

ZONING ORDINANCE

OF THE

CITY OF ELK RIVER

Amended by the
Elk River City Council

ORDINANCE NO. 102 C

Passed by the City Council

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ORDINANCE NO. 102 C

PREAMBLE

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATIONS WITHIN ELK RIVER, IDAHO; PROVIDING FOR THE TITLE, INTERPRETATION AND ENACTMENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION, PROVIDING FOR ESTABLISHMENT AND PURPOSE OF DISTRICTS, PROVIDING FOR OFFICIAL ZONING MAP; PROVIDING FOR DISTRICT REGULATIONS, PROVIDING FOR OFFICIAL HEIGHT AND AREA REGULATIONS; PROVIDING FOR PERFORMANCE STANDARDS; PROVIDING FOR CONDITIONAL USE PERMITS; PROVIDING FOR NON-CONFORMING USES; PROVIDING FOR OFF-STREET PARKING; PROVIDING FOR SIGNS; PROVIDING FOR APPEAL, VARIANCE AND ACTION BY AFFECTED PERSONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AMENDMENT; AND PROVIDING FOR EFFECTIVE DATE.

BE IT ORDAINED by the City Council of Elk River, Idaho.

ARTICLE I

TITLE, INTERPRETATION, AND ENACTMENT

SECTION A. TITLE

This ordinance shall be known and may be cited to as the "Zoning Ordinance of the City of Elk River, Idaho."

SECTION B. AUTHORITY

This Zoning Ordinance is adopted pursuant to authority granted by Title 67, Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

SECTION C. JURISDICTION

The territory over which the Mayor and the City Council has jurisdiction within the City of Elk River, Idaho and the City Impact Area, shall be divided into districts pursuant to this ordinance and that regulations pertaining to the erection, construction, reconstruction and use of structures and land shall be adopted as hereinafter set forth.

SECTION D. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

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

SECTION E. COMBINING OF PERMITS

The commission is hereby required to coordinate with other departments and agencies concerning all permits which may be required in this ordinance and previously or subsequently adopted city ordinances. A one-stop permit application and processing procedure may be developed with the respective departments and agencies for the purpose of reducing errors, misunderstanding, confusion, and unnecessary delay for everyone involved.

SECTION F. SEPARABILITY CLAUSE

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION G. REPEAL OF CONFLICTING ORDINANCE--EFFECTIVE DATE

All ordinances or parts of ordinances in conflict with this zoning ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

ARTICLE II

ADMINISTRATION

SECTION A. GENERAL

For the purpose of carrying out provisions of this ordinance, an Administrator is hereby created.

For those provisions of this ordinance which specify duties and functions of "the Commission", such provisions shall be executed by the Zoning Commission as created by Elk River Ordinance No. 167.

SECTION B. ADMINISTRATION

The Council shall appoint an Administrator to administer this ordinance. The Administrator may be provided with the assistance of such other persons as the Council may direct.

For the purpose of this ordinance, the Administrator shall have the following duties:

1. Advise interested persons of the zoning ordinance provisions.
2. Notify the news media regarding matters of public interest.
3. Aid applicants in the preparation and expedition of required applications.
4. Issue zoning permits, certificate of occupancy permits, notifications and such similar administrative duties.
5. Investigate all violations of this ordinance and notify, in writing, the person responsible for such violation(s), ordering the action necessary to correct such violation.
6. Assist the Commission and Council in carrying out the provisions of this ordinance.

SECTION C. ADMINISTRATIVE PROCEDURES

Upon receipt of any application specified in Article V and Article VI, the City Council may determine to hold a public hearing and in that event shall follow the notification and public hearing requirements specified in Title 67, Idaho Code. The property owner must sign all applications in question. It shall be the applicant's responsibility to collect and turn into the City of Elk River as part of his/her application the names and addresses of all property owners within 300 feet of the property if such notification is required. The applicant shall reimburse the city any notification costs.

Applications for variances to the code shall be considered when they are not contrary to the public interest where, owing to special conditions, a literal enforcement of the

provisions of this ordinance will result in an unnecessary hardship because of the physical characteristics of the site. A variance shall not be considered a right or privilege and will only be granted to the applicant if hardship is proven and it is not in conflict with the public interest.

The applicant shall be required to provide proof of the following in their application.

1. What physical characteristic of the site exists to cause a hardship?
2. What hardship has been caused and why does it impose undue burdens upon the property owner?
3. Evidence that the owner, or previous owners, through their own actions did not cause the hardship.

ARTICLE III

ESTABLISHMENT AND PURPOSE OF DISTRICTS

SECTION A. GENERAL PURPOSE

The general purposes of the zoning ordinance are as follows:

1. To protect and promote the public health, safety, morals, convenience, prosperity, and general welfare.
2. To avoid undue concentration of population.
3. To prevent the overcrowding of land.
4. To safeguard from fire, panic and other damages.
5. To lessen congestion in the streets.
6. To provide adequate light and air.
7. To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.
8. To protect the character and the social and economic stability of all facilities and activities from other facilities and activities which are unrelated or incompatible.
9. To promote an attractive urban environment, and to preserve the natural beauty of Elk River's setting.

SECTION B. GENERAL INTENT

The following zoning districts are hereby established. For the interpretation of this ordinance, the zoning districts have been formulated to realize the general purposes as set forth in this ordinance. In addition, the specific purpose of each zoning district shall be as stated:

- R-1 -- Residential Zone
- R-2 -- Moderate to High Density Residential Zone
- C -- Commercial Zone
- I -- Industrial Zone
- CC -- Areas of Critical Concern
- FP -- Flood Plain Overlay Zone

ZONING DISTRICTS

RESIDENTIAL DISTRICT - (R-1)

- A. Intent:** To establish, develop and protect a quiet residential are limited to residential dwellings and free from other uses except those which are both compatible with and convenient to the residents of such district.

In the residential "R" zone, land and structures are considered one in the same for zoning purposes.

Hereafter in the "R-1" district, no building, structure or land shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this ordinance.

B. Uses Permitted Outright:

1. Single-Family residence
2. Two-family residents (duplex)
3. Agricultural and forest uses, provided no products are sold to the public.
4. Home occupations, not exceeding the provisions of 1.I(1) of Section C, Article III
5. Mobile homes and/or manufactured homes on individual lots pursuant to provision 1. i(2) of Section C, Article III.
6. Uses, buildings and structures, that utilize electricity and/or water and are accessory to a single family or duplex residence shall be serviced by the same electric and/or water meter as the single family or duplex residence.

C. Uses Permitted Conditionally: The Commission may grant a Conditional Use Permit for any of the following buildings or uses in accordance with the procedures set forth in Article V of this ordinance:

1. Home occupations pursuant to provision 1. I(1) of Section C, Article III, which exceeds the limitations stated
2. Day nursery
3. Churches
4. Schools
5. Multi-family dwellings
6. Hospital or nursing home
7. Medical or dental offices or clinics
8. Mobile home parks
9. Public Facilities such as city infrastructure, Parks & Playgrounds, Utility facilities
10. Temporary housing for the purpose of residence while a home is being constructed, not to exceed six (6) months

11. Bed & Breakfast or Boarding House, limited to two (2) bedroom with condition that adequate off-street parking be provided and use will not change character of the neighborhood.
12. Any other uses not specifically mentioned but of a significant similar nature may be considered for a conditional use application after review and approval of the City.

D. Building Standards:

In this zone, no building or premises shall be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the designated or permitted uses in accordance with the following standards.

1. The lot per dwelling unit and for all primary uses in an R-1 zone shall be dependent on the City water supply and sewer system.
2. The lot area shall be a minimum of 7500 square feet
3. The lot width shall be a minimum of 50 feet
4. The lot depth shall be a minimum of 150 feet
5. The front yard shall be a minimum of 20 feet
6. One side yard shall be a minimum of 10 feet and the remaining side yard shall be a minimum of 5 feet
7. A rear yard shall be a minimum of 20% of lot depth
8. A corner lot yard, on the side street, the setback shall be a minimum of 10 feet
9. In all zones, which require a front yard, no obstruction to view in excess of three (3) feet in height, or under ten (10) feet in height shall be placed on any corner lot within a triangular area, from the street property line.
10. Minimum square footage of a dwelling shall be 750 square feet.

E. Parking Requirements:

Two (2) off-street parking spaces shall be provided for each residence.

F. Building Heights:

No principal building shall exceed either two and one-half (2 1/2) stories or thirty (30) feet in height.

