



**Baker**  
Montana

Zoning Ordinance 2013

## **ORDINANCE #353**

**Adopted: March 20, 2013**

### **City of Baker Council**

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## Chapter 17.04 - GENERAL PROVISIONS

### 17.04.010 - Title.

The ordinance codified in this title shall be known as the zoning ordinance of the City of Baker.

(Ord. 353 §17(part), 2013; Ord. 243 §1, 1979).

### 17.04.020 - Purpose.

The purpose of the regulations contained in this title is to be in accordance with the Fallon County Growth Policy; to secure safety from fire and other dangers; to promote the public health, safety, morals, and general welfare of the residents of Baker; to prevent waste and inefficiency in land use; to encourage the maintenance, and preservation of the land resources; to provide adequate land and space for the development of private and public residential, commercial, industrial, and recreational areas; to facilitate the adequate provision for transportation, water, sewer, solid waste, schools, parks and other municipal services; to provide reasonable provisions of adequate light and air; to promote compatible urban growth; to establish the character of zoning districts and the peculiar suitability for particular uses; to conserve the value of buildings and encourage the most appropriate use of land throughout the city; and generally to provide a healthy and pleasant atmosphere for the present and future residents of the city. It is the goal of this title to uphold and protect the rights of the individual to use and develop his property to suit his needs. It is also the goal of this title to discourage an individual from interfering with another individual's rights by constructing, establishing, or maintaining his property to a degree which would jeopardize the rights to or value of a neighboring individual's property.

(Ord. 353 §17(part), 2013; Ord. 243 §2, 1979).

### 17.04.021 - Planning board authority.

Interpretations as to specific boundaries of various zoning districts or clarification of specific rules and regulations of this title shall be made by the City Council upon receipt of recommendation from the planning board.

(Ord. 353 §17(part), 2013; Ord. 243 §6 (part), 1979).

### 17.04.022 – Administration and procedures.

The administrative and procedural provisions establish the methods for implementing the zoning ordinance. Where the ordinance specifies two different requirements or is in conflict with other city ordinances, the most restrictive provisions shall apply. These provisions include procedures for zoning compliance permits, right-of-way use permits, conditional uses permits, variances, amendments to the text of the zoning ordinance, and amendments to the official boundaries and designations of zoning districts (rezoning).

#### (a) Administrative Procedures.

1. No person shall commence any construction of a building or structure, fence, retaining wall, deck, parking space, driveway, sidewalk, carport or any principal or accessory structure without first obtaining a zoning compliance permit issued by the city clerk. Ordinary repairs and maintenance of structures or buildings, including but not limited to replacement of a roof, door(s), window(s), installation or replacement of exterior siding, non-structural trim work and interior alterations shall not require a zoning compliance permit. The applicant shall submit a complete zoning compliance

application, an application fee, and a site plan drawn to scale or survey prepared by a registered land survey to demonstrate that any proposed building, structure or improvement is in compliance with required minimum property line setbacks and other applicable regulations established by this title.

2. Right-of-Way Use Permit.

No improvement in a city right-of-way including but not limited to driveways, sidewalks, drainage facilities, etc., shall be permitted unless a right-of-way use permit has been issued by the city public works director. Any improvement within a private utility easement shall not be permitted unless written approval has been received from the utility provider. Prior to the issuance of a right-of-way use permit, the applicant shall submit a complete right-of-way use application, an application and a site plan drawn to scale showing the location of any private utility easement and the location and specifications of the proposed improvements. Improvements or construction requiring both a zoning compliance permit and a right-of-way use permit shall only require a zoning compliance permit.

Any work performed in the highway right-of-way for US-12 and MT-7 requires approval from the Montana Department of Transportation, Glendive District Office, (406) 345-8200 or toll free (888) 689-5296.

(b) Applications Requiring Public Hearing(s).

Public hearing(s) are required for the following applications:

1. Amendments to the zoning ordinance text.
2. Amendments to the official boundaries and designation of zoning districts (rezoning).
3. Variances.
4. Conditional uses.
5. Appeals of a decision on a zoning compliance permit.
6. Annexation.

(c) Public Hearing Procedures.

For applications requiring a public hearing, the planning board shall hold a public hearing. For such applications, the city council, at its sole discretion, may also hold a public hearing. Public hearings shall provide parties of interest and citizens the opportunity to be heard on matters related to the application.

For applications requiring a public hearing, the planning board shall hold a public hearing on the application and provide its recommendation to the city council no later than thirty (30) days after the application has been deemed complete by the city clerk. The planning board shall recommend that the application be approved, approved with conditions (if applicable) or denied.

The city council may on its own motion or upon receipt of a complete application, written request or recommendation from the planning board amend, supplement, change, modify or repeal by ordinance the boundaries of districts or regulations or restrictions established in this title. An application requiring public notice shall become effective after the city council has taken final action on the application.

In exercising the authority to review an appeal of a decision on a zoning compliance permit, the city council may, so long as such action is in conformity with the terms of this title, reverse or affirm, wholly or partly, or may modify the decision related to a zoning compliance permit.

If a protest that meets the requirements contained in 76-2-305, MCA, has been submitted to the city for zoning ordinance text or boundary amendments, an amendment shall not become effective except upon a favorable vote of two-thirds of the present and voting members of the city council.

The city may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning regulations for the annexed property:

1. Authorize land uses comparable to the land uses authorized by county zoning;
2. Authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2, MCA; or
3. Are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, MCA, for the annexed property.
4. A joint hearing authorized under this subsection fulfills the city's obligation regarding zoning notice and public hearing for a proposed annexation.

(d) Public Notice Requirements.

1. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the city for all public hearings before the planning board and city council.
2. For zoning ordinance boundary amendment applications and variance applications, the following public notice shall be provided.
  - a. A sign provided by the city clerk shall be posted on the subject property at least ten (10) days prior to the date of the public hearing. The sign shall be posted along a street right-of-way or other location that will allow the public to easily view the sign.
  - b. A public hearing shall not be heard if the applicant fails to provide notice as specified in this subsection 2.

(e) Application Fees.

The City shall establish, by adoption of a resolution, a schedule of fees for applications related to this title. The fees shall be of a sufficient amount to account for all costs to the city associated with the administration, review and public notice of an application.

(Ord. 353 §17(part), 2013).

#### **17.04.023 – Severability.**

It is declared to be the intention of the city that the provisions of this title are separable in accordance with the following:

- (a) If any court of competent jurisdiction shall adjudge any provision of this title to be invalid, illegal or unenforceable, such judgment shall not affect any other provisions of this title not specifically included in said judgment; the lasting provisions remain in full force and effect.
- (b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this title to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in such judgment.
- (c) To the extent that any provision of this Agreement is adjudicated to be invalid or unenforceable because it is overbroad, that provision shall not be void but rather shall be limited only to the extent required by applicable law and enforced as so limited.

(Ord. 353 §17(part), 2013).

#### **17.04.024 – Repeal of Conflicting Ordinances**

All ordinances and amendments thereto of Title 15 and Title 17 of the City of Baker Municipal Code inconsistent with this ordinance are hereby repealed.

(Ord. 353 §17(part), 2013).

### **Chapter 17.08 – DEFINITIONS**

#### **17.08.010 - Generally.**

For the purpose of this title, certain words or phrases are defined as set out in this section, unless by their context another meaning is clearly intended.

(Ord. 243 (part), 1979).

#### **17.08.015 – Accessory structure.**

“Accessory structure” means a structure, the use of which is incidental to that of the principal or main structure and which structure is located on the same lot or parcel as the main or principal building.

(Ord. 353 §17(part), 2013).

#### **17.08.016 – Adult Entertainment.**

“Adult entertainment” means:

- (a) Any exhibition, performance, or dance of any type conducted in a premises licensed by the state of Montana to sell liquor where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Sexually Oriented Entertainment” means:

- (a) Any exhibition, performance, or dance of any type conducted in a *premises licensed by the State of Montana to sell liquor* where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  
- (b) Any exhibition, performance, or dance of any type conducted in a *premises licensed by the State of Montana to sell liquor* where such exhibition, performance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following sexual activities: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy, or ; fondling or other erotic touching of human genitals, pubic region buttocks or female breast.
  
- (c) Any exhibition, performance, or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity.

“Adult Arcades” means:

- (a) Adult Arcade means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

“Adult Book Stores or Adult Video Stores” means:

- (a) Adult Book Store or Adult Video Store means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

“Adult Cabarets” means:

- (a) Adult Cabaret means a commercial establishment which regularly features:
  - 1. Persons who appear nude or in a state of nudity or semi-nudity; OR
  - 2. Live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

“Adult Motels” means:

- (a) Adult Motel means a hotel, motel, or similar commercial establishment which:
  - 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or



description or "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

“Adult Motion Picture Theaters” means:

- (a) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

(Ord. 353§17(part), 2013).

#### **17.08.017 – Adult Entertainment Material.**

“Adult entertainment material” means any printed or electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized by the acts listed in Adult Entertainment.

(Ord. 353§17(part), 2013).

#### **17.08.020 - Apartment, In-Residence.**

An "apartment, in-residence" is an accessory dwelling unit connected to or within a dwelling or as a garage apartment and is capable of serving as a dwelling unit.

(Ord. 353 §17(part), 2013; Ord. 243 §5 (part), 1979).

#### **17.08.025 – Aviation facility.**

“Aviation facility” means landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales and rental of aircraft, and includes activities directly associated with the operation and maintenance of airport facilities and the provision of airport safety and security.

(Ord. 353§17(part), 2013).

#### **17.08.026 - Balcony.**

"Balcony" means a platform that projects from the wall of a building and is enclosed by a parapet or railing.

(Ord. 318 §1(part), 1997).

#### **17.08.028 – Broadcasting or telecommunications tower.**

“Broadcasting or telecommunications tower” means a structure(s) for the transmission or broadcasting of radio, television, radar, microwaves or telecommunication signals ordinarily exceeding the maximum permitted height in its zoning district or utilizing towers, antennas or satellite dishes for commercial broadcasting.

(Ord. 353§17(part), 2013).

#### **17.08.029 - Building.**

“Building” means a permanent structure entirely separated from any other structure by space or by wall that is permanently affixed to the land, has one or more floors, a roof and is built for purposes of providing shelter,

support or enclosure for persons or property.

