWN SEAL)

ATTEST:

  
\_\_\_\_\_  
Town Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN OF BROADVIEW, MONTANA AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF, AND REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; IN ACCORDANCE WITH TITLE 11, CHAPTER 27, OF THE REVISED CODES OF MONTANA, 1947.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BROADVIEW, MONTANA:

ARTICLE I

TITLE, PURPOSE, SCOPE, MAP;  
APPLICATION, INTERPRETATION

Section 1 - Title

This Ordinance shall be known and may be referred to as "The Town Zoning Ordinance" for the Town of Broadview, Montana.

Section 2 - Purpose

The purpose of the Ordinance is to promote the health, safety, and general welfare of the community by regulating the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence, or other purposes within the town limits.

### Section 3 - Scope

- A. This ordinance applies to all lands within the Town of Broadview, Montana.
- B. In their interpretation and application, the provisions of this ordinance may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity and welfare.
- C. This ordinance is not intended to abrogate or annul any building permit, certificate of occupancy, variance or other lawful permit issued before the effective date of this ordinance.

### Section 4 - Official Zoning Map - Official Zoning Book of Record

The Town is hereby divided into zones as shown on the Official Map and Record Book, which together, with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Map shall be identified by the signature of the Mayor and Town Clerk and filed in the Office of the Town Clerk.

No changes of any nature shall be made in the Official Map or Record Book except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or person shall be considered a violation of this ordinance and punishable, as outlined in Article XI, Section 3.

### Section 5 - Application

No building or structure designed for human habitation or land may hereafter be used or occupied, and no building or structure or part thereof may hereafter be erected, constructed, moved, or altered after the effective date of this ordinance except in conformity with all regulations applicable to the classification of the zone in which it is located, except non-conforming uses and structures as provided for in Article VIII.

Section 6 - Rules for Interpretation of Zoning Boundaries

Interpretation of Boundaries

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as appearing to follow the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as appearing to follow City Limits shall be construed as following City Limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines, and in the event of change in the location of streams, rivers, canals, lakes or other bodies of water, shall be construed as moving with the actual body of water and following the center line.
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed. Distances not specifically indicated on the Official Map may be determined by the scale of the map.

ARTICLE II

DEFINITIONS

For the purpose of this ordinance, certain terms of words used herein are defined as follows:

The word PERSON includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word SHALL is mandatory, the word MAY is permissive; the words USED or OCCUPIED include the words INTENDED, DESIGNED, or ARRANGED TO BE USED OR OCCUPIED; AND THE word LOT includes the words PLOT or PARCEL.

"Accessory" means a use, a building or structure, part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof such accessory building shall be considered a part of the main building.

#### Accessory Living Quarters

"Accessory Living Quarters" means living quarters within an accessory building for the sole use of the family or of persons employed on the premises, or for the temporary use of guests of the occupants of the premises. Such quarters have no kitchen facilities and are not rented, leased, or otherwise used as a separate dwelling unit. The term "accessory living quarters" includes "guest house".

#### Airport, Heliport, or Aircraft Land Field

"Airport", "Heliport", or "Aircraft Land Field", means any runway, landing area or facility whether publicly or privately owned and operated, and which is designed, used or intended to be used either by public carriers or by private aircraft for landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down, etc. hangers and other necessary buildings and open spaces.

#### Agriculture

The use of land for agricultural purposes, including farming, dairying, pasturage, grazing land, animal and poultry husbandry, feed lots and including the necessary accessory uses for packing, treating, storing or shipping the produce.

#### Alley

"Alley" means a passage or way, open to public travel and dedicated to public use other than a public street, affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

#### Alterations

"Alterations" means a change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial, industrial, or similar uses, the installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration.

#### Apartment:

"Apartment" means a room or suite of two (2) or more rooms in a multiple dwelling or in any other building not a single family dwelling or a two-family dwelling, occupied or suitable for occupancy as a dwelling unit for one (1) family. A bachelor apartment or efficiency unit shall qualify under this definition.

"Apartment Hotel" means a building designed for or containing both apartments and individual guest rooms or suites, or rooms and apartments catering to permanent tenants and not transients, and which building may furnish dining room service for the use of its tenants.

Apartment House

"Apartment House" means a building or a portion of a building, designed for occupancy by three (3) or more families living separately from each other and containing three (3) or more dwelling units.

Automobile, Boat and Trailer Sales Area

"Automobile, boat and trailer sales" means an open area other than a street, used for the display, sale or rental of new or used automobiles, boats or trailers, and where no repair work is done except minor incidental repair excluding body and fender work or spray painting, of automobiles, boats, or trailers to be displayed, sold or rented on the premises.

Automobile Wrecker

"Automobile wrecker" means any person, corporation, or enterprise engaged in automobile wrecking.

Automobile Wrecking

"Automobile wrecking" means the dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or partially dismantled, obsolete, or wrecked vehicles or their parts.

Automobile Wrecking Yard

"Automobile wrecking yard" means any establishment or place of business which is maintained or used for the storage, keeping, buying or selling of four or more wrecked, scrapped or dismantled motor vehicles or motor parts.

Bar

"Bar" an establishment where any amount of alcoholic beverages are sold and consumed on the premises, even if such sales are incidental to and accessory to the principal business of such establishment.

Billboard

"Billboard" means a structure which directs attention to a business commodity, service, or other activity conducted, sold or offered elsewhere than on the premises which the sign is located.

Board

"Board" means the Board of Adjustment of the Town of Broadview.

"Boarding house" means the same as lodging house but where meals (with or without lodging) are provided for compensation and by prearrangement for definite periods, for three or more persons. Boarding houses shall not be construed to mean rest homes or convalescent homes.

#### Building

"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this Ordinance requires that a use shall be within an entirely enclosed building then the term "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed.

#### Building Height

"Building Height" means the vertical distance measured from the established front grade elevation to a point one-half the distance from the plate line to the ridge or highest point of the roof.

#### Building, Main

"Main Building" means the principal building, or a use to accommodate the primary use to which the premises are devoted.

#### Business or Commerce

"Business" or "Commerce" means the purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management or occupancy of the office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures or premises by professions and trades or persons rendering services.

#### Camp, Public

"Public Camp" means any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, camping trailers or other camping outfits.

#### Carport

"Carport" means a structure to house or to protect motor vehicles owned or operated by the occupants of the main building which is open to the weather for at least 50 per cent of the total area of its sides; when attached to another building it shall comply with the yard requirements of that building.

#### Child Care Center

"Child care center" shall mean a building or dwelling unit within which a program of adult care and supervision of seven (7) or more children, including those minor children domiciled on the same premises provided such care, and which may include nursery schools, private kindergartens or after school hour care and supervision. And further provide that such child care center shall be licensed by the State of Montana City or County and conducted in accordance with applicable state and local requirements.

Clinic

"Clinic" means a building designed and used for the medical, dental, and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed.

Club

"Club" means an incorporated or unincorporated association of persons organized for a social, educational, literary or charitable purpose. Property occupied by a club shall be deemed to be semi-private in character and shall be subject to the city regulations governing public building and places, excluding groups organized primarily to render a service which is normally considered a business.

Cluster

"Cluster" means a pattern of residential development where in dwelling units are grouped, with the remainder of the yard left in landscaped open space.

Condominium

"Condominium" means ownership in common with others of a parcel of land and certain parts of a building, together with individual ownership in fee of a particular unit or apartment in such building. Each individual has an absolute title to his apartment which he may sell, mortgage or devise as he could with a single-family dwelling that he owned.

Dairy

"Dairy" means any premises where three (3) or more cows, three (3) or more goats, or any combination thereof are kept, milked or maintained.

## Day Care Home

"Day Care Center" means a use carried on within a house and providing care and supervision for not more than six (6) children including those children domiciled on the premises providing such care.

## Drive-In Restaurant

"Drive-In Restaurant" means a use whose retail character is dependent on a driveway approach and parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages obtained on the premises, in a vehicle.

## Dwelling

"Dwelling" means a building designed exclusively for residential purposes, including one-family, two-family and multiple dwellings, but not including hotels, or motel units.

### Dwelling, Types of

- A. Dwelling, One-Family. "One-Family Dwelling" means a detached building designed exclusively for occupancy by one family and containing one (1) dwelling unit.
- B. Dwelling, Two Family (Duplex). "Two Family Dwelling or Duplex" means a building designed exclusively for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units.
- C. Dwelling, Group. "Group Dwelling" means a separate building or buildings containing more than two dwelling units. The term includes Town Houses, Garden Apartments, Row Housing, etc., each dwelling unit as a separate living unit providing individual entrance - exits, separation, etc., without a common hallway.
- D. Dwelling, Multiple. "Multiple Dwelling" means an apartment house including highrises designed primarily for occupancy by three (3) or more families living independent of each other, but which may have a common building entrance and hallway to dwelling unit.
- E. Duplex, Triplex, Fourplex, etc., are dwelling units in one building where their entrances lead directly outside, and not into a common corridor.

### Dwelling Unit

"Dwelling unit" means one or more rooms designed for or occupied by one family for living or sleeping purposes and may contain kitchen facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. A bachelor apartment constitutes a dwelling unit within the meaning of this Resolution.

"Family" means an individual, or two (2) or more persons related by blood, marriage or adoption, or other legal means, or a group of not more than three (3) persons who are not related by blood, marriage or adoption, living together in a dwelling unit.