G. Signs:

Only the following signs are permitted, subject to the following limitations:

1. Name plates not exceeding one (1) square foot in area, containing the name of the occupant of the premises.
2. One (1) unlighted sign not exceeding six (6) square feet in area pertaining only to the sale, lease or hire of only the particular building, property or premises upon which displayed.
3. Home occupation signs as provided for in paragraph 1, I(1c), of Section C, Article III.

4. An unlighted sign not exceeding twelve (12) square feet in area shall be permitted to identify multi-family residences, day nurseries, medical or dental offices or clinics, mobile home parks, and rooming/boarding houses; and not exceeding forty (40) square feet in area for schools, churches and nursing homes. Lighted signs to identify hospitals are permitted up to forty (40) square feet.

H. Special Provisions within the "R-1" District

1 Home Occupation -

In-home Occupations:

- 1 No more than one person other than members of the family residing on the premises shall be engaged in such occupation.
- 2 The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in the conduct of the home occupation. The home occupation may take place in an accessory building meeting all other city regulations.
- 3 There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building or accessory building.
- 4 No significant traffic shall be generated by such occupation and any need for parking generated by the conduct of such home occupation shall not be located in a required front yard and shall meet the off-street parking requirements as specified in this ordinance.
- 5 No equipment or process shall be used in such home occupation which creates Noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence or accessory building. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- I. Firearm Usage -** Use of firearms within the City limits and some areas in the Area of City Impact shall be restricted in accordance with City and State laws.

J. Mobile Homes/Manufactured Homes on Individual Lots

1. Only one mobile home/manufactured home unit shall be permitted per individual lot.
2. Lot area shall conform to requirements with the "R-1" district.
3. Yard requirements shall meet the minimum standards of the "R-1" district.
4. Mobile homes/manufactured homes shall be connected to and served the same utility systems as providing service to conventionally-built residences in the "R-1" district.

K. Recreational Vehicle Parks

Recreational vehicle parks shall be allowed by conditional use permit in designated zones but only when such parks are constructed and maintained in accordance with the following standards and conditions:

1. The park has been approved by the City prior to the issuance of a permit
2. At least one side of the park shall abut on a public street.
3. All spaces shall be connected to the city water and sewer systems.
4. Each space shall be at least twenty-five feet wide and fifty feet long (25'x50') and shall include off-street parking spaces as required by the standards code.
5. The maximum length of stay in a recreational vehicle park shall be one hundred eighty (180) days.
6. The boundaries of each space shall be clearly, distinctly, and permanently outlined.
7. The Recreational Vehicle Park may be completely surrounded by a fence, per city code.
8. Off-street parking shall be provided in accordance with the standards code.
9. Parks shall require sewer hookup or self-contained units
10. An electrical outlet supply of at least one hundred ten (110) volts and at least 30 amps shall be provided for each RV space.
11. The owner or operator of a park shall maintain the entire park in a neat and orderly manner. All installations and common areas required by this code shall be maintained in a good state of repair.
12. Points of ingress and egress shall be located and designed so as to provide safe and convenient access to and from the park and to eliminate congestion.
13. The construction, layout and operation of the park must be such that in the opinion of the City, property values in the surrounding area and the objectives and characteristics of the zone in which the park is located will be fully maintained.

L. Accessory Building:

1. Structures other than the primary living structure, such as garages, sheds, etc., shall not be located in any required front yard area and shall not be located closer than five (5) feet from any side or rear property line.

2. No more than two (2) accessory buildings shall be allowed on one (1) residential lot.

M. Multi-family Dwellings (three or more units)

1. Minimum lot sizes and yard requirements shall be:
 - (a) Lot area shall be a minimum of 5,000 square feet and shall not be less than 1600 square feet per dwelling unit.
 - (b) Lot width shall be a minimum of 50 feet.
 - (c) Lot depth shall be a minimum of 50 feet.
 - (d) The front yard shall be a minimum of 15 feet.
 - (e) One side yard shall be a minimum of 10 feet and the remaining side yard shall be a minimum of 5 feet.
 - (f) The rear yard shall be a minimum of 20% of lot depth.
 - (g) Parking requirements shall be one and one-half (1 1/2) off-street parking spaces for each dwelling unit.
 - (h) No principal building shall exceed either three and one-half (3 1/2) stories or forty (40) feet in height.

N. Mobile Home Parks with lots not subdivided into individual parcels:

1. A mobile home park's gross density on the site shall not exceed ten (10) units per acre.
2. The site, including mobile home stands, patios, structures, and all site improvements shall be harmoniously and efficiently organized in relation to topography, the shape of the plot, and the shape, size, and position of structures and common facilities.
3. Mobile home parks shall be fitted to the terrain with minimum disturbance of the land. Favorable views or outlooks shall be emphasized by the plan.
4. Mobile home parks shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and so that such use will not change the essential character of the "R" district.
5. Mobile home parks shall not be constructed so as to pose a hazard or detriment to existing or future neighboring use.
6. Mobile home parks shall be served adequately by essential public facilities and services such as drainage, refuse disposal, and schools.
7. Mobile home parks shall have vehicular approaches to the property which shall be so designed as not to create an interference with traffic and surrounding public streets or roads.
8. Mobile home parks shall not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
9. **A request for a conditional use permit for a mobile home park shall include the following information:**
 - a. A legal description of the premises upon which the mobile home park will be located.

- b. A site plan in three (3) copies drawn to a scale of not less than one inch equals 100 feet. The plan shall show the following:
- the size and location of site;
 - the size, location and number of all mobile home spaces;
 - the location and width of all public streets adjacent to the mobile home park; and all roadways, driveways, and sidewalks within the park;
 - the location and number of sanitary conveniences, washrooms, laundries, and utility rooms;
 - the location and size of off-street parking areas and recreation areas;
 - the location of service buildings and any other existing or proposed structures;
 - a general landscape plan showing any proposed fencing;
 - location of fire hydrants;
 - location of mail boxes;
 - typical street and walk sections;
 - water and sewer utility plans;
 - methods to be used for garbage disposal;
 - the location and details of street lighting and electrical utility systems;
 - a drainage plan;
 - plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park;
 - any other information as deemed necessary to comply with legal requirements.
- c. The site plan shall be presented to and approved by the Environmental Services Division of the Department of Health and Welfare and the North Central Health District before the final approval of the application and granting of the permit by the City Council.
- d. Off-street parking for one and one-half (1 1/2) vehicles shall be provided for each mobile home space. Where a common parking area is provided, it shall be located within 300 feet of each mobile home space served. A paved or graveled driveway shall be provided to serve each mobile home space, and shall be a minimum ten (10) feet wide.
- e. The mobile home park site shall have at least two direct accesses to a public street or highway, and access roads shall be provided to each mobile home space. All streets and accessways shall be constructed in accordance with specifications of the City and County regulations for like streets and accessways on public ways.

RESIDENTIAL DISTRICT - (R-2)

- A. **Intent:** To establish, develop, and protect a moderate to high density, single-family residential zoning district which is limited to residential dwellings and free from other uses except those which are both compatible with and convenient to the residents of such district.
- B. **Uses Permitted Outright:**
1. Those uses permitted in R-1 Classification
 2. Public Facilities such as City Infrastructure, Parks & Playgrounds, Utility Facilities.
- C. **Uses Permitted Conditionally:**
1. Those uses permitted conditionally in the R-1 Classification.

COMMERCIAL DISTRICT (C)

A. Intent: The purpose of the Commercial District is to accommodate and encourage further expansion and renewal in the historical core business area of the community and to establish and preserve a centralized district of commercial activities convenient and attractive for a wide range of retail uses, business, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic

In the commercial "C" zone, land and structures are considered one in the same for zoning purposes.

Hereafter in the "C" District no building, structure, or land shall be used and no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this ordinance:

B. Uses Permitted Outright:

1. Automobile sales and services
2. Bakery
3. Beauty shop, barber shop, or other personal service business
4. Boat or house trailer sales and service
5. Bowling alley or other commercial amusement (indoor)
6. Building supply outlet
7. Business or professional office
8. Day Nursery
9. Bank/Savings & Loan
10. Frozen food locker
11. Laundry and dry cleaning establishments
12. Medical & Dental clinic
13. Motel or hotel
14. Restaurant/Bar/Drive-in Restaurant
15. Retail stores and services
16. Food store
17. Cabinet and furniture shop
18. Garden nursery
19. Service stations
20. Government offices
21. Parks & Playgrounds
22. Utility facilities
23. City infrastructure
24. All uses allowed in the R-1 and R-2 Zone

C. Uses Permitted Conditionally: The Commission may grant a Conditional Use Permit for any of the following buildings or uses in accordance with the procedures set forth in Article V of this ordinance:

1. Farm or heavy equipment sales and service
2. Machine shop
3. Car wash
4. Public use
5. Semi-public use
6. Camp trailer park
7. Veterinary clinic or kennel
8. Church
9. Hospital
10. Other uses of a similar commercial nature

D. Building Standards:

In this zone, no building or premises shall be hereafter erected or altered unless otherwise provided in this chapter, except for one or more of the above uses in accordance with the following standards. The following designated uses shall be permitted.