(Ord. 353§17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.030 - Carport.**

"Carport" means an open-sided automobile shelter sometimes formed by extension of a roof from the side of a building but also constructed as a detached structure.

(Ord. 353§17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.031 - City council.**

"City council" means the city council of Baker.

(Ord. 243 §5(part), 1979).

**17.08.032 – Commercial recreation, indoor.**

"Commercial recreation, indoor" means a recreational land use conducted entirely within a building, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, bowling alleys, and skating rink; and may include a snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

(Ord. 353§17(part), 2013).

**17.08.033 – Commercial recreation, outdoor.**

"Commercial recreation, outdoor" means a recreational use(s) conducted in an open unenclosed setting or partially enclosed or screened facilities, including golf driving ranges (not associated with a golf course), miniature golf, firing ranges, water parks, amusement parks, swimming pools, batting cages, and similar uses.

(Ord. 353§17(part), 2013).

**17.08.034 – Composting facility.**

"Composting facility" means a facility to process raw manure or other raw organic by-products into biologically stable organic material.

(Ord. 353§17(part), 2013).

**17.08.035 - Conditional use.**

"Conditional use" means a use that is not a permitted use in a zoning district due to its unique characteristics and circumstances. It may be permitted subject to conditions that mitigate the impacts associated with the use.

(Ord. 353§17(part), 2013; Ord. 243 §5(part), 1979).

**17.08.036 – Construction batch plant.**

"Construction batch plant" means a temporary demountable facility used for the manufacturing of cement, concrete, asphalt or other paving materials intended for specific construction projects.

(Ord. 353§17(part), 2013).

**17.08.037 – Construction Sales and Services**

“Construction and sales and services” means establishments or places of business primarily engaged in retail or wholesale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. Typical uses include building materials sales, or tool and equipment rental or sales.

(Ord. 353§17(part), 2013).

**17.08.038 – Construction yard.** “Construction yard” means establishments, facilities or businesses primarily engaged in construction activities, including the on-site storage of materials and equipment. Typical uses include a building contractor’s yard, or an oil or natural gas service business.

(Ord. 353§17(part), 2013).

**17.08.039 – Cultural facility.**

“Cultural facility” means the use of land, building, or structures to provide social, educational or informational services to the general public, that shall include but not be limited to art galleries, senior centers, museums, libraries, conference and convention centers which do not include hotels or other types of commercial lodging.

(Ord. 353 §17(part), 2013).

**17.08.040 - Deck.**

"Deck" means a flat or terraced roofless structure without exterior walls constructed above finished grade.

(Ord. 353§17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.042 - Driveway.**

"Driveway" means a private improved impervious surface that provides vehicular access from a public or private street to a lot or parcel with a land use.

(Ord. 353§17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.044 - Dwelling.**

"Dwelling" means a building or a portion thereof arranged or designed to provide residential living facilities for one family or household. The term “dwelling” shall not be deemed to include transient or temporary housing facilities. A "single-family dwelling" is a building or portion thereof that contains only one dwelling unit.

(Ord. 353 §17(part), 2013; Ord. 243 §5(part), 1979).

**17.08.046 – Dwelling, duplex.**

“Dwelling, duplex” means any residential building that is entirely surrounded by open space or yards on the same lot or parcel and contains only two (2) dwelling units within the same building.

(Ord. 353 §17(part), 2013).

**17.08.048 – Dwelling, multi-family.**

“Dwelling, multi-family” means any residential building containing three (3) or more separate dwelling units located on a single lot or parcel such as triplexes, quadriplexes, and apartment buildings.

(Ord. 353 §17(part), 2013).

**17.08.049 – Dwelling, single-family attached.**

“Dwelling, single-family attached” means a one (1) family dwelling unit that is joined together to another one (1) family dwelling unit by a common party wall, a common floor/ceiling or connecting permanent structure such as a breezeway, carport or garage, where such dwelling units are also located on adjoining individual lots. Examples are townhouses and row homes.

(Ord. 353 §17(part), 2013).

**17.08.050 – Dwelling, single-family detached.**

“Dwelling, single-family detached” means any building that is surrounded by open yards on all sides and contains only one dwelling unit, not attached to any other building containing a dwelling unit.

(Ord. 353 §17(part), 2013).

**17.08.051 – Dwelling, single-family semi-detached.**

“Dwelling, single-family semi-detached” means one (1) family dwelling unit that is joined together to no more than one (1) other one (1) family dwelling unit by a common party wall, a common floor/ceiling or connecting permanent structure such as a breezeway, carport or garage, where such dwelling units are also located on adjoining individual lots such as duplex dwellings that have been divided into two (2) dwelling units on separate lots.

(Ord. 353 §17(part), 2013).

**17.08.052 - Eave.**

"Eave" means the lower border of a roof that overhangs a wall.

(Ord. 318 §1(part), 1997).

**17.08.053 General industry.**

“General industry” means enterprises engaged in the processing, manufacturing, compounding, assembly, packing, treatment or fabrication of materials and products from prepared materials or from raw materials.

(Ord. 353 §17(part), 2013).

**17.08.054 - Impervious Coverage.**

“Impervious coverage” means any surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted gravel, streets, driveways, sidewalks, parking areas, buildings and other similar structures.

(Ord. 350§1(part), 2012).

**17.08.055 – Junk or salvage yard.**

“Junk or salvage yard” means any establishment or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles, motor vehicle parts, scrap metal, waste paper rags, used building materials, white goods, etc.

(Ord. 353 §17(part), 2013).

**17.08.056 - Landing.**

"Landing" means a level part of a staircase (as at the end of a flight of stairs).

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.057 - Landscaping.**

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, groundcover, gardens, trees, shrubs and other plant materials; decorative outdoor landscaping elements such as ponds and other water features, fountains; paved or decorated surfaces such as rock, stone, brick, timbers, wood chips, gravel, stone blocks or similar material (excluding driveways, sidewalks, parking and loading facilities or storage areas; and sculptural elements.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.058 – Lot.**

"Lot" means a parcel of property with a separate and distinct number or other identifying designation that has been created, assigned and recorded in the office of the County Register of Deeds as provide for by the Montana Code Annotated (MCA).

- (a) Corner lot: A lot or parcel located at the junction of at least two public or private right-of-ways or easements, excluding an alley.
- (b) Double frontage lot: A lot, other than a corner lot, that abuts two public or private right-of-ways or easements, excluding an alley. Primary vehicular access shall be restricted on a double frontage lot to the minor of the two streets.
- (c) Interior lot: A lot other than a corner or double frontage lot.

(Ord. 353 §17(part), 2013).

**17.08.059 - Lot Coverage.**

"Lot coverage" means the number determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches, accessory structures and any other structures intended for supporting or sheltering any use or occupancy.

(Ord. 350§1(part), 2012).

**17.08.060 – Lot line.**

"Lot line" means a property boundary line(s) of record that divides one lot or parcel from another lot or parcel or a lot or parcel from a public or private street right-of-way or easement.

- (a) Front lot line. The lot or parcel line separating a lot or parcel and a public or private street right-of-way or easement.
- (b) Rear lot line: The lot or parcel line that is opposite and most distant from the front lot line.
- (c) Side lot line: Any lot or parcel line that is neither a front or rear lot line.

(Ord. 353 §17(part), 2013).

**17.08.061 – Manufactured home.**

- (a) “Manufactured home” pursuant to Montana Department of Public Health and Human Services Rules, Chapter 111, Subchapter 2, Section 37.111.201(19) includes a mobile home as referred to in 50-52-101(7), MCA, and means a structure that is transportable in on or more sections designed and constructed after June 15, 1976 when the Federal Manufactured Construction and Safety Standards were effective that is eight(8) body feet or more in width or forty (40) body feet or more in length in the traveling mode, when erected on-site is 320 or more square feet in size, is built on a permanent chassis, and is designed to be used as a dwelling for human occupancy or use upon connection to required utilities, including plumbing, heating and electrical systems.
- (b) Pursuant to 76-2-302(4), MCA, a manufactured home erected on a lot of record or on a lot in a manufactured home subdivision means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roof materials as required by this title, and is in compliance with the applicable prevailing standards of the US Department of Housing and Urban Development at the time of its production. In addition, a manufactured home as defined by this paragraph shall have the towing hitch or running gear, transporting light, wheels and axles removed, designed for occupancy as a principal residence by a single family or household and comply with the skirting requirements of this title.
- (c) All manufactured homes must have an affixed HUD seal(s) located on the outside of the home.  
(Ord. 353 §17(part), 2013).

**17.08.062 – Manufactured home subdivision.**

“Manufactured home subdivision” means a development subdivided, planned and improved for the placement of manufactured homes, as defined by Section 17.08.062(b), on lots designed for occupancy (owned or rented) as a principal residence by a single family or household.

(Ord. 353 §17(part), 2013).

**17.08.063 – Manufactured home park.**

“Manufactured home park” means a parcel of land developed under common ownership upon which two or more spaces are available to the public and designated for long-term occupancy by manufactured homes, as defined by Section 17.08.062(a). Manufactured home parks may include common areas and facilities for management, recreation, laundry, utility services and other services.

(Ord. 353 §17(part), 2013).

**17.08.064– Modular home.**

“Modular home” means a home constructed of pre-made parts and unit modules that are transported to a site and assembled and anchored on a permanent foundation in conformance with the state building code. Unlike a manufactured home, a modular home does not rest on a steel chassis and does not have axles.

(Ord. 353 §17(part), 2013).

**17.08.065 – New development.**

“New development” means the development of a site that was previously unimproved or that has had previously existing buildings demolished or removed; or renovation of an existing primary structure that enlarges the structure more than 25 percent.

(Ord. 353 §17(part), 2013).

**17.08.070 – Nonconforming lot.**

“Nonconforming lot” means a lot that was lawful prior to the adoption, revision or amendment of this zoning ordinance but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning ordinance.

(Ord. 353 §17(part), 2013).

**17.08.071 – Nonconforming structure.**

“Nonconforming structure” means a structure that was lawful prior to the adoption, revision or amendment of this zoning ordinance but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning ordinance.

(Ord. 353 §17(part), 2013).

**17.08.072 - Nonconforming use.**

“Nonconforming use” means a land use that was lawful prior to the adoption, revision or amendment of this zoning ordinance but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning ordinance.