### Fence

"Fence" means a barrier not over 6 feet high composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space for separating parcels of land. It may include masonry walls, ornamental structures or privacy screens. When over 6 feet high it shall be treated as a structure and comply with the Building Codes.

### Flood Plain or Flood Way

"Flood Plain" or "Flood Way" means in all cases of Interpretation the regulations of the Montana Water Resources Board as provided for in Section 29-3503 R.M.C. 1947.

### Fraternity, Sorority, or Student Cooperative

"Fraternity", "Sorority", or "Student Cooperative" means a building occupied by and maintained exclusively for students.

### Garage, Private

"Private Garage" means an accessory building or an accessory portion of the main building, totally enclosed and designed or primarily used only for the shelter or storage of vehicles owned or operated by the occupants of the main building or buildings. When attached to the principle building it shall comply with the yard requirements of that building.

### Home Occupation

"Home Occupation" means an occupation or profession customarily conducted entirely within a dwelling and carried on by the inhabitant thereof, which use is clearly incidental and secondary to the dwelling purposes, and does not change the character thereof; provided that no more than 25 percent of the dwelling unit total area may be used for the home occupation, in connection with which there is kept no stock or commodity to be sold upon the premises.

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.

No equipment shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

### Hospital

"Hospital" means an institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice, as distinguished from treatment of mental and nervous disorders, but not excluding surgical and post-surgical treatment of mental cases. Nursing homes and convalescent homes are not included.

### Hospital, Animal

"Animal Hospital" means a building or premises for the medical or surgical treatment of animals or pets, including dogs, cats and veterinary hospitals, including the boarding of hospitalized animals not subjected to medical or surgical treatment.

### Hospital, Mental (Including hospital for treatment of alcoholics, drugs, etc.)

"Mental Hospital" means an institution licensed by state agencies under the provisions of law to offer facilities, care and treatment of cases of mental and nervous disorders.

### Hotel

"Hotel" means a building or portion thereof designed or used for transient rental to six or more guests, where lodging with or without meals is provided for compensation. A central dining room, banquet meeting halls, kitchen plus accessory shops and services catering to the general public can be provided.

### Junk Dealer

"Junk Dealer" means and includes any person or enterprise having a place or business in the city and engaged in conducting, managing, or carrying on the business, either wholesale or retail, or buying or otherwise dealing in any old rags, sacks, bottles, cans, papers, metal, rubber or other articles commonly known as junk.

### Junk Yard

"Junk Yard" means any premises devoted wholly or in part to the storage, buying, or selling or otherwise handling or dealing in old rags, sacks, bottles, cans, automobiles, papers, metal, rubber or other articles commonly known as junk.

### Jurisdictional Area

"Jurisdictional Area" means the area included within the incorporated areas of the Town.

### Kennel, Commercial

"Commercial Kennel" means a place where dogs other than those owned by the kennel owner are kept and boarded for any period in excess of 24 hours. Female dogs bred for the sole purpose of the sale of puppies for profit and female dogs numbering more than three constitute a Commercial Kennel.

### Kennel, Non-Commercial

"Non-Commercial Kennel" means a kennel at, in or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder in using them: in dogs shows or field or obedience trails or for the guarding or protecting the householder's property. The occasional raising of a litter of puppies at the kennel and occasional sale of pups by the keeper of a non-commercial kennel should not change the character of residential property.

In residential zones each household shall not possess more than three adult dogs. An adult dog is herein defined as any dog over the age of twelve months.

### Livestock

"Livestock" means horses, bovine animals, sheep, goats, swine, reindeer, donkeys and mules.

### Lodging House

"Lodging House" means a dwelling unit within which not more than five (5) guest rooms are devoted to accommodate not more than ten (10) persons other than members of the family, but wherein meals for guests shall be neither provided or permitted. A lodging house containing guest rooms numbering six (6) or more shall be considered a hotel.

### Lot

"Lot" means a single tract of land, no matter how legally described whether by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street over an easement approved by the Director of Public Works, City Engineer or County Surveyor.

### Lot Frontage

"Lot Frontage" means that portion of the lot nearest the public street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated under YARDS in this section.

### Lot Types

A. NORMAL CORNER LOT, means a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet an interior angle of less than 135 degrees.

B. INTERIOR LOT, means a lot other than a corner lot with only one frontage on a street other than an alley.

C. THROUGH LOT, means a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as DOUBLE FRONTAGE LOTS.

#### Marquee

"Marquee" shall mean a fixed shelter used only as a roof and extending beyond a building line and which is entirely supported by the building to which it is attached.

#### Motel

"Motel" means 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 at each unit, all for the temporary use by automobile tourist or transient, and such work shall include tourist courts, motor courts, automobile courts, and motor lodges.

#### Nonconforming Use

"Nonconforming Use" means a use which lawfully occupied a building or land at the time this Resolution becomes effective, and which does not conform with the use regulations of the zone in which it is located.

#### Outdoor Advertising Display

"Outdoor Advertising Display" means card, cloth, paper and metal painted signs, wooden, plaster, stone or other sign of any kind or character whatsoever placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, construction, posting, painting, printing, tacking, nailing, glueing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. See also definition for "Sign".

#### Pasture

"Pasture" means an area confined within a fence or other physical barrier and which area is used for grazing or roaming of livestock.

Planned Unit Development

A tract of land developed for residential and/or commercial purposes as an integrated unit. The development is based on a plan which allows for flexibility of design, site layout and density not otherwise possible under the prevailing zone regulations.

Principal Use

The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

Projection

The distance any part of a structure extends over public property or beyond the building setback line.

Public Utility

A private business, performing a public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to, water supply, electric power, gas, and transportation for persons and freight.

Recreational Area, Commercial

Means an area operated for profit and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, skiing, horseback riding, playgrounds and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee or service charge.

Recreational Area, Noncommercial

Means an area devoted to facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, community club houses and other similar uses maintained and operated by a non-profit club, homeowner's association or other corporate structure and whose membership is limited to the residents within the area.

Rehabilitative Center, Half-Way House

A use providing board and room, recreational, counseling and other rehabilitative services to individuals, of either sex, who by reason of mental or physical disability, addiction to drugs or alcohol, or family and school adjustment problems require specialized attention and care in order to achieve personal independence. Individuals participating in a work release, or simi-

lar program from a state institution, and under the supervision of a court, state or local agency shall be included within this definition.

Rest Home, Convalescent or Nursing Home

A use licensed by the State, city or county, which provides nursing, dietary, and other personal services to convalescents, invalids, and aged persons. Surgery, maternity or other care such as are customarily provided in hospitals are not permitted.

Row House

A building or structure that has three (3) or more one-family housekeeping units erected in a row as a single building, each being separated from the adjoining unit or units by an approved fire wall or walls extending from the basement or cellar floor to above the roof along the dividing line.

Sanitarium

A facility, where resident patients are kept, and which specializes in giving clinical, temporary and emergency services of medical or surgical nature to human patients, and licensed by the state to provide facilities and services in surgery, obstetrics and general medical practice.

School, Commercial

A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

School, Elementary, Junior or Senior High, Including Public, Private and Parochial

An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

School-College or University

A public or private institution for higher learning (beyond grade 12) providing courses in instruction as approved by the Montana Department of Education or a national collegiate or university accreditation agency.

Secondhand Store

A retail establishment in which the principal portion of the articles, commodities, or merchandise handled, offered for sale, or sold on the premises is used or not new. Antique stores are exempted.

Scrap Processing Yard

A place of business which is maintained or used for storing, keeping, buying or selling salvageable waste materials. Such materials may be compressed, shredded or otherwise processed for re-use on or off the premises.

Service Station, Automobile Gasoline and Motor Fuels

A use which provides for a drive-in type business in which service can be provided without the customer leaving the vehicle. It may also include the following:

A. The servicing of motor vehicles and operations incidental thereto but not necessarily limited to the retail sale of petroleum products and automotive accessories, automobile waxing and polishing, tire changing and repairing (excluding recapping), battery service, charging and replacement, excluding repair and rebuilding, radiator cleaning and flushing, excluding steam cleaning and repair, and installation of accessories.

B. The following operation if conducted within a building: lubrication of motor vehicles, brake servicing limited to servicing and replacement of brake cylinders, lines and brake shoes, wheel balancing, the testing, adjustment, and replacement or servicing of carburetors, coils, condensers, distributor caps, fan belts, filters, generators, points, rotors, spark plugs, voltage regulators, water and fuel pumps, water hoses and wiring, replacing mufflers and shock absorbers.

Sign

Any device intended for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, provided however, that the following shall not be included in the application of the regulations herein.

- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government except when displayed in connection with commercial promotion.
- C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, and
- F. Real Estate "For Sale" signs, 10 sq. ft. or less in size.
- G. Package containers, designed for the purpose of holding letters, parcel post, packages, and delivery service orders.
- H. Temporary political campaign signs.

### Special Exception

A use which would not be appropriate, without restrictions, throughout a zone, but which if controlled as to number, area, location, and/or relation to the surrounding neighborhood, would promote the public health, safety welfare, or convenience. Such uses may be permitted in a zone as a special exception, if approved by the Board of Adjustment in accordance with Articles V and VI.

### Stable, Private

A detached accessory building in which animals are kept entirely for the use of the owner or members of the immediate family.