1. Be dependent on City water supply and sewer system.
2. Minimum Setbacks.
3. Accessory Buildings.
4. Street access.
5. Clear view of intersecting streets.

E. Building Height:

In the "C" district there is no building height limitation, except when said district abuts upon the "R" district, the maximum permitted building height shall not exceed the maximum building height permitted in the adjoining residential district for a distance of fifty (50) feet from the abutting boundary.

F. Signs:

In the "C" district, signs shall be subject to the following restrictions:

1. Signs shall be limited to those identifying a business on the premises.
2. The total area of all signs shall not exceed one square foot for each lineal foot of lot frontage on the street.
3. No sign shall cast light on property in a residential zone.

G. Parking:

The plan of the proposed parking area shall accompany an application for a building permit. The plan shall clearly indicate the proposed development and construction of the parking areas, showing that the adequate off-street parking will be provided. Adequate lighting may be required.

INDUSTRIAL DESIGNATED USES

A. Intent: The intent of the Industrial Zone is to provide areas by zoning procedures and in accordance with the Comprehensive Plan, which encourages suitable areas in which industrial may locate. The following uses shall be permitted.

- 1 All light industrial uses including manufacturing plants, processing plants and related uses.
- 2 Wholesale commercial businesses
- 3 Public Facilities
- 4 All uses allowed in R-1, R-2, and Commercial zones.

B. Uses Requiring Conditional Use Permits:

1. All heavy industrial uses
2. Airport
3. Junk Yards, wrecking yards
4. Landfills, recycling centers, incinerators, compost operators, and other solid waste facilities.
5. Any other uses not specifically mentioned but of a significant similar nature may be considered for a conditional use application after review and approval of the city.

C. Building Standards

In this zone, no building or premises shall be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the designated or permitted uses in accordance with the following standards.

1. The lot per dwelling unit and for all uses in an "I" zone, shall be dependent on City water supply and sewer system. There shall not be a minimum lot size.
2. There shall be no minimum setback, unless the industrial use is contiguous to a residential zone or is a residential within the "I" zone. Then side and rear yard setbacks as required by that residential zone be observed on all sides of the industrial property contiguous with the residential zone and the R-1 setback requirements shall apply to a residential use with the "C" zone.
3. Accessory use buildings shall not be constructed nearer than five (5) feet from the side and rear lot line and 30 feet from front lot line.
4. Water Supply/Sewage disposal, prior to building permits issued, the Industrial user shall satisfy the city that their activities will not burden the City water supply and provide for the proper treatment of discharge water in a manner to eliminate adverse effects upon the city sewer system and environment.
5. No lot shall be developed without access to a public street or road, built to such construction standards as set by the city. Should such street or road not be built to city standards, it shall be the responsibility of the property owner whose property is being developed to improve the street to city standards.

AREAS OF CRITICAL CONCERN OVERLAY ZONE

A. **Intent:** The intent of the CC zone is to designate special areas within the community. These are unique natural resource areas that must be protected from incompatible development and harmful impacts. The following designated uses shall be permitted.

1. Open Space
2. Passive Recreation Activities

B. **Uses Requiring Conditional Use Permit:**

1. Any request for development of any kind within this zone may be required by the City Council to include an environmental study addressing the impact of such development on any of the following:
 - Unstable soils
 - Unique animal, wildlife, and plant like habitat
 - Particular or unique scenic value
 - Historical significance
 - Floodplains
 - Other factors as may be determined by the Council to be unique or of critical concern.

Flood Plain Overlay Zone

A. **Intent:** It is the intent of this zone to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water and erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

This overlay zone shall apply to all areas of special flood hazards within the jurisdiction of the City of Elk River. All developments within this overlay zone shall adhere to City Ordinance.

ARTICLE IV
PROVISIONS FOR OFFICIAL ZONING MAP
AND
INTERPRETATION AND MEANING OF
TERMS OR WORDS

SECTION A. OFFICIAL ZONING MAP

The districts established in Article III of this ordinance are shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this ordinance. The Official Zoning Map shall be posted in City Hall and shall be available to the public during normal business hours.

SECTION B. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of and of the zoning districts as shown on the Official Zoning Map, the following shall apply:

1. Where district boundaries are indicated as approximately following the center line of street lines, highway right-of-way lines, streams, lakes, or other bodies of water, the center line shall be construed to be such boundary.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to the center lines of street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

SECTION C. INTERPRETATION AND MEANING OF TERMS OR WORDS

For the purpose of this ordinance, certain terms or words used herein shall carry the interpretation or meaning as detailed on the master list of Zone Ordinance Definitions maintained with the Official Zoning Map in City Hall.

ARTICLE V

CONDITIONAL USES

SECTION A. GENERAL

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually.

The Commission shall hold a public hearing on each conditional use permit application as specified in the listing of "Uses Permitted Conditionally" for the zoning district involved. The Commission may approve or deny a conditional use permit under the conditions as hereon specified and considering such additional safeguards as will uphold the intent of this ordinance.

SECTION B. CONTENTS OF APPLICATION FOR PERMIT

An application for a *Special Use Permit* shall be filed with the Administrator by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant.
2. Legal description of property.
3. Description of existing use.
4. Zoning district.
5. Description of proposed conditional use.
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Commission may require to determine if the proposed conditional use meets the intent and requirements of this ordinance.
7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; and a discussion of the general compatibility with adjacent and other property; and a discussion of the general compatibility with adjacent and other properties in the district.

SECTION C. GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

The Commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location.

1. Will, in fact, constitute a conditional use as established in the listing of "uses permitted conditionally" for the zoning district involved.
2. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the zoning ordinance.
3. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
4. Will not be hazardous or disturbing to existing or future neighboring uses.
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately and such services.
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

SECTION D. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

In granting any conditional use, the Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this ordinance. Violations of such conditions, bonds, or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance.

SECTION E. PROCEDURE FOR HEARING, NOTICE

Prior to granting a conditional use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal

shall be published in the official newspaper or paper of general circulation or official mailing to each property owner and boxholder within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall also be provided to property owners and residents within 300 feet of the land being considered by certified mail, and any additional area that may be substantially impacted by the proposed conditional use as determined by the Commission.

SECTION F. ACTION BY THE COMMISSION

Within thirty (30) days after the public hearing, the Commission shall either approve or disapprove the application as presented. If the application is approved or approved with modifications, the Commission shall direct the Administrator to issue a conditional use permit listing the specific conditions specified by the Commission for approval.

Upon granting of the conditional use permit, conditions may be attached to the permit including, but not limited to the following:

1. Minimizing adverse impact on other development.
2. Controlling the sequence and timing of development.
3. Controlling the duration of development.
4. Assuring the development is maintained properly.
5. Designating the exact location and nature of development.
6. Requiring the provision for on-site or off-site public facilities or services.
7. Requiring more restrictive standards than those generally required in an ordinance.

Prior to granting a conditional use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed conditional use. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. ***A conditional use permit is not transferable from one parcel of land to another.***

Conditional use permits are considered null and void if the use is no longer in effect due to person(s) moving off premises OR the conditional use permit has not been active for at least six (6) consecutive months.

Upon granting or denying an application, the Commission shall specify:

1. The ordinance and standards used in evaluating the application;
2. The reasons for approval or denial; and
3. The actions, if any, that the applicant could take to obtain a permit.

The applicant or any affected person who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Council, provided the appeal is submitted to the Council within fifteen (15) days from notification of the Commission's action.

SECTION G. NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request.

SECTION H. APPEAL TO COUNCIL

Upon receipt of an appeal from the action of the Commission, the Council shall set a hearing date to consider all information, testimony, and Commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the Commission. The Council shall only overrule the Commission by a favorable vote of one-half (1/2) plus one (1) of the full Council.

ARTICLE VI

NON-CONFORMING USES

SECTION A. INTENT

It is the intent of this ordinance to permit non-conforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

SECTION B. INCOMPATIBILITY OF NON-CONFORMING USES

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A non-conforming use shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

SECTION C. AVOIDANCE OF UNDUE HARDSHIP

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

SECTION D. SINGLE NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership (see Section E. below). 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 yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

SECTION E. NON-CONFORMING LOTS OF RECORD IN COMBINATION

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and are requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this ordinance.