(Ord. 353 §17(part), 2013; Ord. 243 §5(part), 1979).

**17.08.073 – Oil and gaswells.**

“Oil and gas wells” means a use involving on-site extraction of petroleum or petroleum products, including natural gas and other gases. The oil well site is the location at which such resources physically penetrate the plane of the ground, and includes any facilities needed for the storage or flaring of petroleum or petroleum products, but excludes underground pipes.

(Ord. 353 §17(part), 2013).

**17.08.074 – Ordinary repairs and maintenance.**

“Ordinary repairs and maintenance” means any work for the maintenance of or minor repair of a non-structural nature to a structure or building.

(Ord. 353 §17(part), 2013).

**17.08.075 - Parking space.**

"Parking space" means an area on a lot or parcel designed to temporarily accommodate an automobile that has vehicular access to a public street or alley, or private street.

(Ord. 353 §17(part), 2013; Ord. 243 §5(part), 1979).



**17.08.077 – Patio.**

"Patio" means an at-grade recreation area that adjoins a dwelling excluding railings or parapet, is often paved, and is adapted to outdoor dining.

(Ord. 318 §1(part), 1997).

**17.08.079 – Permanent foundation for manufactured homes.**

“Permanent foundation for manufactured homes” means that a permanent foundation must be constructed of durable materials; i.e. concrete, mortared masonry, or treated wood - and be site-built. It shall have attachment points to anchor and stabilize the manufactured home to transfer all loads, herein defined, to the underlying soil or rock. The permanent foundations shall be structurally designed by a licensed professional engineer for the following:

(a) Vertical stability:

1. Rated anchorage capacity to prevent uplift and overturning due to wind or seismic forces, whichever controls. Screw-in soil anchors are not considered a permanent anchorage.
2. Footing size to prevent overloading the soil-bearing capacity and avoids soil settlement. Footing shall be reinforced concrete to be considered permanent.
3. Base of footing below maximum frost-penetration depth.

(b) Lateral stability. Rated anchorage capacity to prevent sliding due to wind or seismic forces, whichever controls, in the transverse and longitudinal directions.

**17.08.081 - Planning board.**

The "planning board" is the Fallon County planning board.

(Ord. 243 §5(part), 1979).

**17.08.082 – Portable storage structure.**

“Portable storage structure” means any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed, that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building.

(Ord. 353 §17(part), 2013).

**17.08.084 – Railroad facility.**

“Railroad facility” means railroad yards, equipment servicing facilities and terminal facilities associated with the operation and maintenance of railroads.

(Ord. 353 §17(part), 2013).

**17.08.086 – Recreational vehicle.**

“Recreational vehicle” means a unit primarily designed as a temporary living quarter or transient housing facility for recreational, camping or travel use, which either has its own motive power, is mounted on, stored in or drawn by another vehicle.. Pursuant to the Montana Department of Public Health and Human Services Rules, Chapter 111, Subchapter 2, Section 37.111.201(28), a recreational vehicle is further defined as a vehicular unit designed primarily as temporary living quarters for recreational, camping, or seasonal use, and that either has its own power or is mounted on, or towed by, another vehicle. The basic types of recreational vehicles as defined in Section 37.111.201 are: camping trailer, fifth-wheel trailer, motor home, park trailer, travel trailer, and truck camper, and shall include any other type of trailer designed to accommodate temporary living quarters.

(Ord. 353 §17(part), 2013).

**17.08.087 – Recreational vehicle park.**

“Recreational vehicle park” means a parcel of land developed under common ownership upon which two or more spaces are available to the public and designated for non-permanent short-term occupancy by recreational vehicles, as defined by Section 17.08.086. Recreational vehicle parks may include common areas and facilities for management, recreation, laundry, utility services and other services, but shall not include unoccupied recreational vehicles parked for the purposes of display, inspection, sale, or storage.

(Ord. 353 §17(part), 2013).

**17.08.088 – Resource extraction.**

“Resource extraction” means a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding oil and gas wells and the grading and removal of dirt. Typical uses include quarries, borrow pits, sand and gravel pits and mining.

(Ord. 353 §17(part), 2013).

**17.08.089 – Recycling collection.**

“Recycling collection” means any site that is used in whole or part for the receiving or collection of any post-consumer non-durable goods, including, but not limited to glass, plastic, paper, cardboard, aluminum, tin or other recyclable commodities.

(Ord. 353 §17(part), 2013).

**17.08.090 Recycling processing.**

“Recycling processing” means any site that is used for the processing of any post-consumer non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin or other recyclable commodities.

(Ord. 353 §17(part), 2013).

**17.08.091 - Retaining wall.**

"Retaining wall" means a wall designed and constructed to withstand lateral earth and hydrostatic pressures for the purpose of holding another material secure. Typically the height of the wall is the same as the material being secured.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.092 – Right-of-way improvement.**

“Right-of-way improvement” means any improvement or alternative of land within a public right-of-way that will have no, or minimal detrimental effect on pedestrian/vehicle safety, or prohibit the city's use of the public right-of-way for street maintenance, improvement or snow removal, inhibit or impair the maintenance or repair of public or private utilities or cause a hazard or hardship to the city or immediate neighborhood and will not create an obstruction to sidewalks or off-street parking spaces.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.093– Salvage services.**

“Salvage services” means a place of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials that are not intended for reuse in their original form. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.

(Ord. 353 §17(part), 2013).

**17.08.094- Setback.**

"Setback" means the line within a property defining the required minimum distance between any construction, structure, use, or improvement and the adjacent property line of any lot, parcel, or tract.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.095- Sidewalk.**

"Sidewalk" means a paved walk or path for pedestrians at the side of or abutting a street or a property, as well as a paved walk or path that provides pedestrian access to a building.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.096– Sign.**

“Sign” means and includes any permanent or temporary structure, device, letter, words, model, banner, pennant, insignia, trade flag or representation used as, or which due to its use or design is intended to communicate a message, including but not limited to advertisement, announcement or direction and which is designed to be seen from the outside of a building.

(Ord. 353 §17(part), 2013).

**17.08.097- Steps.**

"Steps" means a rest for the foot either ascending or descending as in a stair or ladder rung.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.098- Structure.**

“Structure” means any object constructed or built, the use of which requires location on the ground or attachment to some other structure located on the ground.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.099- Terrace.**

"Terrace" means a level bank or ridge on a slope to conserve soil or moisture, typically erected in a series similar to a stair.

(Ord. 353 §17(part), 2013; Ord. 318 §1(part), 1997).

**17.08.100 – Trade services**

"Trade services" means establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating and air conditioning) contractors.

(Ord. 353 §17(part), 2013).

**17.08.102– Truck terminal.**

"Truck terminal" means a facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck.

(Ord. 353 §17(part), 2013).

**17.08.105 – Warehousing.**

"Warehousing" means a use including storage, warehousing, distribution, and handling of goods and materials within enclosed buildings or in the open air. Typical uses include wholesale distributors, storage warehouses, van and storage companies, monument yards, materials yards and open storage.

(Ord. 353 §17(part), 2013).

**17.08.110 – Yard.**

"Yard" means a required portion of a lot or parcel that lies between a lot or parcel line and the corresponding minimum yard setback line. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided by this title.

- (a) Corner front yard. The space extending the full width of a lot or parcel, lying between the front lot lines as defined by section 17.08.067(a), and the minimum front setback lines.
- (b) Interior front yard. The space extending the full width of a lot or parcel, lying between the front lot line and the minimum front setback line.
- (c) Rear yard. The space extending the full width of a lot or parcel, lying between the rear lot line and the minimum rear setback line.
- (d) Side yard. The space extending the depth of a lot or parcel from the front to rear lot lines, lying between the minimum side yard setback line and the interior lot line.

(e) Street side yard. On a corner lot, the space along a front lot line, extending from the front to the rear minimum yard setbacks.

(Ord. 353 §17(part), 2013).

**17.08.120 - Variance.**

A “variance” means the approved relaxation or adjustment of the strict application of the terms of these regulations where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in the following:

- (a) Where it is an unnecessary hardship;
- (b) Where it will not be contrary to the public interest;
- (c) Where the spirit of this title will be observed and substantial justice done; and
- (d) Where the relaxation or adjustment of these regulations will not be detrimental to the surrounding properties.

(Ord. 353 §17(part), 2013; Ord. 243 §5(part), 1979).

**17.08.125 – Vehicle storage, long-term.**

“Vehicle storage, long-term” means long-term storage of operating or non-operating vehicles for a period exceeding twenty-one (21) days. Typical uses include storage of private parking tow-away vehicles or impoundment yards, but exclude dismantling or salvage.

(Ord. 353 §17(part), 2013).

**17.08.130. Xeriscaping.**

“Xeriscaping” mean a landscaping method that utilizes water-conserving techniques (as the use of drought-tolerant plants, mulch, and other decorative non-living materials.

(Ord. 353 §17(part), 2013).

**Chapter 17.10 - GENERAL USE PROVISIONS**

**17.10.010 – Permitted uses.**

Permitted uses. No building or structure shall be erected, and no existing building or structure shall be moved, altered, added to or enlarged; nor shall any land, building or structure be used, designed or arranged for use for any purpose or in any manner not included among the uses hereinafter listed as permitted in the district in which such building, structure or land is located. The replacement of a roof, door(s), window(s) and interior alterations to conforming structures shall be permitted.

(Ord. 353 §17(part), 2013; Ord. 317 §1, 1996).

**17.10.015 – Conditional uses.**

- (a) At its discretion the city commission may refer a conditional use permit application to the planning board that shall hold a public hearing to review the application, hear public comment and provide a recommendation to the city council. The planning board and city council review shall consider all applicable conditional use performance standards or criteria provided in this title, as well as other factors related to the proposed conditional use that may negatively impact neighboring properties. The planning board shall recommend the application be approved, approved with conditions or denied. The city council shall hold a public meeting for all conditional use applications and shall base its decision on compliance with all applicable performance standards provided in title as well as other factors related to the proposed conditional use that may negatively impact neighboring properties. The city council may approve a conditional use permit subject to conditions that mitigate impacts of the proposed conditional use.
- (b) The city council may revoke any conditional use permit if it is clearly documented that the conditional use does not comply with any of the performance standards or criteria provided in this title, or any condition placed on the conditional use permit.