### Stable, Non-Profit or Commercial

A structure and customary accessory buildings owned and operated by a non-profit association or club conducted for the exclusive use of its members or guests; or a structure and customary accessory buildings operated for the boarding, rental, or sale of horses and other animals, and otherwise used by the general public.

### Structure

A building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences less than six (6) feet in height, or paved areas.

### Theatre, Drive-In

An establishment to provide entertainment through projection of motion pictures on an outdoor screen for audiences whose seating accommodations are provided by their own motor vehicles parked in car spaces provided on the same site with the outdoor screen.

### Town Council

The governing body of the Town of Broadview.

### Trailer or Mobile Home

A structure designed for transportation on streets and highways propelled or drawn on its own or other power and arriving at the site where it is to be occupied complete and ready, except for minor and incidental unpacking and assembly operations, location on jacks, piers, or removable skirting, connections to utilities and the like. It shall have a minimum dimension of 12 feet x 50 feet.

This definition does not include any dwelling of preconstructed nature meeting applicable local building codes pertaining to on-site assembly of structures.

### Travel Trailer

A portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation use. When factory equipped for the road, it shall have a maximum dimension of 8 x 32 feet.

### Trailer or Mobile Home Park

Land designed or used for the temporary or permanent parking of two or more trailers or mobile homes, and where the lot is rented or sold.

### Trailer Subdivision or Mobile Home Subdivision

A subdivision designed and intended predominately for permanent or temporary occupancy of mobile homes or travel trailers.

### Useable Open Space

Space on the same lot and contiguous to the principal building or buildings and which is either landscaped or developed and maintained for recreational purposes and excludes that portion of the lot which is utilized for off-street parking or loading space or for front yard set-back requirements.

### Variance

An adjustment in the application of the specific regulations of this Resolution to a particular piece of property which property, because of special circumstance applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity or zone.

### Yard

A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from the ground level upward, provided however, that fences or walls may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

### Yard, Front

A yard extending between side lot lines across the front of a lot.

### Yard, Side

A yard extending from the rear line of the required front yard to the rear lot line.

Yard Rear

A yard extending across the rear of the lot between inner side yard lines, and opposite the required front yard.

## ARTICLE III

### ZONE REGULATIONS

It is the intent of this Article to establish zones wherein compatible uses of land may be located to create protect, and maintain a desirable living environment, to stabilize and protect residential harmony, conduct profitable business. It is also the intent of this Article to make it possible to efficiently and economically design and install public facilities in terms of size and capacity, to adequately meet the needs resulting from a defined intensity of land uses.

To carry out the provisions of this ordinance, the Town is hereby divided into the following basic zones determined by developments existing at the time of adoption of this ordinance.

#### Section 1 - Residential and Residential Mobile Home

A zone intended to provide for residential and mobile home residential developments.

##### a. Permitted Uses

No building, structures, or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained, except for one or more of the following uses:

- (1) Dwellings, single-family, detached
- (2) Multi-family dwellings, not to exceed three stories
- (3) Churches, convents, and other places of worship
- (4) Parks, playgrounds
- (5) Public utility stations
- (6) Schools, public and private, elementary and secondary
- (7) Individual mobile homes

- b. Uses not specifically mentioned in Section 2(a) may be permitted by the Board of Adjustment if determined to be of the same general character as the permitted uses.

c. Special Exceptions

The following uses may be permitted as Special Exceptions in accordance with provisions of Article VI.

- (1) Child-care center, day nursery
- (2) Convalescent, nursing homes, and rest homes
- (3) Home occupations
- (4) Hospitals (excluding animals)
- (5) Juvenile Care Homes, not to exceed eight unrelated individuals
- (6) Libraries, museums, and art galleries
- (7) Orphanage and charitable institution
- (8) Parks, playgrounds operated by a public agency
- (9) Temporary structures
- (10) Planned Developments in accordance with Article IX
- (11) Rehabilitative center, half way house
- (12) Mobile home parks
- (13) Travel-trailer, tourist parks

d. Accessory Uses

Accessory uses and structures incidental to and on the same lot as the principal use, including the following:

- (1) Garages
- (2) Greenhouses used to grow plants as a hobby for the residents personal use
- (3) Off-street parking as provided in Article X.
- (4) Temporary structures
- (5) Temporary real estate sales offices, for the purpose of conducting the sale of lots or improvements in the development in which the office is located
- (6) Tool houses and other similar structures for the storage of accessory supplies
- (7) Any accessory building related to agriculture or the keeping of animals for individual domestic purposes

e. Area Requirements

See Article IV

Section 2 - Commercial

A zone intended to accommodate service and retail facilities.

a. Uses Permitted

No building, structure, or land shall be used, and no building or structure shall hereafter be erected, structurally altered, enlarged, or maintained, except for one or more of the following uses:

- (1) Banks, saving and loan companies
- (2) Barber and beauty shops
- (3) Bicycle sale and repair, not to include motorcycle sales or service, snowmobiles and similar uses
- (4) Blueprinting and photostating
- (5) Book stores
- (6) Camera, gun, toy, and hobby stores
- (7) Churches, and other places of worship
- (8) Clinics, medical and dental, for the care of human patients
- (9) Clothing and apparel stores
- (10) Dairy bars, not providing drive-in service
- (11) Drug stores, prescription pharmacy
- (12) Florist, retail sales
- (13) Food Stores
- (14) Jewelry and watch sales
- (15) Libraries, museums, and art galleries
- (16) Mortuary, undertaking parlor
- (17) Office building, professional
- (18) Office equipment sales, retail
- (19) Paint, retail sales
- (20) Ambulance services
- (21) Automobile service stations, not including painting, body and fender work, or storage of disabled vehicles
- (22) Automobile commercial parking
- (23) Bakeries
- (24) Department stores
- (25) Fertilizer, garden supplies, retail stores
- (26) Frozen food lockers
- (27) Furnace repair and cleaning
- (28) Furniture, retail sales
- (29) Janitor service
- (30) Physical culture establishments
- (31) Restaurants
- (32) Variety stores

b. Special Exceptions

The following uses may be permitted as Special Exceptions, in accordance with the provisions of Article VI:

- (1) Automobile parking lot, commercial
- (2) Automobile sales lot, new and used
- (3) Automobile, truck storage and repair
- (4) Billboards
- (5) Boat sales, new and used
- (6) Bottling works for non-alcoholic beverages
- (7) Commercial kennel
- (8) Construction contractor
- (9) Drilling equipment storage yard, sales or service
- (10) Drive-in restaurant
- (11) Farm irrigation sales, new and used
- (12) Golf driving ranges

- (13) Heavy construction equipment sales and service, new and used
- (14) Heavy equipment, sales and service
- (15) Juvenile care centers, not to exceed eight unrelated individuals
- (16) Lumber yard, building supplies sales, wholesale or retail
- (17) Mobile home, travel trailer, new and used sales or storage
- (18) Multi-family dwellings (exceeding three stories)
- (19) Rehabilitative centers, half-way house
- (20) Restaurant with the sale of alcoholic beverages
- (21) Taverns
- (22) Temporary building
- (23) Temporary structures
- (24) Veterinary hospital, outpatient clinic

c. Accessory Uses

Accessory uses and structures incidental to and on the same lot as the principal use:

- (1) Off-street parking as provided for in Article IX.

d. Area Requirements

See Article IV.

- e. Uses not specifically mentioned in Section 2 (a) may be permitted by the Board of Adjustment if determined to be of the same general character as the listed permitted uses.

ARTICLE IV

BULK DIMENSIONAL AND GENERAL REQUIREMENTS

<u>ZONING REQUIREMENTS</u>	<u>RESIDENTIAL</u>	<u>COMMERCIAL</u>
Minimum Lot Area Requirements *3		N/A
Width	75 Ft.	
Sq. Ft.	10,000 Sq. Ft. *1	
Minimum Yard Requirements		
Front	25 Ft.	25 Ft.
Side	10 Ft.	0 *4
Rear	25 Ft.	10 Ft.
Corner Lot - Adjacent Street	15 Ft.	
Maximum Height for all Buildings	25 Ft. *2	45 Ft.
Off Street Parking Required	2 per D/U *5	See Article X
Loading Space Required		See Article X

- 
1. Mobile Home Park - See Requirements of Article VI
  2. Building Height is the Vertical Distance Measured from the Established Front Grade Elevation To A Point  $\frac{1}{2}$  the Distance From The Plate Line to Ridge or Highest Point of the Roof
  3. Accessory Buildings including Garages - 5 ft. set back from rear and side property lines
  4. Not required Except 10 feet where adjacent to Residential Zone
  5. 180 Sq. Ft. Per Car Required Space Shall be Provided on the Lot, Required Parking Area May Be Decreased When Equal Area is Provided Within the Building.