SECTION F. NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual structures, or of a structure and land 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:

1. 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.
2. No non-conforming use shall be extended to occupy any additional land area.
3. If no structural alterations are made, any non-conforming use of a structure or structure and land, may, upon the issuance of a conditional use permit by the Commission, be changed to another non-conforming use provided that the Commission 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 Commission may require appropriate conditions and safeguards in accord with other provisions of this ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superceded by a permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than two (2) years, (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

SECTION G. REPAIRS AND MAINTENANCE

On any non-conforming structure, or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official. The value of repairs shall not exceed 50% of the present market value of the structure.

SECTION H. USES UNDER CONDITIONAL USE PROVISIONS/NOT NON-CONFORMING USES

Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

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ARTICLE VII

APPEAL, VARIANCE AND ACTION BY AFFECTED PERSONS

SECTION A. GENERAL

The Commission shall consider administrative appeals where it is alleged that an error has been made by the Administrator and variances from the terms of this ordinance and request for hearing from affected persons.

SECTION B. ADMINISTRATIVE APPEALS

Appeals to the Commission concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority affected by any decision of the Administrator. Such appeal shall be taken within twenty (20) days after the decision of the Administrator by filing with the Administrator and with the Commission a notice of appeal specifying the grounds upon which the appeal is being taken. The Administrator shall transmit to the Commission all the papers constituting the record upon which the action appealed from was taken.

SECTION C. STAY OF PROCEEDINGS

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

SECTION D. VARIANCE

The Commission may authorize in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship.

SECTION E. APPLICATION AND STANDARDS FOR VARIANCES

A variance from the terms of this ordinance shall not be granted by the Commission unless and until a written application for a variance is submitted to the Administrator and the Commission containing the following:

1. Name, address, and phone number of applicant(s).
2. Legal description of property.
3. Description of nature of variance requested.
4. A narrative statement demonstrating that the requested variance conforms to the following standards:
 - That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - That special conditions and circumstances do not result from the actions of the applicant.
 - That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

A variance shall not be granted unless the Commission makes specific findings of fact based directly on the particular evidence presented to it which support conclusions that the above mentioned standards and conditions have been met by the applicant.

SECTION F. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

Under no circumstances shall the Commission grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance.

SECTION G. PUBLIC HEARING

Upon receipt of the application for an appeal or a variance, the Commission shall hold a public hearing, publish notice in a newspaper and give written notice to all parties as required for conditional use permits. (See Article V, Section E).

SECTION H. ACTION BY THE COMMISSION

Within thirty (30) days after the public hearing, the Commission shall either approve, conditionally approve, or disapprove the request for appeal or variance.

Upon granting or denying an application, the Commission shall specify:

- The Ordinance and standards used in evaluating the application.
- The reasons for approval or denial; and
- The actions, if any, that the applicant could take to obtain a permit.

SECTION I. NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request.

SECTION J. APPEAL TO BOARD/COUNCIL

Upon receipt of an appeal from the action of the Commission, the Council shall set a hearing date to consider all information, testimony, and Commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision. The Council shall only overrule the Commission by a favorable vote of one-half (1/2) plus one (1) of the full Council.

SECTION K. REQUEST FOR HEARING BY AFFECTED PERSONS

An affected person shall mean one having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing the development.

Any affected person may, at any time prior to final action on rezone, special use, or variance permit if no hearing has been held on the application, petition the Commission or Council, in writing, to hold a hearing as required in Article V, Section E - H, provided however, that if twenty (20) affected persons petition for a hearing, the hearing shall be held.

After a hearing, the Commission or Council may:

1. Grant or deny a permit; or
2. Delay such a decision for a definite period of time for further study or hearing.

An affected person aggrieved by a decision may within sixty (60) days after all remedies have been exhausted under local ordinances seek judicial review under the procedures provided by sections 67-5215 (b) through (g) and 67-5216, Idaho Code.

ARTICLE VIII

ENFORCEMENT

SECTION A. ZONING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore issued by the Administrator. Zoning permits shall be issued only in conformity with the provisions of this ordinance.

The following land use changes shall require a written application to the Administrator, accompanied by fees as set by resolution of the City Council.

1. Changing of Zoning Boundaries (Rezone)
2. Conditional Use Permit
3. Variance
4. Change to the Comprehensive Plan
5. Vacating of Streets/Alleyways

SECTION B. CONTENTS OF APPLICATION

The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun or substantially completed within one (1) year. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant
2. Legal description of property
3. Existing use
4. Proposed use
5. Zoning district
6. Plan, drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
7. Building heights
8. Number of off-street parking spaces or loading berths
9. Number of dwelling units
10. Proposed sewer and water facilities
11. Such other matters as may be necessary to determine conformance with, and provide for, the enforcement of this ordinance.

SECTION C. APPROVAL OF ZONING PERMIT

Within thirty (30) days after the receipt of an application, the Administrator shall either approve or disapprove the application in conformance with the provisions of this ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Administrator after the Administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Administrator. The Administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this ordinance.

SECTION D. EXPIRATION OF ZONING PERMIT

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Administrator; and written notice thereof shall be given to the persons affected.

If after the permit has been issued and persons affected by the permit do not maintain the permit granted on a continual basis, the permit shall expire after six (6) consecutive months of inactivity. This specifically pertains to Conditional Use Permits that have been approved.

SECTION E. CERTIFICATE OF OCCUPANCY

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof thereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the Administrator stating that the proposed use of the building or land conforms to the requirements of this ordinance and with all conditional provisions that may have been imposed.

SECTION F. TEMPORARY CERTIFICATE OF OCCUPANCY

A temporary certificate of occupancy may be issued by the Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

SECTION G. RECORD OF ZONING PERMITS AND CERTIFICATES OF OCCUPANCY

The Administrator shall maintain a record of all zoning permits and certificates of occupancy and copies shall be furnished upon request of any person.

SECTION H. FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF OCCUPANCY

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this ordinance.

SECTION I. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Administrator authorizes only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance.

SECTION J. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

SECTION K. PENALTIES

The City Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this ordinance. Penalties for failure to comply with or violate the provisions of this ordinance shall be as follows:

Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who attempts to violate any of the provisions of this ordinance or attempts to fail to comply with any of its requirements, but fails, or is prevented or intercepted in the perpetration thereof, is punishable by fine of not more than two hundred and fifty dollars (\$250) or imprisonment in the county jail of not more than three (3) months or by both such fine and imprisonment. Any person, firm or corporation violating any of the provisions of this ordinance or failing to comply with any of its requirements, upon conviction thereof shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail not more than six (6) months, or both such fine and imprisonment. Each day that such violation or failure to comply continues, shall be deemed a separate offense. Nothing herein contained shall prevent the Council or any other public official or private citizen from taking such lawful action as is necessary to restrain, abate or prevent any violation of, or failure to comply with, and provision of this ordinance or of the Idaho Code.

SECTION L. SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Administrator, and may be altered or amended only by the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE IX

AMENDMENT

SECTION A. GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Council may by ordinance after receipt of recommendation thereon from the Commission, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

SECTION B. INITIATION OF ZONING AMENDMENTS

Amendments to this ordinance may be initiated in one of the following ways:

1. By adoption of a motion by the Commission.
2. By adoption of a motion by the Council.
3. By the filing of an application by a property owner, or person who has existing interest in property within the area proposed to be changed or affected by said amendment.

SECTION C. CONTENTS OF APPLICATION

Application for amendments to the Official Zoning Map adopted as part of this ordinance shall contain at least the following information:

1. Name, address, and phone number of applicant.
2. Proposed amending ordinance, approved as to form by the Council.
3. Present land use.
4. Present zoning district.
5. Proposed use.
6. Proposed zoning district.
7. A vicinity map at a scale approved by the Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Administrator may require.
8. A list of all property owners and their mailing addresses who are within three hundred (300) feet of the external boundaries of the land being considered.
9. A statement on how the proposed amendment relates to the availability of public facilities and compatibility with the surrounding area.
10. A fee as established by the Council.

SECTION D. TRANSMITTAL TO COMMISSION

Zoning districts shall be amended in the following manner:

1. Requests for an amendment to the zoning ordinance shall be submitted to the Commission, which shall evaluate the request to determine the extent and nature of the amendment requested.
2. The Commission may recommend and the Council may adopt or reject the ordinance amendment under the notice and hearing procedures provided in Article V, Section E.