(Ord. 353 §17(part), 2013).

**17.10.020 – Temporary uses.**

Temporary uses. The Public Works Director, or designee, is authorized to administratively grant temporary use permits, subject to applicable conditions, for the following temporary uses.

- (a) A recreational vehicle intended exclusively for the use of guests of the residents of a single-family dwelling parked entirely within the lot of the single-family dwelling for more than seventy-two (72) hours shall be subject to the following:
  - 1. The maximum duration of the temporary use permit shall be ten (10) consecutive days, and may be extended a maximum of one (1) time for no more than five (5) consecutive days.
  - 2. The temporary use permit shall be affixed to the recreational vehicle so that it is clearly visible from the adjacent street.
  - 3. No more than one (1) temporary use permit shall be permitted within any one (1) year period of time from the date of issue for the original permit.
  - 4. The recreational vehicle shall be parked on a driveway or in a carport, and under no circumstance shall the recreational vehicle be parked in the area between the single-family structure and the adjacent street.
  - 5. Sanitary waste from the recreational vehicle shall be disposed of at a city sanitary waste dumping site.
  - 6. The owner or tenant of the single-family dwelling shall be responsible for obtaining the required temporary use permit prior to the placement of the recreational vehicle on the subject property.
  - 7. Failure to comply with the above conditions shall be cause for the City of Baker to initiate code enforcement activities.

(Ord. 353 §17(part), 2013; Ord. 317 §1, 1996)

## Chapter 17.12 - DISTRICTS

### 17.12.010 - Created-Jurisdictional area designated.

The jurisdictional area of the zoning ordinance codified in this title shall be the incorporated limits of the city. The incorporated area shall be divided into three general zoning classifications. These shall be residential, commercial, and industrial districts.

(Ord. 353 §17(part), 2013; Ord. 243 §4(part), 1979).

### 17.12.020 - Annexation-Extension of services.

- (a) It shall be the policy of the city that no property outside the incorporated limits of the city desiring to connect to the municipal water and sewer systems shall do so without first obtaining permission to connect from the city council and petitioning for annexation into the incorporated limits of the City of Baker. Property owners may also enter into an agreement with the City of Baker and all property owners desiring to connect to the municipal water and/or sewer system must specify that under no condition will the property owners protest annexation of their properties. Until annexation is granted by the city council or the above referenced agreement is fully executed, no sewer and water connections will be made to unincorporated areas.
- (b) Petitions for annexation shall include the zoning district designation requested for the property. If no designation is requested, the property, upon annexation, shall be designated residential, R1.
- (c) Upon the date of the acceptance of the annexation petition, the newly incorporated property shall be subject to all rules, regulations and privileges of the applicable zoning district.
- (d) The city council, however, shall be authorized and may approve water or sewer extensions to unincorporated areas that cannot qualify for annexation because they are not contiguous to the existing limits of the city, and when such extension appears to the city council to be practical and feasible and at no expense to the city.

(Ord. 353 §17(part), 2013; Ord. 297 §1, 1992; Ord. 288 §1, 1989; Ord. 243 §3, 1979).

### 17.12.030 - Residential.

The residential zoning districts are designated for residential dwellings. There are five districts, each with increasing levels of allowable residential units. Except for the temporary use provisions contained in Section 17.10.020, the occupancy of a recreational vehicle in any residential district is expressly prohibited except for trailer courts that have received conditional use approval and have a valid State of Montana license for such activity. Commercial enterprises are disallowed in residential districts, but a conditional use permit may be obtained for a home occupation. Conditional use applications will be considered, with the most important consideration being the expected neighborhood impact of the activity. The five residential zones are:

- (a) R1: This district is intended for low density single-family detached dwellings and other civic and public uses.
  - 1. Permitted Uses.

- a. Single-family detached dwellings, including modular homes.
- b. Golf courses.
- c. Parks and recreational facilities.
- d. Religious assembly.
- e. Public utilities.

2. Conditional Uses.

- a. Cemetery.

3. Development Standards.

- a. Maximum Density: The maximum gross density shall be four (4) dwelling units per acre.
- b. Minimum Lot Area: 10,500 square feet.
- c. Minimum Lot Width: 60 feet.
- d. Minimum front yard setback: 20 feet.
- e. Minimum street side yard setback: 15 feet.
- f. Minimum side yard setback: 10 feet.
- g. Minimum rear yard setback: 15 feet.

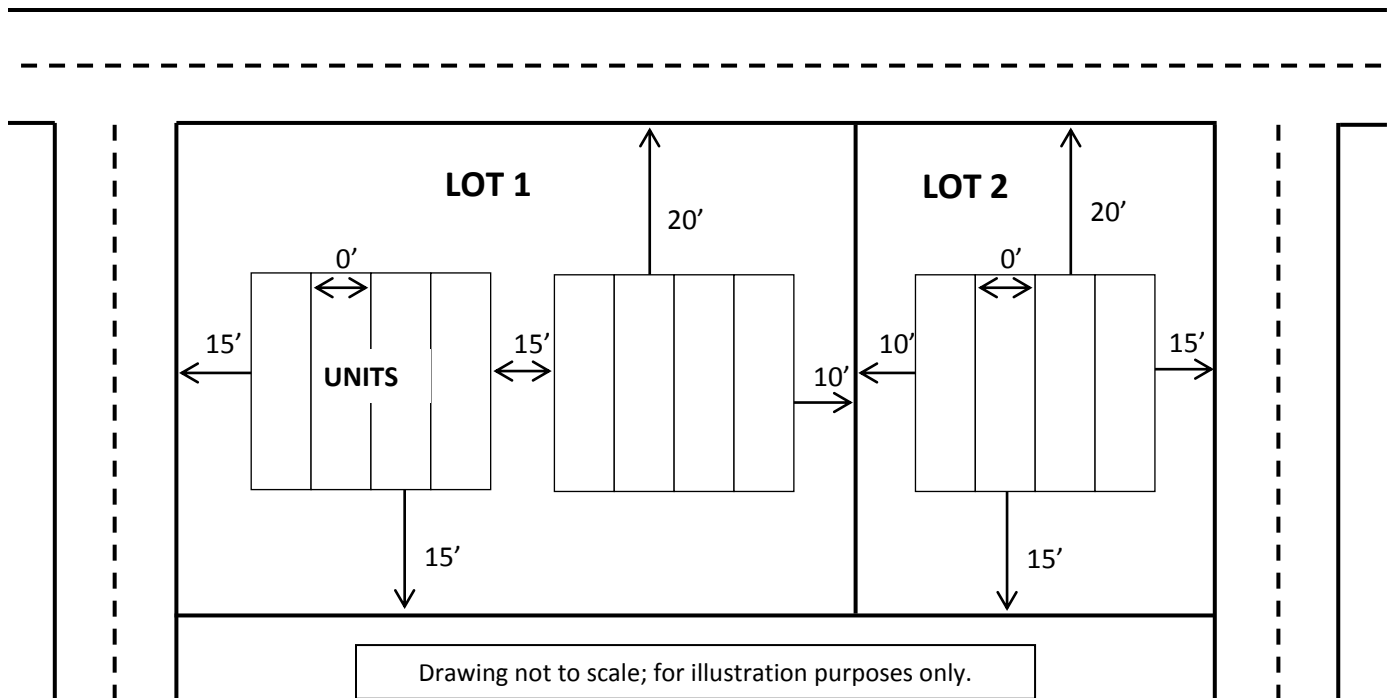
(b) R2: This district is intended for low and medium density single-family dwellings and other civic and public uses.

1. Permitted Uses.

- a. Single-family detached dwellings, including modular homes and manufactured homes, as defined in section 17.08.062(b) of this title, located on a single lot or parcel, duplexes, single-family semi-detached dwellings and single-family attached dwellings with a maximum of four (4) attached dwelling units.
- b. Civic and cultural facilities.
- c. Cemetery.
- d. Family and group day care facilities.
- e. Golf courses.
- f. Parks and recreational facilities.
- g. Primary and secondary educational facilities.
- h. Religious assembly.
- i. Utilities and other public facilities, including government offices.



2. Development Standards for single-family detached dwellings, duplexes and single-family semi-detached dwellings.
  - a. Maximum density: The maximum gross density shall be six (6) dwelling units per acre.
  - b. Minimum lot area: 10,500 square feet.
  - c. Minimum lot width: 60 feet.
  - d. Minimum front yard setback: 20 feet.
  - e. Minimum street side yard setback: 15 feet.
  - f. Minimum side yard setback: 10 feet.
  - g. Minimum rear yard setback: 15 feet.
  - h. Manufactured homes shall have the appearance of a solid perimeter foundation.
3. Development standards for single-family attached dwellings (reference drawing for setbacks).
  - a. Maximum density: The maximum gross density shall be six (6) dwelling units per acre.
  - b. Minimum lot width for individual single-family attached dwelling units: 25 feet.
  - c. Minimum front yard setback: 20 feet.
  - d. Minimum street side yard setback: 15 feet.
  - e. Minimum side yard setback for end units: 10 feet.
  - f. Minimum side yard setback for interior units: None.
  - g. Minimum rear yard setback: 15 feet.
  - h. Minimum Separation between Buildings: When multiple buildings are constructed on property under common ownership all buildings, including structures attached to buildings, shall be separated by a minimum of fifteen (15) feet.
  - i. Manufactured homes shall have the appearance of a solid perimeter foundation.



(c) R3: This district is intended for medium density single-family and multi-family dwellings and other civic and public uses.