D/U; Dwelling Unit

## ARTICLE V

### SPECIAL EXCEPTION USES - AUTHORIZED BY THE TOWN COUNCIL

a. In addition to the authorization given to the Board of Adjustment to hear and decide petitions for special exceptions (as set forth in Article VI). The Town Council is authorized and directed to hear and decide such petitions subject to the applicable provisions of Article VI upon application made to it for any one of the following uses:

1. Commercial automobile parking lot.
2. Child care home for five or less children in any residential zone.
3. Dwellings in a Commercial Zone.
4. Golf course, miniature; golf and baseball driving ranges; in Commercial Zone.
5. Home occupations in all zones where permitted by Special Exception.
6. Non-commercial riding stable for not more than two horses, for personal or family use, in a Residential Zone.
7. Off-street parking in connection with a permitted use, in a Residential or Commercial Zone.
8. Off-street parking on land reserved for street or highway purposes in connection with commercial and industrial uses lawfully being conducted on the remainder of the parcel of land or recorded lot.
9. Private education institution (dancing schools, etc.) for five or less students, in any Residential Zone.
10. Temporary structures, in any Residential or Commercial Zone.
11. Renewals of temporary special exceptions originally granted by the Town Council.

b. Before making a decision, the Town Council shall determine if the special exception is in accordance with the development of the neighborhood and consistent with the Zoning Plan and making a decision as to grant or deny the hearing. It shall have ten (10) working days in which to make a decision. The Town Council shall have the power to continue a request as provided in Article VI.

c. It shall not be necessary to make a verbatim record of a Petition filed before the Town Council. The decision of the Town Council shall be based on the evidence presented, it shall be in writing, and shall contain a statement of the grounds and findings on which it is based.

d. The filing of the petition and the notice to be given of the Town Council's decision shall be governed by the provisions set forth in Article VI for petitions filed with the Board; however, the filing fee, which must accompany each petition filed with the Town Council, is fixed at Fifteen Dollars for each petition filed hereunder. A petition for special exception shall be subject to the same limitations in reference to refileing for the same property as are provided in Article VI for cases filed with the Board.

e. Any person, board, association, corporation or official aggrieved by a decision of the Town Council under this section may, within 10 days after the decision is rendered, appeal the decision to the Board of Adjustment. The Board shall then consider the case as if it were an original petition for a special exception filed with it. The appellant shall be subject to the same requirements as to filing, etc., as if he were filing an original petition or an appeal as provided for under Article VI with the Board.

## ARTICLE VI

### BOARD OF ADJUSTMENT

#### Section 1 - Organization, Powers and Duties

There is hereby created for the Town of Broadview a Board of Adjustment as provided by statute, consisting of five members appointed by the Mayor, subject to the confirmation of the Town Council. The terms of each member shall run concurrent to that of the Mayor's. Vacancies shall be filled for the unexpired terms of any member whose terms are interrupted for any reason.

#### a. Proceedings of the Board of Adjustment

Meetings of the Board shall be scheduled at a regular time each month and special meetings may also be called by the Chairman. The Chairman may cancel the regular monthly meeting if no matters are pending for the Board's consideration. The Chairman, or in his absence, the acting Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board shall keep minutes of their proceedings, showing the vote of each member, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record. The official minutes of the Board's proceedings shall be signed by the Chairman or acting Chairman and attested by the recording secretary. The decision of the Board shall become effective immediately, unless otherwise directed by the Board. The Board shall designate a secretary of the Board. The Town Clerk shall be custodian of all records of the meetings, findings, conclusions and orders of the Board.

#### b. Hearings, Appeals, Notices

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a

notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal not to exceed thirty (30) days, give public notice thereof as well as due notice to the parties in interest, and render a decision with a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person or by agent or attorney.

C. Appeals: Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

D. Powers and Duties

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or interpretation of this act or of any resolution adopted pursuant thereto.
2. To authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

E. Decisions, Appeals, Re-hearing

In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of this act, reverse or

affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution, or to effect any variation in the application of this Ordinance.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the Town may present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

In an application for a conditional use, administrative review or variance is denied by the Board of Adjustment, another application shall not be filed within a period of one year from the date of denial, except upon the initiation of the Board of Adjustment after a showing of a change of circumstances which would warrant a re-hearing.

## Section 2 - Variances: Application Procedures

The Board of Adjustment shall have the authority to grant a Variance from the terms of this Ordinance in specific cases where it is found that the granting of the Variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the Ordinance would result in unnecessary hardship.

### A. Applications

An application for Variance shall be filed with the Town Council under the following conditions:

1. The application shall include, but not be limited to the following:
  - a. A legal and general description of the tract(s) upon which a Variance is sought;
  - b. The name and address of the owner(s) of the land subject to the Variance, and their agents, if any;
2. The applicant shall present a map showing the location of the property for which the application is submitted, and its relation to adjoining property;
3. The reason why the Variance is being sought;

4. Be submitted at least twenty (20) days prior to the date of the public hearing;
5. Be accompanied with payment of all applicable fees.
6. An application for a Variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Article shall have first appeared. However, the Board of Adjustment may, by a two thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve month limitation of this Article.

B. Administrative Action

The Town Clerk, upon receiving an application for a Variance, shall do the following:

1. Place notice of the time, date, and place of the public hearing in the legal newspaper and in a newspaper of general circulation fifteen (15) days in advance of the date set for public hearing.
2. Notify the owner of the property, or his agent, of the time, date and place of the public hearing five (5) days in advance of that date;
3. Notify property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the Conditional Use permit of the time, date and place and proposed use(s). The Town Clerk may, at his discretion, notify property owners within a radius greater than three hundred feet if he deems that the contemplated use(s) would have a substantial environmental impact;
4. Place a notice of the time, date, and place of the public hearing on the property ten (10) days prior to the hearing date;

C. Board of Adjustment Action

The Board of Adjustment, before it grants a Variance shall determine:

1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
2. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other tract(s) in the same district;
3. That granting the Variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land in the same district;
4. That the granting of the Variance will be in harmony with the general purpose and intent of this Ordinance
5. In granting any Variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms which the Variance is granted, shall be deemed a violation of this Ordinance;
6. The Board shall prescribe a time limit within which the action for which the Variance is required shall be begun or completed, or both. Failure to begin or complete, or both such action within the time limit set shall void the Variance;
7. Under no circumstances shall the Board grant a Variance to allow a use not premissible under the terms of this Ordinance in the District involved. A Variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

Section 3 - Request for Special Exception

(a) Filing of Petition.

Petitions for the grant of special exceptions shall be filed with the Town Council on forms provided therefor. The petitioner shall submit plans and/or specifications or other data or explanatory material, stating the methods by which he will comply with the conditions which may be specified for each grant of special exception.

(b) Notice of Action.

Upon receipt of notice of the grant of a special exception, the Town Council shall identify the tract(s) on the Official Map, record the Special Exception and all special conditions in the Official Zoning Record Book, and notify the applicant of the approval of the Special Exception and conditions under which the exception was approved.

(c) Zoning map to indicate special exception.

Upon receipt of notice of grant of special exception, the Town Council shall indicate the same in the proper place on the Zoning Map by use of appropriate code number or symbol and record same in the Official Zoning Record Book in the Town Clerk's Office.

A special exception may be granted, when the Board, or the Town Council as the case may be finds from a preponderance of the evidence of record that:

(1) The proposed use does not affect adversely the Zoning Plan for overall growth and development of the Jurisdictional Area as embodied in this Ordinance.

(2) The proposed use at the location selected will not:

(a) adversely affect the health and safety of residents or workers in the area:

(b) overburden existing public services, including water, sanitary sewer, public roads, storm drainage, fire protection, and other public improvements.

(c) be detrimental to the use or development of adjacent properties or the general neighborhood, nor change the character of the general neighborhood in which the use is proposed at the time of the application with respect to or level of services, population density, and;

(3) The standards set forth for each particular use for which a special exception may be granted can be met.

Special exceptions shall be subject to the height limitations laid down in the zone in which the special exception is located. In cases where in the opinion of the Board of Adjustment, the adjacent residential development will not be adversely affected, the height limit may be increased. Special exceptions shall be subject to the parking and loading requirements of Article X.

Section 4 - Uses for which Special Exceptions May Be Granted and Specific Standards Relative Thereto:

(a) Automobile Service Stations

(1) The lot or parcel of land so to be used has a street frontage of at least one hundred (100) feet and an average depth of at least one hundred (100) feet and,

(2) The walls of every building or structure are set back at least five (5) feet from every adjoining property line and at least thirty (30) from any street right-of-way and,

(3) The entrance and exit driveway, or driveway to and from any service station are at least fifteen (15) feet wide but not more than twenty-five (25) wide and are located at least ten (10) feet from any adjoining property line and at least twenty (20) feet from the corner of any intersecting public street and,

(4) There are adequate rest room facilities available in the premises and,

(5) No portion of any new service station or any portion of the premises upon which the same is situated, or any driveway entrance to or exit from the same shall be located within five hundred (500) feet in a straight line of any lot upon which there is located any other service station and,

(6) On any premises upon which there is located a service station all repairs to or for motor vehicles shall be conducted within the confines of a building.

(7) When such uses abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted comprehensive plan, and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall, or a substantial, sightly, solid fence, not less than five feet in height and,

(8) Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.

(b) Automobile, Truck and Trailer Rental Lot, Outdoor.

(1) Commercial gasoline pumps and other service appliances shall not be permitted, nor shall any major repairs, spray paint operations, or body or fender repair be permitted, except that not more than two gasoline pumps shall be permitted only for the fueling of rental vehicles and,

(2) Vehicles shall be stored, or parked only within a hard surfaced area constructed of material which will assure a surface resistant to erosion and adequately treated to prevent dust emissions and,

(3) When such a use abuts a residential zone and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall, or substantial, sightly, solid fence not less than five feet in height.