SECTION E. COMMISSION PUBLIC HEARING

The Commission shall hold a public hearing on the proposed amendment, public notice in the newspaper and give written notice to all parties as required for conditional use permits. (See Article V, Section E).

SECTION F. RECOMMENDATION BY COMMISSION

Within sixty (60) days from the receipt of the proposed amendment, the Commission shall transmit its recommendation to the Council. The Commission may recommend that the amendment be granted as requested, or it may recommend that the amendment be denied. The Commission shall insure that any favorable recommendations for amendments are in accordance with established community goals and objectives.

SECTION G. ACTION BY COUNCIL

The Council at its next regular meeting following the receipt of the Commission's report shall consider the recommendation of the Commission. The Council shall accept the recommendation of the Commission's report unless rejected by a vote of one-half (1/2) plus one (1) of the members.

Upon granting or denying an application the Council shall specify:

1. The ordinance and standards used in evaluating the application;
2. The reasons for approval or denial; and
3. The actions, if any, that the applicant could take to obtain a permit.

In the event the Council shall approve an amendment, such amendment shall thereafter be made a part of this ordinance upon the preparation and passage of an ordinance. The third and final reading of the ordinance shall be the public hearing of the Council.

SECTION H. RESUBMISSION OF APPLICATION

No application for a reclassification of any property which has been denied by the Council shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purpose within a period of one (1) year from the date of such final action, unless there is an amendment in the comprehensive plan which resulted from a change in conditions as applying to the specific property under consideration.

SECTION I. ZONING UPON ANNEXATION

Prior to annexation of an unincorporated area, the Council shall request and receive a recommendation from the commission on the proposed zoning ordinance changes for the unincorporated area. The Commission and the City Council shall follow the notice and hearing procedures provided in Article V, Section E. Concurrently or immediately following the adoption of an ordinance of annexation, the Council shall amend the zoning ordinance.

OFFICIAL ZONING ORDINANCE **DEFINITIONS**

I hereby certify that this is the amended list of Official Zoning Ordinance Definitions for the City of Elk River, which was passed by the City Council on this ____ day of _____, _____, and signed in authentication thereof this ____ day of _____.

Mayor

Attest:

Clerk-Treasurer

SECTION A. GENERAL INTERPRETATION

The words and terms used, defined, interpreted or further described in this Ordinance will be construed as follows:

- Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicated the contrary.
- The word "shall" is always mandatory and not merely directory.
- The word "building" includes the word "structure".
- The word "lot" includes the words "plot", "parcel", and "tract".
- The word "City" means the City of Elk River in the County of Clearwater, State of Idaho.
- The term "City Council" or "Council", means the City Council of Elk River, Idaho.
- The word "Administrator" means the Zoning Administrator.

SECTION B. WORDS AND TERMS

The following listed specific words and terms are defined as follows:

- **Accessory Building, Structure or Use** -- A building, structure, or use located or conducted upon the same lot (or on a contiguous lot in the same ownership) as the principal building, structure, or use to which it is related, and which is:
 - (A) Clearly incidental to, or customarily found in connection with, such principal building or use; and
 - (B) Is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.
- **Agriculture, Agricultural Purposes or Uses** -- The raising of farm products for use or sale, including animal or poultry husbandry, and the growing of crops such as grain, vegetables, fruit, grass for pasture or sod, trees, shrubs, flowers, and similar products of the soil.
- **Alley** -- A public right-of-way which is a narrow way, not over twenty (20) feet in width, which is used primarily as a means of access to the rear of residence or business establishments and which generally affords only a secondary means of access to the property abutting along its length.
- **Alterations** -- As applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or in the moving from one location to another.
- **Boarding House or Rooming House** -- A building other than a hotel, café, or restaurant where, for compensation, directly or indirectly, lodging and/or meals are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family.
- **Block** -- The space along one side of a street between the two nearest intersecting streets, or between an intersecting street, waterway, or other similar barrier, whichever is lesser.
- **Building** -- A structure designed, built or occupied as a shelter or roofed enclosure for persons, animals, or property.

- **Building Height** -- The vertical distance measured from a point which represents the average natural grade of the ground now occupied by the building to the uppermost point of the roof of the building.
- **Building, Principal** -- One building housing the principal (primary or most important) uses permitted for the lot upon which it is located.
- **Camp Trailer** -- A portable structure, mounted on wheels and drawn by a stock passenger automobile or designed to be loaded onto, or affixed to, the bed or chassis of a truck, or portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational camping or travel use. The term "*camp trailer*" shall include units designed as "*motor homes*" or "*camper buses*".
- **Camp Trailer Park** -- An area for the temporary parking of camp trailers as defined in this Section.
- **Commercial** -- Synonym for business. Any gainful operation, profession, or craft that is not included in the definition of Home Occupation.
- **Conditional Use** -- Allowed use as specified within each district only with the approval of the Commission which may attach conditions for granting such use in the particular district.
- **Day Nursery** -- A school designed to provide daytime care or instruction for seven or more children from two to five years of age, operated on a regular basis and licensed by the State of Idaho.
- **Density** -- the number of "*dwelling units*" per net acre.
- **Detached Building** -- Any building that is not part of the principal building.
- **Dwelling** -- Any building or part thereof, occupied, in whole or in part, as the home residence, or sleeping place, of one or more persons; either continuously, permanently, temporarily, or transiently.
- **Single-Family Dwelling** -- Occupied by only one family.
- **Two-Family Dwelling** -- Occupied by two families.

- **Multi-Family Dwelling --** Occupied by three or more families. The dwelling consists of three or more dwelling units including apartment houses, town houses, and condominiums with varying arrangements of entrances and party wall. Multi-family housing may include public housing and industrial units.
- **Duplex --** A dwelling consisting of two (2) dwelling units.
- **Family --** A single individual doing his own cooking, and living upon the premises as a separate, independent, housekeeping unit; or, a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth or marriage; or a group of not more than three unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit.
- **Floor Area --** The area included within the outside wall of a building or portion thereof, including habitable penthouses and attic space, but not including vent shafts, courts, or uninhabitable areas below ground level or in attics.
- **Front Yard --** A yard extending across the full length of a lot line and parallel to a street right-of-way.
- **Garage, Private --** An enclosed space for the storage of one or more private vehicles for residents of the premises.
- **Garage, Public --** A building or portion thereof designed and used for the storage, rental, repair or servicing of motor vehicles or boats, as a business. Can also be used as rental for storage of public items.
- **Gasoline Service Station --** A building or premises in or on which the principal use is the retail sale of gasoline, oil, or other fuel for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing, or otherwise cleaning or light servicing of motor vehicles, but may not include liquefied petroleum gas distribution facilities, facilities for major repair to motor vehicles, or rental operations.
- **Gross Floor Area (GFA) --** The total area in square feet of all floors of a building measured from exterior walls.
- **Guest House --** A detached structure, being an accessory to a single family dwelling with not more than two (2) bedrooms, having no kitchen facilities, and which shall be used and/or designed for use primarily by guests and/or servants for sleeping quarters only.

- **Home Occupations** -- Any use of a dwelling, conducted solely by a member or members of the family residing therein, which is incidental or subordinate to the main use of the building for dwelling purposes; which utilizes not more than twenty-five (25) percent of the floor space of the dwelling; which does not generate vehicular parking or nonresidential traffic to a greater extent that would normally result from residential occupancy; in connection with which no inventory or stock in trade is kept for regular sale to persons coming to the premises; and with no other evidence being visible, audible or abnormally odoriferous from the outside of the dwelling to indicate it is being used for anything other than residential purposes, other than a sign not exceeding four (4) square feet in area.
- **Hotel** -- An establishment that provides temporary lodging in guest rooms and in which meals, entertainment, and various personal services for the public may or may not be provided.
- **Industrial, Heavy** -- Any industry that has hazardous or objectionable elements such as noise, odor, dust, smoke or glare that is operated both within enclosed structures and outside of such structures.
- **Industrial, Light** -- Any industry, which is clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare that is operated entirely or almost entirely within enclosed structures.
- **Lot** -- A parcel of land, whether or not platted, in single ownership, and not divided by a street.
- **Lot, Corner** -- A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, and where in either case the interior angle formed by intersection of the street lines does not exceed one-hundred thirty-five (135) degrees.
- **Lot Coverage** -- The percentage of the lot area that is occupied by all covered structures.
- **Lot, Interior** -- A lot other than a corner lot.
- **Lot Width** -- The average horizontal distance between the side lot lines.
- **Lot Line** -- A line marking a boundary of a lot.
- **Lot Line, Front** -- The property line dividing a lot from the right-of-way of a street. On a corner lot, the shorter street right-of-way line shall be considered as the front line lot.