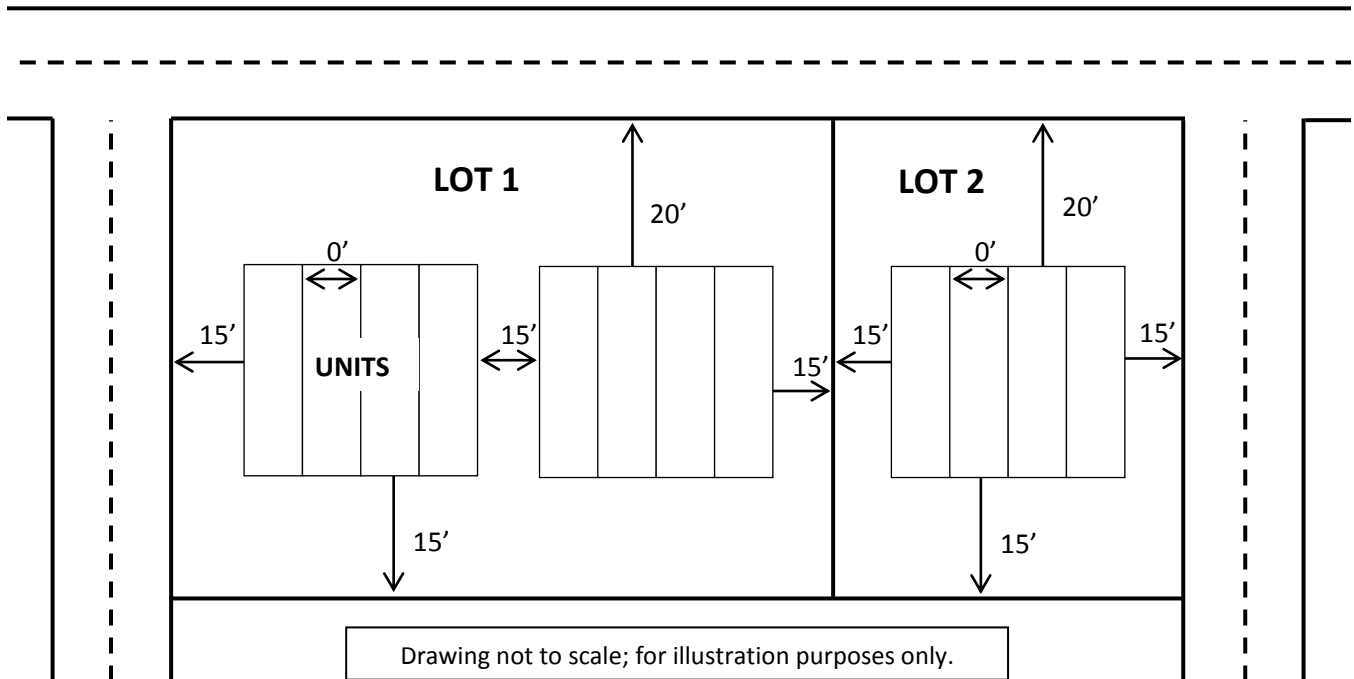
1. Permitted Uses.

- a. Single-family detached dwellings, including modular homes and manufactured homes as defined in section 17.08.062(b) of this title, located on a single lot or parcel, duplexes, single-family semi-detached dwellings, single-family attached dwellings and multi-family dwellings.
- b. Uses listed in subsections 17.12.030(b)(1)(b) through (i).

2. Development Standards for single-family detached dwellings, duplexes, single-family semi-detached dwellings and multi-family dwellings.

- a. Maximum Density: The maximum gross density shall be eight (8) dwelling units per acre.
- b. Minimum Lot Area: 10,500 square feet.
- c. Minimum Lot Width: 60 feet.
- d. Minimum front yard setback: 20 feet.
- e. Minimum street side yard setback: 15 feet.
- f. Minimum side yard setback: 10 feet.
- g. Minimum rear yard setback: 15 feet.

3. Development standards for single-family attached dwellings (reference drawing for setbacks).
  - a. Maximum Density: The maximum gross density shall be eight (8) dwelling units per acre.
  - b. Minimum lot width for individual single-family attached dwelling units: 25 feet.
  - c. Minimum front yard setback: 20 feet.
  - d. Minimum side yard setback for end units: 15 feet.
  - e. Minimum side yard setback for interior units: None.
  - f. Minimum rear yard setback: 15 feet.
  - g. Minimum Separation between Buildings: When multiple buildings are constructed on property under common ownership all buildings, including structures attached to buildings, shall be separated by a minimum of fifteen (15) feet.

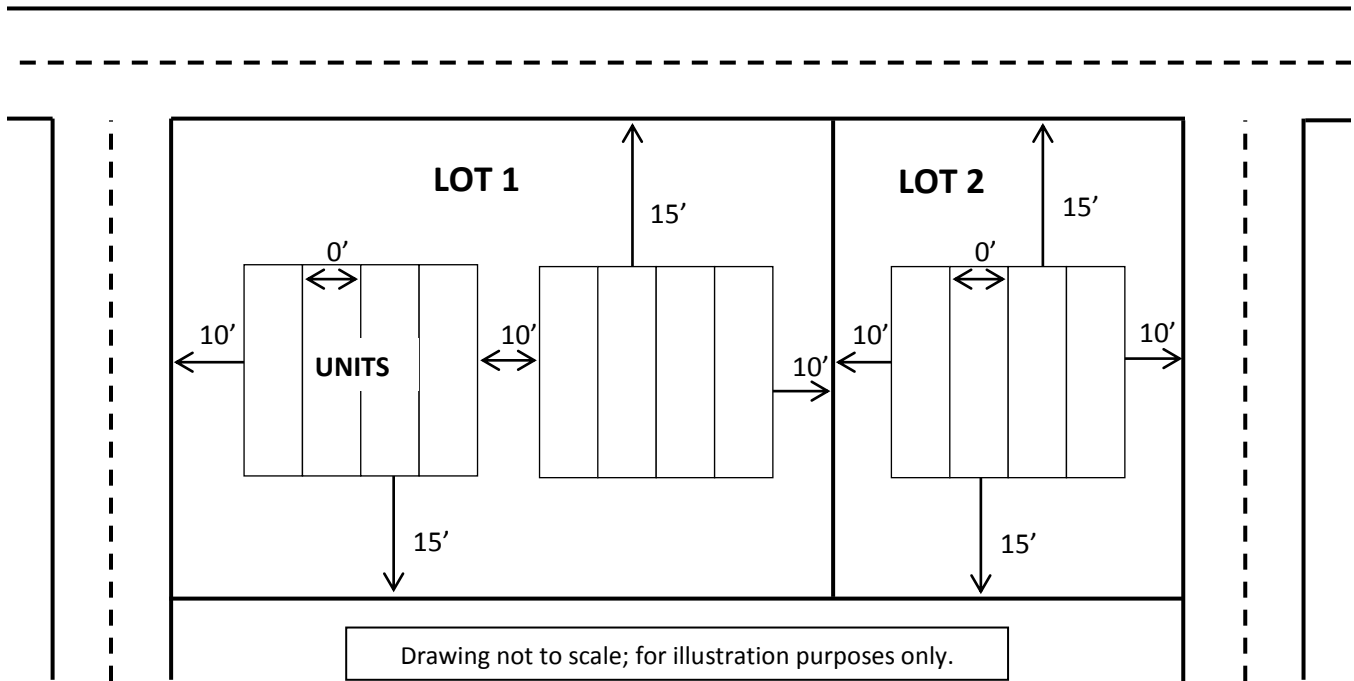


(d) R4: This district is intended to promote high density residential development.

1. Permitted Uses.
  - a. Single-family attached dwellings and multi-family dwellings.
  - b. Parks and recreational facilities.
  - c. Utilities and other public facilities, including government offices.

2. Development Standards (reference drawing below for setbacks).

- a. Maximum Density: The maximum gross density shall be sixteen (16) dwelling units per acre.
- b. Minimum Lot Width:  
  
Twenty-five (25) feet for single-family attached units.  
  
Fifty (50) feet for apartment buildings.
- c. Minimum Separation between Buildings: When multiple buildings are constructed on property under common ownership all buildings, including structures attached to buildings, shall be separated by a minimum of ten (10) feet.
- d. Minimum front yard setback: 15 feet.
- e. Minimum side yard setback for end units: 10 feet.
- f. Minimum side yard setback for interior units: None.
- g. Minimum rear yard setback: 15 feet.
- h. Maximum Lot Coverage: The maximum lot coverage shall be fifty (50) percent of the total lot or parcel area.
- i. Maximum Impervious Coverage: The maximum impervious coverage shall be sixty (60) percent of the total lot or parcel area.



- (e) MH: This district is intended for the development of manufactured home subdivisions and trailer courts.
1. Permitted Uses
    - a. Manufactured home subdivisions and trailer courts.
    - b. Parks and recreational facilities.
    - c. Utilities and other public facilities.
  2. Development Standards for Manufactured Home Subdivisions: Manufactured home subdivisions shall comply with the R2 development standards and the following:
    - a. No more than one manufactured home shall be located on a manufactured home subdivision lot.
    - b. Each manufactured home shall be skirted, entirely enclosing the space between the bottom of the manufactured home and finished grade within sixty (60) days after placement. The skirting shall be of durable materials compatible with the siding or other exterior surface of the manufactured home.
    - c. Each manufactured home shall have a pitched roof, with a minimum 3:12 pitch.
    - d. All utilities shall be installed underground.
    - e. It shall be the responsibility of any mobile home court owner to file a zoning compliance permit to the city for each mobile home going into any mobile home park.

(Ord. 353 §17(part), 2013; Ord. 355 §1(part), 2012; Ord. 243 §4(part), 1979).

**17.12.040 –General Commercial.**

- (a) The general commercial, C, district is intended to accommodate businesses outside the downtown area of the City of Baker. The occupancy of a recreational vehicle in any commercial district is expressly prohibited.
- (b) Permitted Uses.
  1. General, financial and medical offices.
  2. General retail sales establishments.
  3. Auto sales, rental, service and repair establishments.
  4. Equipment sales, rental, service and repair establishments without outdoor storage of materials and equipment.
  5. Agricultural sales and service establishments.
  6. Business/trade school.

7. Cocktail lounge, bar or tavern.
8. Personal service establishments.
9. Construction sales and services establishments without outdoor storage of materials and equipment.
10. Commercial storage establishments.
11. Food sales.
12. Funeral home.
13. Gaming establishment.
14. Commercial recreation, indoor and outdoor.
15. Liquor sales establishments.
16. Lodging, motel and hotel.
17. Laundry establishments.
18. Pet and veterinary service establishments.
19. Restaurants, general and drive-in.
20. Trade services without outdoor storage or materials and equipment.
21. Civic and cultural facilities.
22. Group day care facilities.
23. Religious assembly.
24. Hospital and other medical establishments.
25. Utilities and other public facilities, including government offices.
26. Commercial parking facilities.
27. Other uses with operational and physical characteristics similar to the uses listed above.