(c) Commercial Uses Abutting or Adjoining Any "R" Zone

(1) Notwithstanding any other provisions of this Resolution, any commercial use abutting or adjoining any R Zone shall be required to effectively provide screening in the form of a sightly and substantial fence, together with a three foot planting strip on the outside of such wall or fence, planted in shrubs and/or evergreens. The failure of the owner and/or operator to maintain any required planting so that they exist in a healthy condition is grounds for revocation of the special exception permit. Further provided that advertising upon the screening shall be prohibited. Screening shall not be required on street frontage.

(d) Commercial Recreational Area

(1) All buildings and structures shall be at least thirty (30) feet from all adjoining property lines.

(2) A minimum of one (1) off-street parking space shall be provided for each 250 square feet of area used for facilities and grounds. All off-street parking areas and drives shall be surfaced with a hard and durable material and properly drained.

(3) There may be one (1) non-illuminating sign not to exceed twelve (12) square feet in area at each entrance.

(4) The entrances and exits shall be located so as to afford unobstructed sight distance for 150 feet in each direction along the major arterial, principle road or highway affording access.

(5) All lighting shall be so positioned as to be directed away from major arterials, roads, highways, and adjacent properties.

(6) Applications for a commercial recreational area exceeding ten (10) gross acres in size or having more than one facility shall provide an environmental assessment. The assessment must include:

- (a) the environmental impact of the proposed use,
- (b) any adverse environmental effects which cannot be avoided should the proposal be implemented
- (c) alternatives to the proposed action,
- (d) the relationship between the short term uses of the environment and the maintenance and enhancement of long-term productivity,
- (e) any irreversible and irretrievable commitments of resources which would be involved if the proposed action were implemented.

(e) Dwellings in a Commercial Zone

(1) In any Commercial Zone, dwellings of the type permitted in the least restricted adjacent Residential Zone may be permitted, provided that:

(2) The area in which such dwellings are to be located is immediately adjacent to a Residential Zone; and

(3) The remaining Commercial areas adjacent to the area proposed for residential development are predominately vacant.

(4) The provisions of this sub-section shall not apply to any dwelling intended for the exclusive occupancy of a watchman or caretaker.

(f) Mobile Home Park, Travel Trailer Park, or Individual Mobile Home

(1) The minimum area for a mobile home park or travel trailer park shall be 12,000 square feet.

(2) All individual mobile homes and mobile homes located in a park shall be completely skirted with a material of metal or wood, and in addition shall be securely anchored at all four corners.

(3) Each individual mobile home park site shall be a minimum of four thousand (4,000) square feet. Each individual mobile home site not a part of a park shall provide a minimum of ten thousand (10,000) square feet.

(4) Mobile homes shall maintain a minimum set back between adjacent units and accessory buildings of twenty (20) feet.

(5) The grounds of a mobile home park or travel trailer park shall be graded to drain properly and all roads shall be surfaced with a hard and durable material and properly drained.

(6) A mobile home park or travel trailer park exceeding fifty (50) spaces must have direct access to a designated arterial.

(7) Mobile homes shall provide a minimum of two (2) off-street parking spaces per unit.

(8) No mobile home or travel trailer shall be located closer than 25 feet to the front property line, or closer than 10 feet to any other property line. If the land to be used abuts the property line of a lot, parcel, or tract of land developed for residential use, a substantial and sightly fence six (6) feet in height shall be constructed and maintained along the full length of such abutting property line.

(9) No mobile home park or travel trailer park shall be enlarged or extended beyond the limits authorized in the grant of Special Exception. All such enlargements or extensions shall require grants of special exception as in the case of an original petition.

(g) Home Occupation

(1) There shall be no exterior evidence of the home occupation other than a non-illuminated identification sign having an area of not more than two square feet and which shall be attached wholly to the dwelling or structure within which the activity is conducted.

(2) No mechanical equipment shall be used for such occupation except such equipment as is customary for purely household and hobby purposes.

(3) There shall be no group instruction, assembly, or activity.

(4) No materials, equipment or business vehicles may be stored or parked on the premises except that one business vehicle, not to exceed eight thousands pounds, (G.V.W.) and used exclusively by the resident may be parked in a carport, garage, rear or side yard.

(h) Taverns, Bars and Cocktail Lounges (with the sale of hard liquor)

(1) The lot or parcel of land so used must have a street frontage of at least twenty five (25) feet and an average depth of at least one hundred (100) feet and,

(2) All structures shall maintain a distance between property lines, measured in a straight line, of 600 feet from any school, or public park.

(i) Temporary Structures

(1) Such structures shall comply with the front, rear and side yard setback requirements for the zone in which it is located.

(2) There shall be a minimum of two (2) off-street parking spaces.

(j) Theatre, Outdoor

(1) No part of such theater shall be located closer to any residence than 500 feet, and

(2) The theater screen shall not be designed to face a major highway or arterial and,

(3) A wall or screen of adequate height shall be provided to screen the patrons and cars in attendance of said theater from the view of the surrounding properties. The perimeter of the face shall be landscaped with suitable plants and shrubbery to preserve as far as possible harmony with the appearance of the surrounding properties.

Section 10 - Additional Requirements

The Board of Adjustment may, in order to protect the public health, safety, and welfare and promote the objectives of the Zoning Plan, require additional conditions or safeguards for any other use(s) for which the Board is authorized under the terms of this ordinance to grant a Special Exception.

## ARTICLE VII

### ZONING COMMISSION

#### Section 1 - Organization, Powers and Duties

There is hereby created for the Town of Broadview a Zoning Commission, as provided by statute, consisting of five citizen members, appointed by the Mayor subject to confirmation of the Town Council. Terms of each member shall run concurrent with the term of the Mayor. It shall hold its meetings in the Town and the presence of three members shall constitute a quorum. Its duties and powers shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the Town Council on all requests to amend, supplement change, modify or repeal the regulations, restrictions and boundaries in zoning districts. The Town Council shall not hold its public hearing or take action until it has received a final report from such commission.

#### Section 2 - Amendments to Town Zoning Ordinance

##### A. General

This ordinance, including the Official Zoning Map, may be amended by the Town Council on their own motion, but no amendment shall become effective unless it shall have been submitted to the Town Zoning Commission for review and recommendation. Before enacting an amendment to this ordinance, the Town Council shall give public notice and hold a public hearing thereon.

##### B. Applications for Map Amendments

Unless initiated by the Town Council, all applications for Official Map amendments must be submitted by the owner of such property, the contract purchaser, or the authorized agent of the owner. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months.

Each application to amend the Official Map shall be filed with the Town Clerk, and each application shall be submitted under the following conditions:

1. It shall include but not be limited to the following information:
  - a. A legal description of the tract(s) proposed to be rezoned.
  - b. A map showing the dimensions, acreage and location of the tract(s) and adjacent land use;

- c. The names and addresses of the owners of the land and their agents, if any;
  - d. Payment of all applicable fees.
2. An application for amendment to the Official Map shall be at least twenty (20) days prior to the date of the public hearing before the Town Zoning Commission.
  3. An application may not be withdrawn or amended by the applicant after the legal advertising as required by this section shall have first appeared. However, the Town Zoning Commission may, by a two-thirds vote of all members, allow an application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this Article.

C. Planning Department Study and Responsibility

The Town Clerk, upon receiving an application for rezoning of an area or a particular piece of property shall do the following:

1. In the case of a protest petition filed in the matter of any application for rezoning determine the validity of such petition;
2. Advertise in the legal newspaper fifteen (15) days in advance the time and place of the public hearing;
3. Notify, by mail, the applicant or his authorized agent five (5) days prior to the date of the public hearing of the time and place of such hearing;
4. Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning: of the time, date, place of the public hearing and the existing and proposed classification. The Town Clerk may notify property owners within a radius of more than three hundred (300) feet if he determines that the proposed use of the property would have a substantial environmental impact on surrounding land use;
5. Place notice of the public hearing on the property subject to rezoning fifteen (15) days in advance of the date of public hearing.

D. Town Zoning Commission Action

The Town Zoning Commission shall review and take action upon each application in accordance with the provisions of this Article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the Zoning Commission by the Town Clerk. A report of the Commission's decision shall be submitted to the Town Council.

The Town Zoning Commission shall make a recommendation to the Town Council to:

1. Deny the application for amendment to the Official Map.
2. Grant the application for amendment to the Official Map.
3. Delay action on the application for a period not to exceed thirty (30) days.
4. Give reasons for the recommendation.

The Town Zoning Commission shall adopt such rules and regulations for the conduct of public hearings and meetings, which shall be published and available to the public, as well as conflict of interest rules, to insure that no member is entitled to vote on a matter in which he has an interest directly or indirectly.

E. Town Council Public Hearing

Before taking action on an application for an amendment to the Official Map, and after presentation of the Zoning Commission Official Map, and after presentation of the Zoning Commission report, the Town Council shall hold a public hearing on the application.

In case, however, of a valid protest petition against such change signed by the owners of twenty per centum (20%) or more either of the area of the lot included in such proposed change, or of those immediately adjacent in the rear of extending one hundred fifty (150) feet therefrom or of those adjacent on either side thereof within the same block, or of those directly opposite thereof extending one hundred fifty (150) feet from the street frontage of such opposite lots. Such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the Town Council.

The recommendation of the Zoning Commission shall be published in a newspaper of general circulation in the Town and fifteen (15) days after the first publication of such notice, a final hearing shall be held at the next regular meeting of the Town Council.

When such proposed amendment has been denied by the Town Council, neither it nor one involving the same tract(s) shall be offered for adoption within one year after such denial.