- **Lot Line, Rear --** The property line opposite the front lot line.
- **Lot Line, Side --** Any lot line other than a front or rear lot line.
- **Manufactured Home --** A structure, constructed according to the HUD/FHA mobile home construction and safety standards established July 1, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is five hundred (500) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq.
- **Mobile Home --** A structure similar to a manufactured home. A transferable, single-family dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal and electrical convenience as immobile housing. Such structure will have no foundation other than wheels or removable jacks for conveyance on highways and may be transported to a site as one or more modules. The term "*mobile home*" shall not include travel trailers, campers, or self-contained "motor homes" or "camper buses".
- **Mobile Home Park --** Any site or tract of land under single ownership, upon which two (2) or more mobile homes for habitation are parked, either free of charge or for revenue purposes, supplying all utilities and services needed for year-round dwelling; including any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of such park.
- **Motel --** A hotel which usually is arranged in such a manner that individual guest rooms are directly accessible from an automobile parking area.
- **Non-Conforming Use, Building and Lots --** Any legally existing use, building or lot which does not conform to the requirements of this chapter for the district in which it is located, either on the effective date of the ordinance codified herein, or, as a result of any subsequent amendment thereto, and more specifically:
 - A. A non-conforming use is any use within a building or upon a lot which does not conform to the "use" regulations of this ordinance, including minimum size lot, minimum lot area per dwelling unit, usable open space, or, required off-street parking.

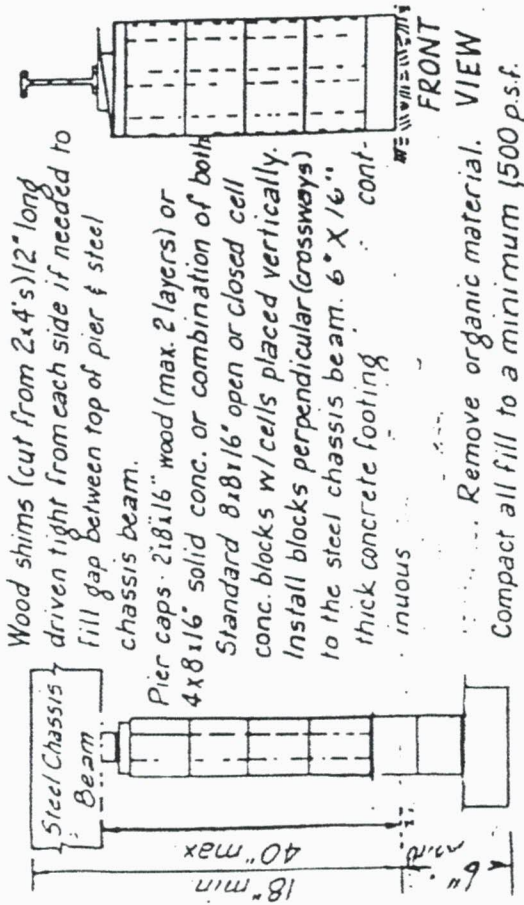
B. A non-conforming building is a building which does not conform to the minimum setbacks, maximum height or floor area ratio, or, maximum number of principal buildings on a lot.

C. A non-conforming lot is any lot which does not conform to the minimum lot area, or frontage upon a public street.

- **Parking Space** -- Usable space within a public or private parking area or building, not less than one hundred and eighty square feet, (9' X 20'), exclusive of access drives, aisles or ramps for the storage of one passenger automobile or commercial vehicle.
- **Passive Recreation** -- Non-motorized recreation.
- **Premises** -- A lot as otherwise used in this ordinance.
- **Principal Use** -- The primary purpose of function that a parcel serves or is intended to serve.
- **Professional Office** -- The office of a person or persons engaged in any occupation, vocation, or calling, not purely commercial, mechanical, or agricultural in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act founded thereon.
- **Public Building** -- Any building held, used, or controlled exclusively for public purposes by an department or branch of government: State, County, or Municipality, without reference to the ownership of the building or of the realty upon which it is situated.
- **Public Utility** -- A public service corporation performing some 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.
- **Recreation Vehicle or Travel Trailer** -- A vehicular type unit designed as temporary dwelling for recreational, camping or travel use which is either self propelled, self-contained, or mounted on or drawn by another vehicle, including all recreational vehicles, camping trailers, truck campers, and motor homes.

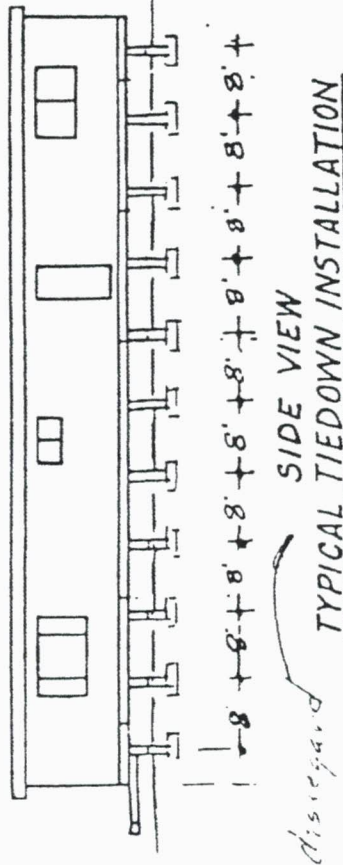
- **Right-of-Way** -- A strip of land for public purpose such as: utilities, roads, streets, pedestrian walkways, bicycle paths and alleys.
- **Rear Yard** -- A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.
- **Setback Area** -- The space on a lot required to be left open and unoccupied by structures, either by the front, side or rear yard requirements of this ordinance, or by delineation on a recorded subdivision map. The setback does not include cornices, canopies, eaves, or other projections which do not increase the column of space enclosed by the building; provided, however, that none of these shall project into any required yard more than two feet.
- **Side Yard** -- An open unoccupied space within the lot between a side lot and the parts of the building, structure, or out-building nearest thereto. Such side yard shall extend on both sides of the lot from the street line to the rear line of said lot. (Corner lots -- see front yard).
- **Sign** -- Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure, or surface.
- **Street** -- A public right-of-way, which provides vehicular and pedestrian access to adjacent properties, acceptance or grant of which has been officially approved by the council. The term "street" includes the terms highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, lane, place and other such terms.
- **Variance** -- Deviations from the terms of this ordinance as will not be contrary to public interest and owing to special conditions under which a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.
- **Yard** -- An open space on the same lot with a principal building or group of buildings, which is unoccupied and unconstricted from its lowest level upward, except as otherwise permitted in this ordinance and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the lot is located.
- **Zoning Map** -- The map incorporated into this ordinance designating the use district zones.

MANUFACTURED HOME SUPPORT PIERS & FOOTINGS

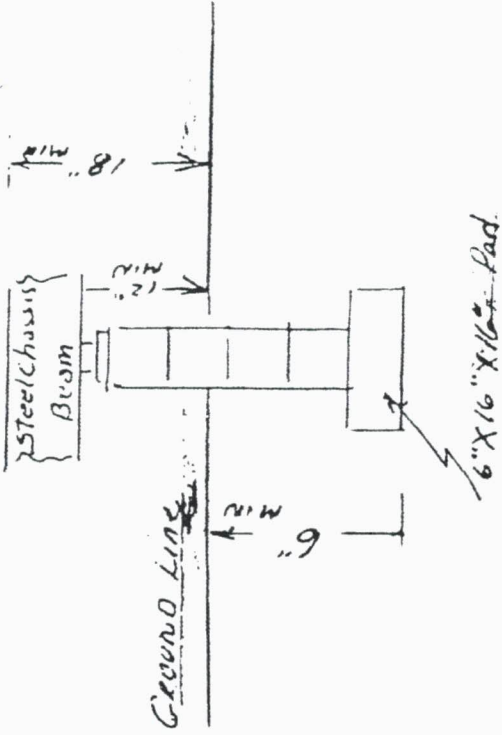


NOTE: If a pier over 24" is required (due to a sloping land) use a double tiered pier with the blocks interlocked. In no case shall the pier exceed 72", nor shall more than 20% of the total number of piers exceed 40" in height.