(c) Prohibited Uses.

1. Any use which generates a substantial volume of truck traffic as part of its normal operations.
2. Any use with more than incidental outdoor storage of materials and equipment, except that uses that display equipment for sale shall be allowed in the commercial district.

(d) Development Standards.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 70 feet.

3. Maximum lot coverage: The maximum lot coverage shall be fifty (50) percent of the total lot or parcel area.
4. Maximum building height: 40 feet.
5. Minimum front yard setback: 10 feet.
6. Minimum street side yard setback: 10 feet.
7. Minimum side yard setback: 10 feet, except when adjacent to a residential use or district the minimum setback shall be of twenty (20) feet.
8. Minimum rear yard setback: 10 feet, except when adjacent to a residential use or district the minimum setback shall be twenty (20) feet.

(Ord. 353 §17(part), 2013; Ord. 243 §4(part), 1979).

**17.12.045 – Downtown Commercial.**

(a) The intent of the downtown commercial, DC, district is to recognize the existing land development pattern and to promote the redevelopment of commercial properties in the downtown area of the City of Baker. Mixed uses are encouraged in the DC district including second-story residential uses. The grouping of uses is designed to strengthen the downtown area’s role as a center for trade, services and civic life. The occupancy of a recreational vehicle in any commercial district is expressly prohibited.

(b) Permitted Uses.

1. All uses listed in section 17.12.040(b), except the following subsections: (3),(4), (5), (9), (10), (12),(16), (20), (23), (24) and (26), and outdoor commercial recreation uses.
2. Other uses with operational and physical characteristics similar to the uses permitted in this district.

(c) Development Standards.

1. Minimum lot area: 10,000 square feet.
2. Minimum lot width: 50 feet.
3. Maximum lot coverage: The maximum lot coverage shall be one-hundred (100) percent of the lot or parcel area.
4. Maximum building height: 50 feet.
5. Minimum front yard setback: None
6. Minimum street side yard setback: None
7. Minimum side yard setback: None, except when adjacent to a residential use or district the minimum setback shall be of twenty (20) feet.

8. Minimum rear yard setback: None, except when adjacent to a residential use or district the minimum setback shall be twenty (20) feet.

(Ord. 353 §17(part), 2013).

**17.12.050 - Industrial.**

(a) The industrial district is intended to accommodate a wide variety of heavy commercial and industrial uses which by the nature of their operations, including but not limited to the volume of truck traffic generated, may generate significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity land uses. The district provides a reservation of land for these activities to reduce potential land use incompatibilities. The occupancy of a recreational vehicle in any industrial district is expressly prohibited.

(b) Permitted Uses.

1. Manufacturing.
2. General industrial.
3. Oil wells and resource extraction.
4. Salvage services.
5. Long-term vehicle storage for a period in excess of twenty-one (21) days.
6. Warehousing.
7. Construction yards.
8. Recycling collection and processing facilities.
9. Petroleum storage.
10. Railroad facilities.
11. Truck terminal.
12. Construction batch plant.
13. Motorized sport facilities.
14. Aviation facilities.
15. Broadcasting or telecommunications tower(s).
16. Stockyard.
17. Grain elevators.
18. Equipment sales, rental, service and repair establishments with outdoor storage of materials and equipment.
19. Construction sales and services establishments with outdoor storage of materials and equipment.



20. Trade services with outdoor storage or materials and equipment.
21. Composting facilities.
22. Other uses with operational and physical characteristics similar to the uses listed above.

(c) Development Standards.

1. Minimum lot area: 15,000 square feet.
2. Minimum lot width: 100 feet.
3. Maximum lot coverage: The maximum lot coverage shall be seventy five (75) percent of the total lot or parcel area.
4. Maximum building height: 45 feet
5. Minimum front yard setback: 20 feet
6. Minimum street side yard setback: 20 feet
7. Minimum side yard setback: 15 feet, except when adjacent to a residential use or district the minimum setback shall be of thirty (30) feet.
8. Minimum rear yard setback: 15 feet, except when adjacent to a residential use or district the minimum setback shall be thirty (30) feet.

(Ord. 353 §17(part), 2013; Ord. 243 §4(part), 1979).

**17.12.060 - Boundaries—Map.**

The official boundaries for the various districts are those found on the official zoning boundary map located in the office of the city clerk.

(Ord. 243 §4(part), 1979).

## **CHAPTER 17.13 – GENERAL DEVELOPMENT STANDARDS**

**17.13.010 - Property line setbacks.**

The placement of all principal structures and accessory structures, including but limited to sheds, detached garages, decks and other accessory structures shall be in compliance with the applicable zoning district minimum setback requirements. Steps, sidewalks, driveways and other at-grade impervious surfaces shall be exempt from minimum setback requirements and shall be contained within the property boundary, except for sidewalks and driveways located in a public right-of-way subject to issuance of a right-of-way use permit.

(Ord. 353 §17(part), 2013).

**17.13.020 - Accessory structures.**

- (a) Accessory structures in residential districts: The maximum height of an accessory structure shall be twenty-five (25) feet and shall comply with all applicable minimum yard setback requirements, except that:
1. An accessory structure ten (10) feet or less in height may be setback a minimum of five (5) feet from a side yard line.
  2. An accessory structure that exceeds the height of the principal residential structure located on the same lot or parcel, or on an abutting lot or parcel under common ownership shall be setback a minimum of fifty (50) feet from the front property line; ten (10) feet from a side or rear property line; and fifteen (15) feet from a side-street right-of-way for corner lots.
  3. Any enclosed or unenclosed accessory structure erected on a lot or parcel shall be compatible with the existing principal building on the lot or parcel and shall be anchored down. In evaluating an accessory structure's compatibility with a principal building the following factors shall be taken into consideration: color, exterior building materials, height and building design. All siding and roofing materials must have a painted surface or baked on color surface. Uncolored, galvanized or corrugated metal material shall not be permitted. A zoning compliance permit shall be obtained before any accessory building is established on a lot or parcel. A zoning compliance permit may include conditions requiring the modification of the design of accessory structure to minimize its incompatibility with the principal structure.
- (b) Accessory structures in commercial and industrial districts: The height of accessory structures shall not exceed the height of the main or principal structure and shall comply with all applicable minimum yard setback requirements.

(Ord. 353 §17(part), 2013).

**17.13.030 - Fences.**

- (a) General standards. A zoning compliance permit shall be required before any fence may be erected or installed. Fences shall be located to avoid interference with detection of vehicular or pedestrian traffic. Barbwire fences are prohibited within the city limits.
- (b) Fences in residential districts. Any fence located between the principal structure and the public street right-of-way shall have a maximum height of four (4) feet. Fences in all other areas of a residential property shall have a maximum height of six (6) feet and shall be setback a minimum of five (5) feet from the right-of-way line of an alley.
- (c) Fences in commercial and industrial districts. The maximum height of any fence shall be six (6) feet, unless the fence is required to screen outdoor storage of equipment, material, junk cars and any other object required to be screened from public view.

(Ord. 353 §17(part), 2013).

**17.13.040 - Sidewalks.**

Any development of a new principal building or structure shall be required to construct concrete sidewalks within the abutting public right-of-way. All sidewalks shall be five (5) feet in width and shall conform to the design of existing sidewalks in the neighborhood. That is to say, if a boulevard has been established, the new sidewalk shall contain a boulevard. There shall be permitted no obstructions in the sidewalk, although if a tree may be saved by building a sidewalk surrounding the tree, it may be done. If the tree should die, it should be removed and the space filled in with concrete. If a sidewalk exists within the public right-of-way but is less than five (5) feet in width, the sidewalk shall be widened to five (5) feet. Prior to the construction of any sidewalk, the city public works director shall review and approve the location and specifications of the proposed sidewalk. All sidewalks shall be built according to the Montana Public Works Standard Specifications.

(Ord. 353 §17(part), 2013; Ord. 318 §5, 1997; Ord. 243 §6(part), 1979).

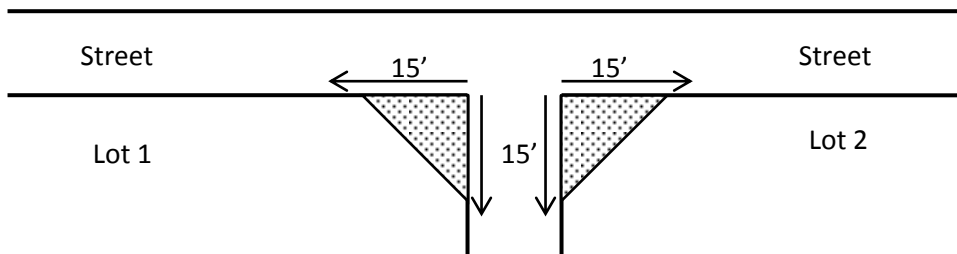
**17.13.050 - Property Maintenance.**

All property owners are required to maintain their property in a pleasing and desirable condition. If a property owner fails to maintain their property, and the city council receives complaints against the property, the city council may initiate enforcement actions as specified by section 17.48. Corrective or remedial actions required of the property owner in violation of this subsection may include, but not be limited to, directing city staff to clean up the property and bill the property owner for the cost associated with cleaning up the property.

(Ord. 353 §17(part), 2013; Ord. 243 §6(part), 1979).

**17.13.060 - Sight visibility at intersections.**

On a corner lot or parcel in any zoning district, a sight visibility triangle shall be implemented. The triangle is formed by the intersection of the property lines and extends fifteen (15) feet along the property line in each direction (see diagram below). Nothing shall be erected, placed, planted or allowed to grow in excess of three (3) feet measured from finished grade that will impede the visibility of vehicles entering the intersection. The same standard shall apply to driveways that provide access to a collector or arterial street as designated in the Fallon County Growth Policy.



(Ord. 353 §17(part), 2013).

**17.13.070 - Wetland protection and wetland buffers.**

- (a) The intent of this subsection is to preserve and protect the wetland functions of water quality enhancement, climatic moderation and flood and erosion control; to protect the beneficial uses of wetlands by man and animals; and to implement the Fallon County Growth Policy.
- (b) Wetland boundaries shall be identified on all development plans consistent with Montana Department of

Environmental Quality (MDEQ) standards and procedures. However, in circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear.