### Section 3 - Special Review by the Zoning Commission

#### A. General

Although each Zoning District is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular District depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this Article to provide a system of review of such uses so that the community is assured that the uses are and will further the purpose of this Ordinance.

#### B. Application for Special Review: Procedure

An application for a Special Review may be filed by the property owner, contract purchaser, or his authorized agent. Such application shall be filed with the Town Clerk and shall be submitted under the following conditions:

1. The application shall include but not be limited to the following information:
  - a. A legal and general description of the tract(s) upon the Special Review Use is sought;
  - b. A map showing the dimensions, acreage and location of the tracts(s);
  - c. The name and addresses of the owner(s) of the tract(s) and their agents;
  - d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures, off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening signs, and open space areas

- e. A time schedule for development;
  - f. Any other information the applicant believes will support his request.
2. The application must be submitted at least twenty (20) days prior to the date of the public hearing before whom it is appropriate for the matter to be heard, and be accompanied by payment of all applicable fees.

C. Administrative Action

The Town Clerk, upon receiving an application for a Special Review Use shall do the following:

1. Place a notice of the time, date, and place of the public hearing before the appropriate body in the legal newspaper of the Town, fifteen (15) days in advance of the date of the public hearing.
2. Notify the applicant, or his agent, of the time, date and place of the public hearing, five (5) days in advance of that date;
3. Notify property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the Special Review of the time, date, place, and proposed use(s). The Town Clerk may notify property owners within a distance greater than three hundred (300) feet if he determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
4. Place notice of the public hearing on the property subject to the Special Review fifteen (15) days in advance of the public hearing.

D. Zoning Commission Action

The Town Zoning Commission shall consider each application in accordance with the provisions of this Article, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the Zoning Commission, by the Town Clerk. A written report of the Commission's decision and recommendation shall be submitted to the Town Council.

The Town Zoning Commission shall make a recommendation to the Town Council to:

1. Deny the application for a Special Review Use; or
2. Grant the application for a Special Review Use; or
3. Delay action on the application for a period not to exceed thirty (30) days.

Recommendations from the Town Zoning Commission shall be based on findings of fact and shall be transmitted to the applicant or his agent, and the Town Council within fifteen (15) days of the date of the public hearing before said commission.

Before approving a Special Review Use, the Zoning Commission shall find that the contemplated use(s):

1. Complies with all requirements of this Article;
2. Is consistent with the objectives and purposes of this Ordinance.
3. Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity.
2. Ingress and egress to adjoining streets.
3. Off-street parking.
4. Fencing, screening and landscaping.
5. Building bulk and location.
6. Usable open space.
7. Signs and lighting.
8. Noise, vibration, air pollution and similar environmental influences.

E. Town Council Action

The recommendation of the Zoning Commission shall be published in a newspaper of general circulation in the Town and fifteen (15) days after the first publication of such notice, a final hearing shall be held at the next regular meeting of the Town Council.

## ARTICLE VIII

### Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, and Non-Conforming Uses of Structures and Premises

#### Section 1 - Intent

The provisions of this Chapter shall apply to buildings, structures, lands and uses which become non-conforming as a result of the application of this Ordinance to them, or from classification or reclassification of property under this Ordinance or any subsequent amendments thereto. If a use originally authorized by a variance, conditional use permit or other valid use permit prior to the effective date of this Ordinance is located within a district in which such use is not permitted by the terms of this Ordinance, such use shall be a non-conforming use; however,

#### Section 2 - Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. An additional variance of area, width, and yard requirements shall be obtained only through affirmative action of the Board of Adjustment.

If two or more vacant lots or combinations of lots and portions of lots with continuous frontage in single ownership or record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot widths and area as established by this Ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

#### Section 3 - Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer

permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long, as it remains otherwise lawful, subject to the following provisions.

- A. No such non-conforming use shall be enlarged or increased, no extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If any such non-conforming use of land ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

#### Section 4 - Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its non-conformity unless an enlargement or structural alternation makes the building more conforming or is required by law;
- B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction it shall not be reconstructed except in conformity with the provisions of this Ordinance;
- C. 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;
- D. Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance.

## Section 5 - Non-Conforming Uses of Structures

If a lawful use of a structure, or of structures and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance 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. Any non-conforming 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 of the Ordinance, but no such use shall be extended to occupy any land outside such building;
- C. If no structural alternations are made, any non-conforming use of a structure, or structure or premises, may be changed to another non-conforming use provided that the Board of Adjustment, 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 non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
- D. Any structure, or structures and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not be thereafter resumed;
- E. When a non-conforming use of a structure, or structures and premises in combination is discontinued or abandoned for one (1) year, the structure, or structures and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- F. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of 50 percent of the replacement cost at time of destruction.

Section 6 - Repairs and Maintenance

Nothing in this Ordinance 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 charge with protecting the public safety, upon order of such official.

## ARTICLE IX

### PLANNED DEVELOPMENTS AND SUPPLEMENTAL PROVISIONS

#### Section 1 - Intent

It is the intent of this Article to establish standards and procedures for approval of a Planned Unit Development Zone (P.U.D.)

#### Section 2 - Procedures For Approval Of Planned Unit Developments

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use, to improve the design, character, and quality of new developments, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic features of open space.

(a) Application for planned unit developments shall be considered as an amendment to the Official Map in accordance with the procedures of Article VII.

(b) Setback requirements of Article IV, shall not apply to planned unit developments. Setbacks shall be controlled by the criteria and standards of this Article and as shown on the proposed planned unit site plan.

#### Section 3 - Pre-Application Review

At least thirty (30) days prior to the submittal of an application for preliminary approval of a planned unit development, the developer or his authorized representative shall meet with the Town Council for a review of the location, density, land uses, and other pertinent features of the proposed development.

#### Section 4 - Application for Approval

An application for approval of a planned unit development may be filed by a person having ownership in the property to be included in the planned unit. The application must be made to the Town Council to be accompanied by twenty (20) copies of a site plan and a written statement.

## Section 5 - Planned Unit Site Plan

A complete site plan showing the major details of the proposed planned unit prepared at a scale of not less than 1" = 100' shall be submitted in sufficient detail to evaluate the land planning building design, and other features of the planned unit. The site plan must contain, insofar as is applicable, the following minimum information:

(a) Name. Name(s) of the proposed development. Name(s) and address(es) of the owner(s) and the designer(s) of the site plan and his seal, and

(b) Vicinity Sketch Map. A vicinity sketch map showing names and locations of property lines, adjacent streets and roads and the approximate location of adjacent property within five hundred (500) feet of the planned unit site, and

(c) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas, and as sites for schools or other public buildings, and

(d) The location and dimension of all vehicular points of ingress and egress, drives, channelizations and traffic circulation, and

(e) The location of pedestrian entrances, exits, walks and walkways, and

(f) A general landscape plan at the time of initial submission to be followed by a detailed landscaping plan, once the site plan has been approved showing the spacing, sizes and specific types of landscaping material, and

(g) Utility and drainage plans. Utility and drainage plans shall be provided including all information required to determine that water, sewer, sanitary disposal and storm drainage improvements will be made and located in accordance with Yellowstone County requirements, and

(h) Contour intervals of five (5) feet, and

(i) The location and size of all existing and proposed buildings, structures, and improvements, and

(j) The maximum heights of all buildings, density of dwellings and proposed land uses, and

(k) Any areas subject to a 50 or 100 year flood cycle.

(l) Evidence of adequate fire protection.

(m) Location of solid waste collection facilities.

- (n) Location of fire hydrants and any emergency easements.

#### Section 6 - Planned Unit Written Statement

A written statement ten (10) copies of which must be submitted with the preliminary site plan must contain the following information:

- (a) Copies of any special agreements, conveyances, restrictions, or covenants, which will govern the use, maintenance and continued protection of the planned unit and any of its common parks or open spaces, and
- (b) A statement of the present ownership and legal description of all the land included in the planned unit, and
- (c) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to describe the objectives, and
- (d) A development schedule indicating the approximate date when construction of the planned unit or stages of the planned unit can be expected to begin and be completed.

#### Section 7 - Review and Approval

After receipt of an application for a planned unit, the Town Council shall post the property indicating that an application for planned unit development has been filed and that more detailed information may be obtained from the office of the Town Council. The Town Council shall also notify by mail the owners of abutting properties located within three hundred (300) feet of the exterior boundaries of the land included in the planned unit five (5) days prior to the date of the preliminary hearing before the Zoning Commission. In those cases where due to topography land ownership patterns or other circumstances, the Town Council may notify property owners within a radius greater than three hundred (300) feet.

#### Section 8 - Zoning Commission

- (a) Within sixty days (60) after receiving a preliminary application for a P.U.D., the Zoning Commission shall hold a public hearing on the application. The Zoning Commission shall, within sixty (60) days of the public hearing, or within such time as mutually agreed to by the Zoning Commission and the applicant, either without modifications and conditions, or recommend approval of the proposed planned unit in whole or in part, with or

without modifications and conditions, or recommend denial. In any case, the Zoning Commission shall forward its recommendations to the Town Council.

(b) The Town Council shall approve or deny all planned unit applications referred to it by the Zoning Commission, after giving notice, shall hold a public hearing on the application. The Town Council shall within sixty (60) days of the hearing or within such time as is mutually agreed to by the Board and the Applicant, either grant the application in whole or in part, with or without modifications and conditions, or deny the application.