PIER DETAILS

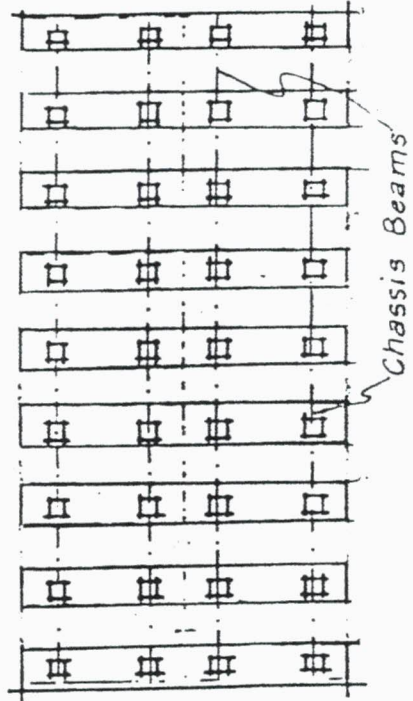


Install only approved tiedowns capable of withstanding a 4725 lb. load. Locate end tiedowns not more than 5'6" from each end of manufactured home, and equally space the intermediate tiedowns not more than 8'0" apart. Install a tiedown at each outside corner of a unit.



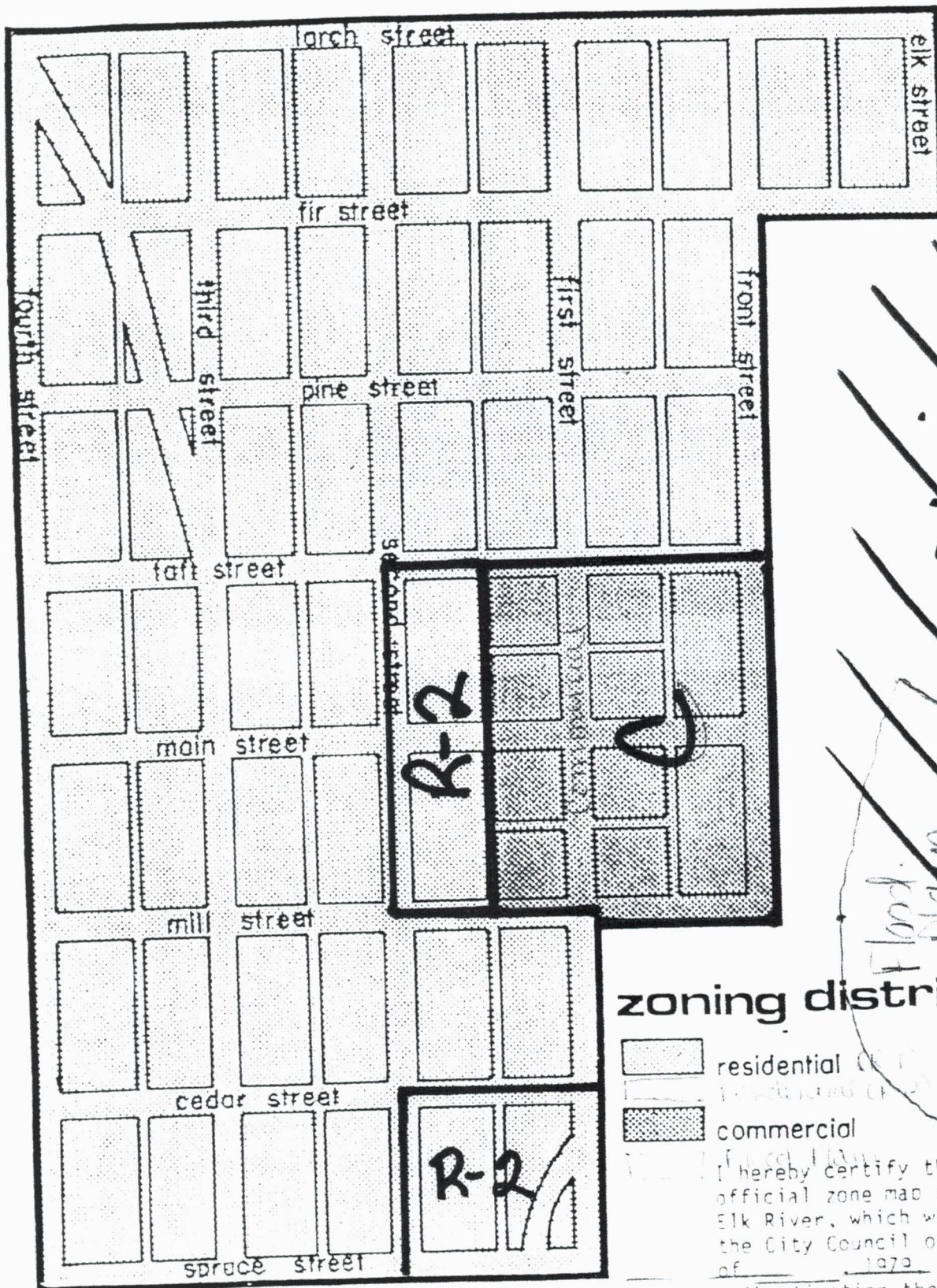
Min. 2500 P.S.I. Conc.
Remove vegetation -
Do not place on fill or uncompacted gravel.

TYPICAL PIER DETAIL



TYPICAL FOUNDATION PLAN

OFFICIAL ZONING MAP



zoning districts



residential



commercial

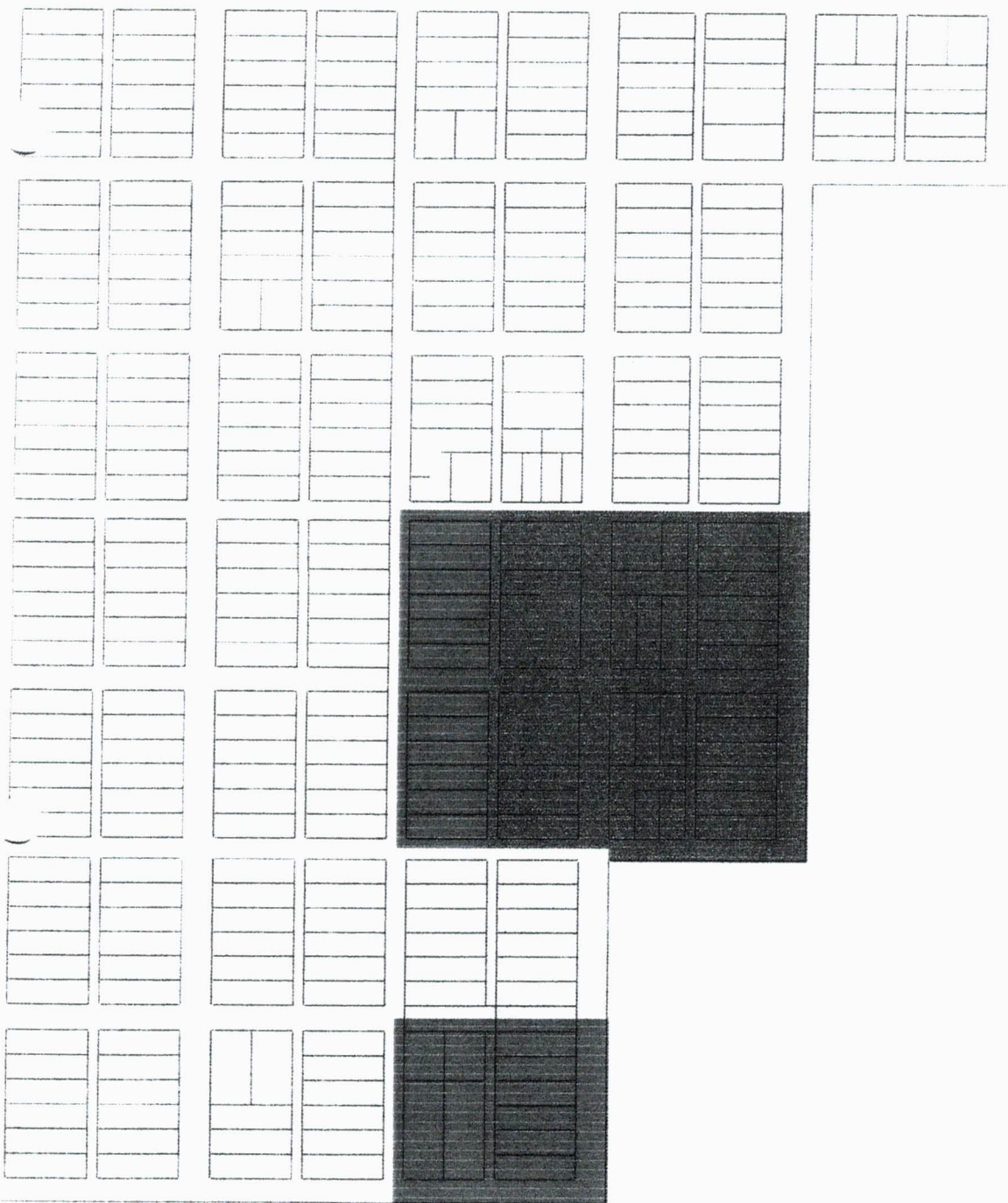
I hereby certify that this is the official zone map for the city of Elk River, which was passed by the City Council on this ____ day of _____, 1979, and signed in authentication thereof this ____ day of _____, 1979. Attest:

city of elk river

City Clerk

Mayor

Official Zoning Map For The City Of Elk River



Residential (R-1)
 Residential (R-2)
 Commercial
 Flood Plane

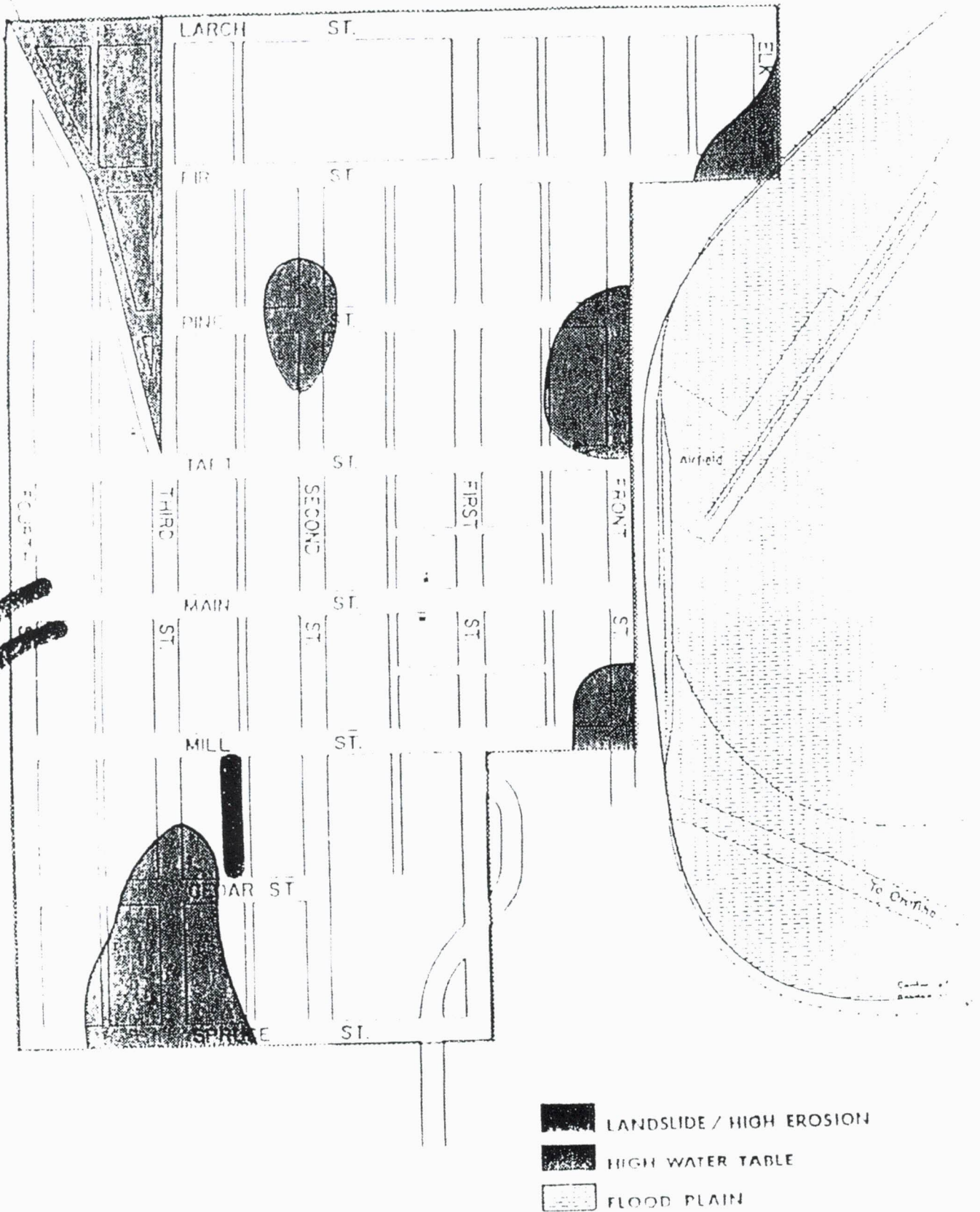


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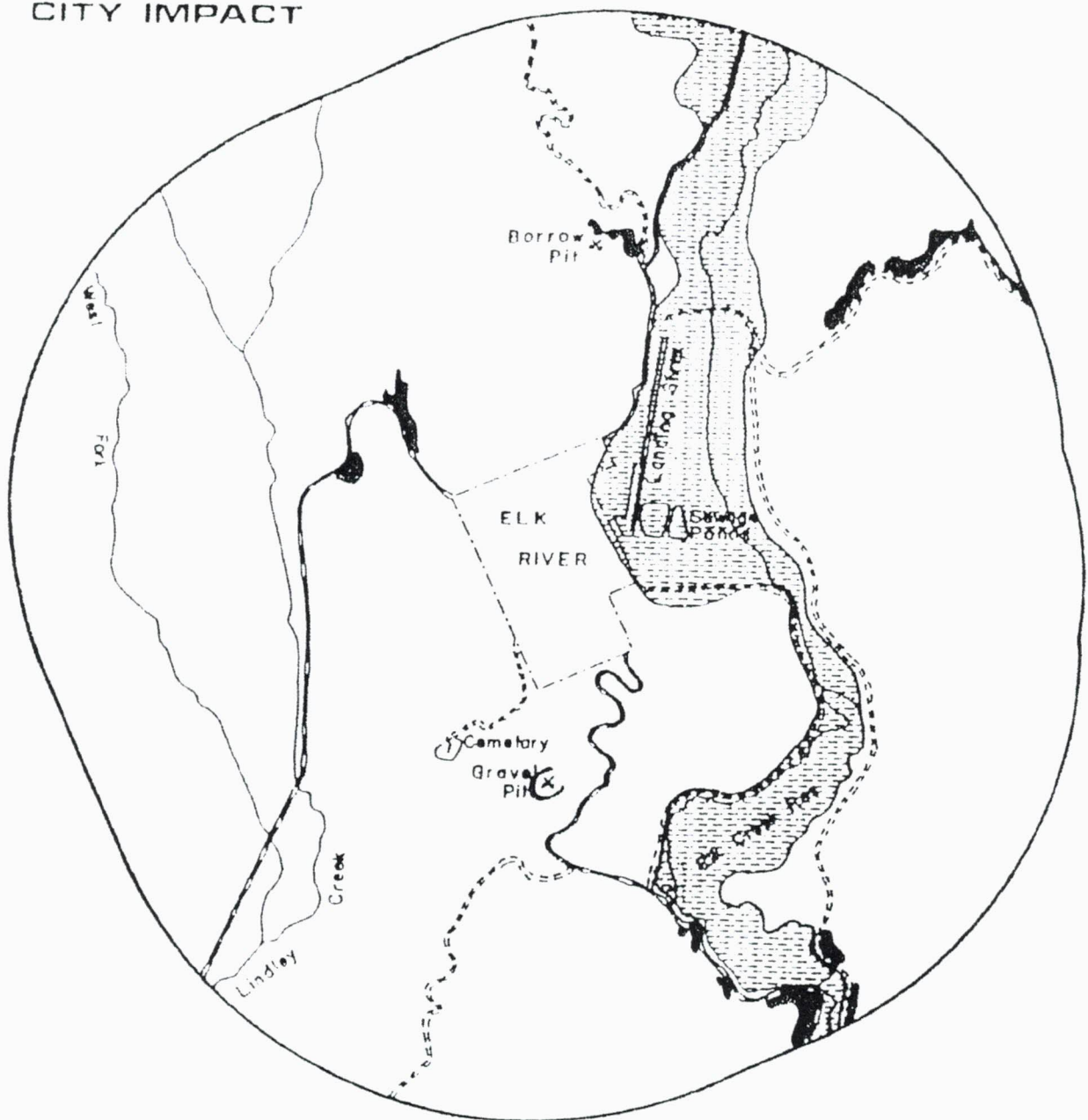
ELK RIVER HAZARDOUS AREAS



1978

ELK RIVER HAZARDOUS AREAS

AREA OF
CITY IMPACT



-  LANDSLIDE / HIGH EROSION
-  FLOOD PLAIN

FIGURE 2.8
FLOOD ZONE