- (c) Wetlands shall not be disturbed unless a wetland mitigation plan has been approved by the MDEQ and the City of Baker.
- (d) Disturbed areas within the wetland buffer shall be restored with native vegetation.
- (e) A wetland buffer of at least twenty (20) feet shall be provided around the entire perimeter of a wetland. A wetland buffer conservation easement shall be shown on all development plans or plats and shall be officially recorded in the public record.

(Ord. 353 §17(part), 2013).

**17.13.075 – Cul-de-sacs.**

The maximum length of a public or private cul-de-sac street shall be three hundred (300) feet.

(Ord. 353 §17(part), 2013).

**17.13.080 - Shoreline setback.**

Except as provided below, no structure or improvement of any type shall be located within twenty (20) feet of a natural or manmade water body, including rivers, lakes and perennial and intermittent streams.

- (a) Boat houses, docks or lifts.
- (b) A dock or pier.
- (c) Improvements approved by MDEQ to stabilize a shoreline.
- (d) An unenclosed deck, provided it is located no closer than ten (10) feet from the shoreline.

(Ord. 353 §17(part), 2013).

**17.13.085 - Buffer zones for commercial and industrial districts.**

- (a) Purpose.

The purpose of buffer zones is to landscape or place other screening materials along a property line to mitigate the impacts of a commercial or industrial use that abuts a residential district or use and to create attractive project boundaries. Widths and degrees of vegetation depend on relationship between uses.

- (b) When a new or enlarged commercial or industrial use abuts a residential district or use, a buffer zone shall be provided along the entire length of the property line shared by a residential use or district. In the case of an enlargement of a commercial or industrial use, the buffer zone shall only apply to the use enlargement area. The only improvements in the buffer zone are those specified in subsections (c) and (d), below.
- (c) One of the two following methods for screening in the buffer zone shall be provided:

1. A ten (10) foot wide buffer zone consisting of a six (6) foot high opaque fence or wall and a minimum of three (3) canopy trees per each one hundred (100) linear feet of buffer zone. A masonry block wall with an unfinished surface and chain link fences are not permitted screening material. The required canopy trees shall be located on the inside the fence or wall of the commercial or industrial use.
2. A fifteen (15) foot wide buffer zone consisting of two and one-half (2 ½) canopy trees and thirty (30) shrubs per each one hundred linear feet of buffer zone.

(d) All required landscaping improvement shall comply with the specifications and requirements contained in section 17.13.090.

(Ord. 353 §17(part), 2013).

**17.13.090 - Landscaping material specifications, irrigation and financial guarantee.**

Unless otherwise specified in this title, all required landscaping materials shall comply with the following specifications at the time of planting:

- (a) Canopy trees: minimum two and one-half (2 ½) inch caliper, minimum height of ten (10) feet and a minimum spread of four (4) feet.
- (b) Shrubs: minimum three (3) gallon and minimum height of twenty-four (24) inches.
- (c) Fractional Measurements. When units or measurements determining numbers of required trees result in requirement of a fractional space, then such fraction shall require a tree, if the fraction is .5 or above. The number of required shrubs shall be based on the actual linear feet of the buffer zone.
- (d) All required landscaping shall be irrigated with an automated irrigation system, except for xeriscaped areas.
- (e) A bond, letter of credit or other form of financial guarantee satisfactory to the city attorney shall be required for one (1) year after the planting of required landscaping with a value equal to one-fifth of the cost (plant material and installation) of all required landscaping.
- (f) All required landscaping materials shall be suitable for the City of Baker climate and on-site soil conditions.

(Ord. 353 §17(part), 2013).

**17.13.091 – Setbacks from an alley.**

All detached accessory structures shall be setback a minimum of five (5) feet from the right-of-way line of an alley, except garages and carports that provide vehicular access from an alley shall be setback a minimum of twenty (20) feet from the right-of-way of an alley.

(Ord. 353 §17(part), 2013).

**17.13.092 – Access to corner lots.**

When a corner lot has frontage on an arterial or collector street as designated by the Fallon County Growth Policy, vehicular access to the lot shall be from the non-arterial or non-collector street. The city council may grant a conditional use permit to allow vehicular access from an arterial or collector street in the commercial district if the applicant can demonstrate that the physical or legal characteristics of the right-of-ways or the property significantly restrict access to the property. The type of road surface or the width of the non-arterial or non-collector road, provided there is sufficient right-of-way to widen the road to twenty-four (24) feet, shall not be grounds for approving a conditional use permit.

(Ord. 353 §17(part), 2013).

**17.13.093 – Portable Storage Structures.**

(a) The use of portable storage structures are allowed subject to the following standards:

1. A maximum of one (1) portable storage structure shall be permitted per property.
2. The portable storage structure must be no larger than ten (10) feet wide, twenty (20) feet long and ten (10) feet high.
3. A portable storage structure shall not remain at a property in any residential or commercial zoning district in excess of thirty (30) consecutive days.
4. The portable storage structure shall be set back a minimum of five (5) feet from all property lines.
5. A portable storage structure shall not be located within a public or private right-of-way or easement.
6. The portable storage structure shall be set back a minimum of five (5) feet from the nearest wall of a building.
7. Portable storage structures associated with construction at a site where a building permit has been issued, are permitted for the duration of construction and shall be removed from the site within fourteen (14) days of the end of construction. Portable storage structures associated with construction are exempt from subsections (a)1, 2 and 3, above.

(b) Issuance of a zoning compliance permit shall be required prior to the placement of a portable storage structure on any property.

(c) The use of portable storage structures in non-residential zoning districts shall comply with all of the provisions except 17.13.092(a)3, above.

(Ord. 353 §17(part), 2013).

## Chapter 17.16 - RESIDENTIAL DISTRICTS—SUPPLEMENTAL REGULATIONS

### 17.16.010 –In-Residence Apartments.

It is the intent of this title to allow one accessory in-residence apartment in any single-family dwelling, excluding manufactured homes; provided, that the in-residence apartment is provided with one parking space located entirely on the property. All in-residence apartments shall be equipped with bathroom and kitchen facilities. A kitchen facility shall include at minimum a sink, refrigerator and conventional stove. In-residence apartments located in or above a detached garage or other type of detached structure shall have no more than one bedroom and not exceed a floor area of seven hundred (700) square feet.

(Ord. 353 §17(part), 2013; Ord. 243 §6(part), 1979).

### 17.16.020 - Building heights.

In the all residential districts, no building shall be erected that exceeds thirty-five (35) feet in height from the finished ground level to the highest point of the roof. Roof heights shall be computed using the flat surface of the flat or mansard roof, and one-half of the roof height of a gable or hip roof.

(Ord. 353 §17(part), 2013; Ord. 355 §1(part), 2012; Ord. 243 §6(part), 1979).

### 17.16.030 – Residential street trees.

(a) Applicability.

The standards in this section shall apply to all residential development, including residential development on existing lots or parcels where a new principal building or structure is erected or where new development occurs.

(b) Prior to the issuance of a zoning permit, the applicant shall show plans to install one (1) canopy tree within twenty-five (25) feet of the right-of-way of each local street within a residential development for every fifty (50) linear feet, or substantial fraction thereof, of right-of-way. None of these required trees shall be planted within a public or private utilities easement.

(c) The trees shall be spaced no closer together than twenty-five (25) feet. Existing trees should be used to fulfill these requirements wherever they meet the spacing and size requirements. The required street trees(s) shall comply with the specifications and requirements provided in section 17.13.090.

(d) The developer is responsible for installation and initial maintenance of the street tree(s) in all common areas within the project. Responsibility for installation and initial maintenance of the street tree(s) shall be the property owner's when the street tree(s) are installed on an individual lot or parcel.

(Ord. 353 §17(part), 2013).

### **17.16.040 – Residential Greenbelts.**

#### **(a) Applicability.**

For subdivisions designed for single-family detached structures, a residential greenbelt shall be required only when a new public or private street is platted. In all cases, a residential greenbelt shall not be required along public or private right-of-way and the residential greenbelt shall be required along the exterior perimeter of the subdivision that is not adjacent to a public or private right-of-way.

For all residential projects, a fifteen (15) foot wide perimeter greenbelt buffer shall be required. In residential subdivisions consisting entirely of fifteen (15) or less single family lots, greenbelt buffers shall be reduced in width to ten (10) feet. The following shall be exempt from the requirements of this section:

1. Residential subdivisions consisting entirely of five (5) or less single family lots.
2. Single family attached and multi-family residential projects consisting entirely of two (2) or less residential structures and comprised of less than a total of fifteen (15) dwelling units.
3. Residential projects under common or unified ownership that comprise less than five (5) lots of record.
4. Lot splits inside or outside a subdivision, resulting in the creation of one (1) additional lot.
5. Replatting of existing lots if the total number of lots either remains the same or is reduced.

#### **(b) General Requirements.**

1. Streets and utilities providing inter-neighborhood ties may be permitted to pass through greenbelt buffer areas. Should such greenbelts be located adjacent to single family lots, such lots may not be platted through the greenbelt. The residential greenbelt shall be designated as a common landscape easement on the final plat. A homeowners' document shall be recorded with the final plat that establishes a homeowners' association and assigns the homeowners' association the responsibility to fund the maintenance and upkeep of the residential greenbelt. Failure of the homeowners' association to properly maintain the residential greenbelt shall be considered a violation of this title.
2. All landscaping shall be installed prior to final plat approval, unless performance security is posted guaranteeing the landscaping will be installed prior to the first Certificate of Occupancy or the first occupancy of a dwelling unit.
3. Irrigation shall be provided as required pursuant to this Code and installed prior to issuance of the first Certificate of Occupancy of the project.



(c) Landscaping requirements.

The greenbelt buffer shall be planted with a minimum of one (1) canopy tree planted every thirty (30) feet on center and one (1) shrub per every five (5) feet of the entire linear distance of the greenbelt buffer. The required trees and shrubs shall be installed in compliance with specifications and requirements provided in section 17.13.090.

(Ord. 353 §17(part), 2013).

**17.16.050 – Residential Green Space Requirements**

Green space or ground cover shall be placed adjacent to or between building and parking spaces whenever practicable.

(Ord. 353 §17(part), 2013).

**17.16.060 – Relief from Standard Residential District Yard or Setback Requirements.**

Existing lots or record with a lot width less than sixty (60) feet shall be subject to the following yard or setback requirements.