(c) Whenever notice is required for a public hearing before the Zoning Commission or the Board of County Commissioners for the purpose of considering a planned unit application, such notice must be published in a newspaper of general circulation at least twenty (20) days prior to such hearing. Such notice shall give the time, date, and place of the hearing and give a brief summary or explanation of the proposed planned unit and its location.

(d) All approved site plans, special agreement, restrictions, covenants, including any modifications or conditions shall be endorsed by the Town Council. The applicant shall file the approved Planned Unit Site Plan and such other agreements, etc. with the Town Clerk. Thereafter, no building or structure shall be erected and no land used for any purpose other than shown on the officially recorded Planned Unit Site Plan or in accordance with any condition(s) required thereon.

Once a Planned Unit has been approved by the Town Council, the Town Council shall indicate on the Official Map, and in the Zoning Record Book, that an amendment for a Planned Unit has been granted for the tract(s) included in the approved site plan.

#### Section 9 - Conclusions and Findings

When the Zoning Commission or the Town Council either grants an application in whole or in part, with or without modifications, or denies an application, its decision shall be in the form of a written opinion setting forth any conclusions and findings of fact related to the specific application; and shall set forth why and in what manner the application is or is not consistent with the requirements and criteria set forth in Section 10, as follows:

Section 10 - Standards

A planned unit shall implement the purpose of this Resolution and of this Article, and, in addition, shall meet the following standards and requirements:

(a) Uses permitted - the uses in a planned unit must be uses "permitted of right" or "permitted by special exception in the zone in which the planned unit is located or as provided for in Subsection 10 (e) of this Article.

(b) The planned unit is consistent with the purpose and policies of the Zoning Plan.

(c) The planned units relationship to its surroundings shall be considered in order to avoid adverse effects to the development caused by traffic circulation, building heights or bulk, lack of screening, or intrusions on privacy.

(d) Minimum useable open space and common park areas are lands used for scenic, recreational or landscaping purposes and excludes road easements, dedicated right-of-ways, driveways, or required parking areas. Not less than twenty (20) percent of the net land area shall be developed and maintained as common open space.

(e) Commercial uses other than those permitted in paragraph A above may be included in a planned unit. Such non-residential uses must be distinctly subordinate to the residential character of the planned unit and are limited to those uses permitted by right or "permitted by special exception" in a Commercial Zone.

(f) Site Planning - The Zoning Commission and Town Council must be satisfied that the site plan for the planned unit has met each of the following criteria or can demonstrate that one or more of them is not applicable, and that a practical solution consistent with the public interest has been achieved for each of these elements:

(1) That there is an appropriate relationship to the surrounding area. The buffer zone must be kept free of buildings, obstructions, and must be landscaped, screened, or protected by natural features, so that adverse effects on surrounding areas are minimized.

(2) Circulation, in terms of an internal street circulation system designed for the type of traffic generated, safely separated from living areas. Private internal streets may be permitted if they can be used by police, fire department vehicles for emergency purposes, and by other city and county departments to provide basic services. Bicycle traffic shall be considered and provided for when the

site is used for an area for living purposes. Proper circulation in parking areas in terms of safety, convenience, separation and screening.

(3) Useable open space in terms of: preservation of natural features including trees, drainage areas, recreation, views, density, relief, convenience and function.

(4) Variety in terms of: housing type, densities, facilities, and open spaces.

(5) Privacy in terms of the needs of; individuals, families and adjacent properties, and

(6) Pedestrian traffic in terms of; safety, separation, convenience, access to points of destination and attractiveness, and

(7) Building types in terms of; appropriateness to density, site relationship and bulk, and

(8) Building design in terms of; orientation, spacing, materials, color and texture, storage, signs and lighting.

#### Section 11 - Planned Shopping Center

An application for a Planned Commercial Center (P.C.C.) shall be submitted in accordance with the procedures outlined for other Planned Unit Developments, and in addition, an application for a PCC must show:

(a) A minimum of five (5) gross acres will be developed under the site plan and application, and

(b) That such development is located adjacent to a designated arterial, and

In addition, the uses permitted in a PCC may include those allowed as a matter of right or by Special Exception in a Commercial

#### Section 12 - P.U.D. Development Schedule

A P.U.D. shall be started within twelve (12) months following approval of the development project, and be substantially complete within five (5) years from starting date.

An application for P.U.D. shall be accompanied by a development schedule, indicating to the best of the applicant's knowledge the approximate date on which construction of the project can be expected to begin, anticipated rate of development, and a completion date.

A P.U.D. shall be reviewed by the Town Council on a twelve (12) month basis.

Following review of the P.U.D. and in the opinion of the Town Council, the P.U.D. is failing its development schedule the Board may in a public hearing, recommend continuation in whole or in part, or termination of the P.U.D.

### Section 13 - Administration

An applicant may propose to develop the planned development site in successive stages in a manner indicated in the general development plan. Each stage shall be substantially complete within itself.

The plan of development in total, with successive stages identified, including site plan, public dedications, drawings, conditions, and other exhibits or documents as approved shall be recorded as such and becomes the Official Planned Unit Development. It shall be identified by boundaries on the Official Zoning Map and no uses other than those specifically approved in the original P.U.D. application by the Town Council may be permitted.

With the Town Council approval and recording in the office of the Town Clerk, the P.U.D. becomes effective and building permits may be issued in accordance with the site plan. For platted lots, a plot plan for each lot shall be submitted with building permit application, agreeing with the official P.U.D. plan.

Minor changes in the approved site plan may be granted by the Town Council when it determines that such changes will not alter the original intent of the Planned Development, adversely effect adjacent property, or be inconsistent with this Resolution or the Zoning Plan. Minor changes shall mean adjustments in set backs, location or parking spaces, and service facilities. In no case may the Town Council approve a change which includes an increase in the number of structures, their height or location, or the location and width of roads and streets either public or private or permitted uses.

In cases of conflict between standards of any other provision of this Resolution and standards of the P.U.D. Article, the standards of this Article shall apply.

## ARTICLE X

### OFF-STREET PARKING AND LOADING STANDARDS

#### Section 1 - General Requirements, Off-Street Parking

Each off-street parking space shall have a net area of not less than 180 square feet exclusive of driveways or aisles, and shall be of usable shape and condition. If the required parking spaces for a one or two-family dwelling is not provided in a covered garage, then such space shall be provided with not less than 180 square feet so located and/or constructed that it may later be covered by a garage structure in accordance with the provisions of this Ordinance, and applicable Building Codes.

#### Section 2 - Location

Off-street parking facilities shall be located as hereafter specified; where a distance is specified, such distance shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:

- A. For one-and-two family dwelling: Off-street parking is required on the same lot with the building they are required to serve.
- B. For multiple dwellings: Off-street parking is required within a walking distance of 100 feet.
- C. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses, fraternity and sorority houses: Off-street parking is required within 600 feet.
- D. For uses other than those specified above: Off-street parking within 500 feet is required.

#### Section 3 - Expansion and Enlargement

Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for said expansion or enlargement in accordance with the requirements of Article VI, provided however, that no parking space be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than ten percent of the parking spaces specified in this Article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building existing at the time of passage of this Ordinance.

#### Section 4 - Non-conforming Uses

Nothing in this Ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings even though non-conforming provided that all regulations herein governing the location, design, and operation of such facilities are adhered to.

#### Section 5 - Mix Occupancies

In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.

#### Section 6 - Use Not Specified

In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the Town Council. Such determination shall be based upon the requirements for the most comparable use listed.

#### Section 7 - Joint Use

The Town Council may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

- A. Up to 50 percent of the parking facilities required by this Article for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants, and related uses, may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
- B. Up to 100 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking facilities provided by uses primarily of a "daytime" nature.

#### Section 8 - Conditions Required for Joint Use

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within 500 feet of such parking facilities, in addition to which:

- A. The applicant shall show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.
- B. The applicant shall present to the Zoning Coordinator a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

Section 9 - Table of Minimum Standards - Off-Street Parking

Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation; where the total quota results in a fraction the next highest full unit shall be provided:

TABLE OF MINIMUM STANDARDS - OFF-STREET PARKING

<u>Use</u>	<u>Space Required</u>
Warehouses, storage and wholesale business, and freight terminals	10 spaces for the first 20,000 square feet of GFA and one space for each additional 10,000 square feet.
Food or beverages places with sale and consumption on premises if less than 4,000 square feet of gross floor area.	1 per square feet of gross floor area with 10 spaces minimum requirement.
If over 4,000 square feet of gross floor area	40 plus 1 per 300 square feet of gross floor area in excess of 4,000 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores	1 per 600 square feet of gross floor space
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service	1 per 1,000 square feet of gross floor area plus 1 per 3 employees
Retirement homes, housing projects for Senior Citizens	1-6 dwelling unit 0.5; 7-18 dwelling units 0.33; over 18 dwelling units 0.25; minimum of 5 spaces
Motel and motor courts	1 per sleeping room
Hotels	1 per sleeping room

<u>Use</u>	<u>Space Required</u>
Hospitals and institutions	1 per 3 beds plus 1 per 3 employees
Theaters	1 per 10 seats
Churches, auditoriums and similar open assemblies	1 per 5 seats or 1 per 100 linear inches of pew or 1 per 65 square feet of gross floor area used for assembly purposes, whichever is greater
Stadiums, sport arenas and similar open assemblies	1 per 8 fixed seats plus 1 per 100 square feet of assembly space without fixed seats
Bowling alleys	5 per alley
Medical and dental clinic	1 per 200 square feet of gross floor area
Banks, business and professional offices with on-site customer service	1 per 400 square feet of gross floor area
Offices not providing on-site customer services	1 per 4 employees or 1 per 800 square feet of gross floor area, whichever is greater
Mortuaries	1 per 5 seats in the principle auditorium
<u>Other Retail</u>	
If less than 5,000 square feet of floor area	1 per 200 square feet of gross floor area
If over 5,000 square feet of floor area	25 plus 1 per 300 square feet in excess of 5,000 square feet
Manufacturing uses, research testing and processing, assembling, all industries	1 per 2 employees on maximum shift but not less than 1 per each 800 square feet of gross floor area
Libraries and museums	1 per 500 square feet of gross floor area
School, elementary and junior high, public, private or parochial	1 per each employee

<u>Use</u>	<u>Space Required</u>
School, high school, public or private	1 per each employee and 1 per 3 students
Service stations, and drive-in restaurants (by Special Exception)	1 per 80 square feet gross floor area, with 10 spaces minimum requirement
Residential, single-family	2 per dwelling unit
Residential, duplex or multi-family	1.5 per dwelling unit for first 6 dwelling units, then 1.0 for each dwelling unit thereafter
Fraternity and Sorority	1 per 2 sleeping rooms or 1 per 4 beds, whichever is greater
Boarding houses, lodging homes and similar uses	1 per dwelling unit or lodging unit
Convalescent homes, nursing homes, rest homes	1 per 6 beds plus 1 per each staff member on duty on a maximum shift

\* Gross area shall be the total built-up area of all floors, excluding car ports and garages areas.

#### Section 10 - Off-Street Loading: Retail and Commercial

In any building or part thereof having a gross floor area of 10,000 square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional loading space for each 20,000 feet or major fraction thereof of gross floor area. Each loading space shall be not less than twenty feet (20) in width, twenty-five (25) feet in length, and fourteen (14) feet in height.

#### Section 11 - Off-Street Loading: Warehouse and Wholesale

Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Zoning Coordinator.

#### Section 12 - Traffic Control Devices

All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans.

Hard surfaced parking areas shall use paint to delineate stalls and directional arrows. Driveways and parking lot surfacing shall be in accord with applicable construction standards.

#### Section 13 - Screening Required

Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property.

#### Section 14 - Lighting Restrictions

Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.

#### Section 15 - Maintenance

Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drain, and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.

#### Section 16 - Waiver of Parking Provisions

The Board of Adjustment may, by formal action, waive or modify the requirements set forth in Article VI establishing the amount of required parking areas for uses involving a very limited number of employees or which do not require personnel in daily attendance of and for operation and maintenance.

#### Section 17 - Parking or Storing of Vehicles

There shall be an adequate number of permanently maintained off-street parking spaces in specified R-Zone. Automobiles must be capable of operating under their own power and not more than one may be a delivery vehicle not to exceed 8,000 pounds gross vehicle weight.

Section 18 - General Requirements - Fences

See Article IV, Page 39, for the specific fencing limitations for each Zoning District. The following additional general requirements shall apply:

- A. No electric fences shall be permitted in any residential or commercial zone.
- B. No fence shall be located in a public right-of-way.
- C. The height of a fence shall be the vertical distance from the highest top board, or rail to the ground directly below.
- D. Fences on rear lot lines on interior lots in addition to meeting the requirements of Article IV shall also contain a gate affording access to the alley, in those cases where a dedicated alley is available.
- E. On corner lots, a fence of a height pursuant to Article IV shall also not exceed a height of 36 inches for the part of the fence which lies along that part of the rear lot line which constitutes the width of the required side yard; the same restriction shall apply on the side street side of a corner lot.
- F. On reverse corner lots, a fence pursuant to Article IV is permitted except that where a lot of this description abuts an alley a fence of the stipulated height may be located on the rear lot except for that portion which constitutes the width of the required side yard on the side street side which shall have a 36 inch maximum; the same restriction shall apply on the side street side of a reverse frontage lot.
- G. Any fence exceeding a height of 6 feet and any retaining wall exceeding a height of 48 inches shall require Town Council permission; these provisions shall not apply to fences required to surround and enclose junkyards and public utility installations or to enclose school grounds and public playgrounds.

Section 19 - Arterial Safety Setback

On all arterial streets, no buildings, structures, walls, fences or similar structures shall be erected, and that no hedges, shrubs, or other growth exceeding three feet above street grade shall be maintained within twenty-five feet of the property line of any arterial street or highway. Trees when trimmed four feet above the ground and which are not located within a triangular area of a corner lot formed by the intersecting street lines and a straight line joining such street lines at points which are twenty-five feet distance from the point of intersection, measured along such street lines, will be permitted. Signs or other similar devices for public use will be accepted within this set-back area.

A. The property line of such arterials shall be established by Yellowstone County.

1. By actual physical establishment by the County Surveyors Office and/or.
  2. If not possible to establish the property line by physical establishment, then the center line shall be established by Resolution.
- B. The designation of a street as an arterial shall be as recommended by the County Surveyor or Planning Board in conformity with the most recent Urban Transportation Plan.

#### Section 20 - Transitional Uses

In a Residential Zone, a transitional use shall be permitted by affirmative action of the Town Council upon proper application, on a lot which adjoins either directly or across an alley a commercial district. The permitted transitional uses for any such lot shall be any use permitted outright in a Commercial, Section 2. In such cases, the requirements governing lot area per family off-street parking, loading, yard and setback requirements shall be the same as in a Commercial.

#### Section 21 - Storage of Vehicles

No automobile, pickup, truck, tractor or other motorized vehicle shall be kept longer than 30 days on any lot or tract unless capable of operating on their own power and no flatbed, van, tank or other commercial trailer or mobile home, farm equipment, construction equipment or other equipment which is unuseable shall be stored on any lot or tract for a period longer than 30 days.

#### Section 22 - Plats Recorded After Effective Date

Notwithstanding any other provisions of this Ordinance, any subdivision or Certificate of Survey platted and recorded sixty (60) days after the effective date of this Ordinance, and in which any lot or tract does not comply with the minimum lot area requirements - for the zone in which it is located; said lot or tract shall not be deemed to be a nonconforming lot or tract for the purpose of this Ordinance.

Provided, however, that any subdivision, resubdivision or Certificate of Survey platted and recorded more than sixty (60) days after the effective date of this Ordinance shall be required to comply with the minimum lot area requirements of the zone within which it is located.

Nothing in this Section shall be interpreted to grant relief from any requirement of the State of Montana respecting minimum lot or tract area for sanitary restrictions.

Section 23 - General Rules

The regulations set by this Ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- A. No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered after the effective date of this Resolution unless in conformity with all of the regulations herein specified or the zone in which it is located except non-conforming uses and structures as provided in Article VII.
- B. No building or other structure shall hereafter be erected or altered:
  - 1. To exceed the height,
  - 2. To accommodate or house a greater number of families,
  - 3. To occupy a greater percentage of lot area, and
  - 4. To have narrower or smaller rear yards, front yard, side yards or other open spaces than herein required, or in any manner contrary to the provisions of this Ordinance.
- 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 Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 24 - Classification of Newly Included Lands Within the Jurisdictional Area

In the interest of protecting the public health, safety, and welfare, all territory which may hereafter be added to the Jurisdictional Area shall be classified as residential until reviewed by the Zoning Commission and a recommendation made to the Board of Commissioners.

Section 25 - Location of Buildings and Structures on Property

All building and structures have vehicular access to a minimum width public street or a privately maintained street.

## ARTICLE XI

### ADMINISTRATION AND ENFORCEMENT

It is the intent of this Ordinance to provide for the efficient, reasonable, and impartial enforcement of this Ordinance by authorizing an enforcement officer, the basic procedure for complying with the Ordinance, and the penalties for violators.

#### Section 1 - Zoning Enforcement

It shall be the duty of the Town Council to be the Enforcement Officer for the Zoning Ordinance. It is hereby given the authority to administer and enforce the provision of this Ordinance for the Town.

The Town Council shall supervise and effectuate the processing of applications for amendments to the Zoning Ordinance, requests for special exception or variance requests and other applications under the terms of the Ordinance.

It shall further be the responsibility of the Town Council to aid the various Boards, Commissions, and Departments in transmitting appeal records to the Town Council and to otherwise promote procedural regularity in the administration of this Ordinance.

#### Section 2 - Zoning Compliance Permit Required

No building or other structure shall be erected, moved, added to, or structurally altered without having a Zoning Compliance Permit issued by the Town Council, who shall first determine the permit is issued in conformance with the Zoning Resolution and other existing Codes and Ordinances.

All applications for Zoning Compliance Permits shall be accompanied by plans, in the specified number of copies and drawn to scale, showing the actual dimensions of the lot or parcel of property to be built upon, the sizes and the locations on the lot or parcel of any existing buildings or structures, the shape, size, height, use, and location on the lot or parcel of the building or structures proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this Resolution. If no substantial progress in construction has been made within six months of the date of the issuance of the Zoning Compliance Permit, the permit becomes invalid.

Section 3 - Penalty for Violations

A violation of this Ordinance is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding three hundred (300) dollars or imprisonment not exceeding ninety (90) days, or both.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land, to prevent any illegal act, conduct, business, or use in or about such premises.