- (a) Interior lots shall have a minimum setback of five (5) feet from the rear property line and five (5) feet from the side and ten (10) from the front property lines.
- (b) Corner lots shall comply with subsection (a), above, except that the minimum setback from a side street shall be five (5) feet.
- (c) All detached accessory structures shall be setback a minimum of five (5) feet from the right-of-way line of an alley, except garages and carports that provide vehicular access from an alley shall be setback a minimum of twenty (20) feet from the right-of-way of an alley.

(Ord. 353 §17(part), 2013).

**17.16.070 –Residential Structures Secured to the Ground**

Except for recreational vehicles and mobile homes as defined in Section 17.08.062(a), all habitable residential dwellings shall be constructed on a permanent foundation or properly anchored to the ground.

(Ord. 353 §17(part), 2013).

## **CHAPTER 17.17 – COMMERCIAL DISTRICTS – SUPPLEMENTAL REGULATIONS**

### **17.17.010 – Screening of dumpster, compactors and other utility equipment.**

All dumpsters, compactors and other utility equipment shall be located outside all minimum setbacks when the subject property is located adjacent to a residential district. If the property is not located adjacent to a residential district, such facilities shall be located outside the minimum front yard setback. Exceptions may be granted by the public works director for corner lots where no reasonable alternative location is available. All such facilities shall be completely screened with an opaque fence or wall at a minimum height equal to the height of the facility or six (6) feet, whichever is greater.

(Ord. 353 §17(part), 2013).

### **17.17.020 – Drive-thru facilities.**

- (a) When a drive-thru facility abuts a residential district or use, the facility shall comply with the following standards:
1. The drive-thru lanes shall be setback a minimum of ten (10) feet from the property line which abuts a residential use or district.
  2. A decorative fence or wall with a minimum height of six (6) feet, measured from the surface of the drive-thru lane shall be installed along the property line which abuts a residential use or district.
  3. The speakers or intercom associated with the drive-thru facility shall be located no closer than twenty (20) feet from the property line which abuts a residential use or district.

(Ord. 353 §17(part), 2013).

### **17.17.030 – Residential dwelling units in commercial buildings.**

Residential dwelling units are prohibited in commercial buildings, subject to the following exceptions.

- (a) A residential dwelling unit may be permitted in a commercial building in downtown commercial zones provided that all of the following conditions are satisfied.
1. The residential dwelling unit(s) must be located on the second floor; ground floor units are prohibited.
  2. Off-street parking.
- (b) A residential dwelling unit may be permitted in a commercial building provided that all of the following conditions are satisfied.
1. The residential dwelling unit(s) must be located in a commercial building that was in existence on the effective date of this Section 17.17.030.

2. The existing space within the commercial building was originally designed as a residential dwelling unit or apartment. Bathroom, kitchen and living quarter facilities are required to be previously in place to be deemed as being originally designed as a residential dwelling unit or apartment.

(Ord. 353 §17(part), 2013).

#### **17.17.031 – Adult Entertainment Establishments**

Adult entertainment establishments include buildings and uses containing adult entertainment and/or a preponderance of adult entertainment material as described in Sections 17.08.016 and 17.08.017. Adult entertainment uses are permitted only in commercial districts if the use meets all of the locational requirements listed below:

- (a) Must be located a minimum of 300 feet from property line to property line:
  1. Schools
  2. Churches
  3. Parks
  4. Daycare centers
  5. All residential zones
- (b) Must be in a facility that is licensed by the State of Montana to sell liquor.

(Ord. 353 §17(part), 2013).

## **CHAPTER 17.18 – INDUSTRIAL DISTRICTS – SUPPLEMENTAL REGULATIONS**

#### **17.18.010 - Junk or salvage yards.**

The entire perimeter of each new facility shall be fully enclosed by opaque, free-standing fencing or screen walls. The minimum height of the required enclosure shall be ten (10) feet and shall be constructed behind any required street landscape buffer yard. Storage of materials within the junk or salvage yard shall not be higher than the height of the required screen enclosure. No new junk or salvage yard shall be located within five hundred (500) feet of the nearest property line of a residentially zoned property. Each existing junk or salvage yard shall be screened as provided above within one (1) year of the effective date of this regulation.

(Ord. 353 §17(part), 2013).

#### **17.18.020 - Performance standards for industrial uses.**

The following performance standards shall apply to all industrial uses permitted in the industrial district.

- (a) Physical Appearance. All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided such containers are not visible from the street.

- (b) Fire Hazard. No operation shall involve the use of highly flammable gases, acids, liquids or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of the City of Baker and the Uniform Fire Code, as published by the Internal Fire Code Institute.
- (c) Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts. No operation in the industrial district shall generate sound levels in excess of those specified below. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
- (d) Maximum Permitted Sound Levels at Residential Boundaries Originating from an industrial use.

<u>Time</u>	<u>Maximum One Hour Leq* (Dba)</u>
7:00 AM – 11:00 PM	75
11:00 PM – 7:00 AM	65

\* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying a-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

- (e) Sewage and Wastes. All discharges of sewage and wastes into public sewers shall comply with all applicable city ordinances.
- (f) Air Contaminants. No material shall be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.
- (g) Odor. The emission of odors determined by the planning board to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
- (h) Gases. No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed five (5) parts per million taken at the property line of the operation.
- (i) Vibration. All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
- (j) Glare and Heat. All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more three (3) degree Fahrenheit above the ambient air temperature.

- (k) Storage of Chemical Products. Any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on a lot or parcel less than one (1) acre in size. Such storage shall not exceed 25,000 gallons in any one tank, unless the tank is located at least fifty (50) feet from any structure intended for human habitation and at least one thousand (1,000) feet from any residential or commercial zoning district.
- (l) Storage of Chemical Products. Any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on a lot or parcel less than one (1) acre in size. Such storage shall not exceed 25,000 gallons in any one tank, unless the tank is located at least fifty (50) feet from any structure intended for human habitation and at least one thousand (1,000) feet from any residential or commercial zoning district.

(Ord. 353 §17(part), 2013).

## **CHAPTER 17.19 – SIGN REGULATIONS**

### **17.19.010 - Purpose.**

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

(Ord. 353 §17(part), 2013).

### **17.19.020 - Signs Permitted in All Districts without Permit**

The following signs are permitted in all zoning districts and do not require a permit.

- (a) Temporary signs advertising the sale, lease or rental of the premises upon which the sign is located, and that do not exceed twelve (12) square feet in area; except in all residential districts, where the area of the sign shall not be more than six (6) square feet.
- (b) Signs bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- (c) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (d) Legal notices, identification, information or directional signs erected or required by governmental bodies.

- (e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (f) Bulletin boards for churches, schools, or other public, religious or educational institution, provided the sign is located a minimum of ten (10) feet from the established right of way line of any street or highway and does not obstruct traffic visibility at street or highway intersections.
- (g) Temporary signs or non-profit civic campaigns or events, political campaigns or other non-commercial events provided that such signs are installed no earlier than thirty (30) days before the event or election and removed no later than seven (7) days after the date of the event or election. The maximum size of such signs shall be thirty (30) square feet when located in a residential district and seventy-five (75) square feet with located in any other district.
- (h) Neighborhood or subdivision identification sign not exceeding fifty (50) square feet in area and eight (8) feet in height.
- (i) Signage for permitted businesses in residential areas may be up to six square feet and be located so that it does not obstruct traffic visibility.
- (j) Temporary on premise construction or project identification signs subject to a maximum area of ten (10) square feet in residential districts and fifty (50) square feet in other districts. Such signs shall be removed within one week after the completion of the construction project to which they refer.
- (k) Temporary or portable signs for grand opening, sales and special events are permitted in the commercial and industrial districts provided that no more than one such sign is allowed at any single premises, the sign not exceed seventy-five (75) square feet in area and that such signs shall be used at any single premises for a maximum of thirty (30) days per calendar year.

(Ord. 353 §17(part), 2013).

**17.19.030 - Regulations for On-Site Signs in Commercial and Industrial Districts.**

All on-site signs in commercial and industrial districts shall require a sign permit issued by the city clerk and are subject to the following provisions. When a sign(s) is applied for in conjunction with other improvements that require a zoning compliance permit, the sign(s) shall be permitted by the zoning compliance permit.

- (a) **Setback:** Any on-site freestanding sign must be located at least fifteen (15) feet from any lot line of an abutting residential use or district. The setback of a sign is measured from the property line to the line projected to the ground plane of the portion of the sign nearest to the property line.
- (b) **Roof Signs:** No sign may be placed on the roof of any building.
- (c) **Lighting:** An illuminated sign or lighting device may emit only light of constant intensity, and the lighting shall not be placed or directed so that the beams or illumination cause glare or reflection that may constitute a traffic hazard or nuisance.

- (d) Height: No freestanding sign shall exceed twenty (20) feet in height. No wall sign shall project above the highest point of the roof. The height of a sign is measured from the finished grade below the sign to the uppermost point of the sign or sign structure.
- (e) Height Clearance: Signs that extend over a sidewalk or walkway shall have a vertical clearance of at least eight (8) feet.
- (f) Number of signs permitted and maximum sign area for free-standing commercial or industrial businesses on a single lot or parcel: Free-standing commercial and industrial businesses shall be permitted one wall sign per street frontage and one freestanding sign per street frontage. The total area of all signs shall not exceed two hundred (200) square feet, provided that any one sign shall not exceed a maximum sign area of one hundred (100) square feet.
- (g) Number of signs permitted and maximum sign area for properties with multiple commercial or industrial businesses on a single lot or parcel: Each lot or parcel with multiple commercial or industrial businesses shall be permitted one free-standing sign per street frontage and the maximum area of a free-standing sign shall be one hundred (100) square feet. Each individual business shall be permitted sign(s) affixed to the building that shall not exceed a combined maximum area of one hundred (100) square feet.

(Ord. 353 §17(part), 2013).

**17.19.040 - Calculation of Sign Area.**

- (a) Sign area includes the entire area within the perimeter enclosing the extreme limits of the face of the sign, excluding any structure required to support the sign.
- (b) The area of double-faced signs is based on the largest single face of the sign.
- (c) In the case of channel mounted signs with individual letters mounted to a wall, the total sign area shall be based on the smallest rectangle that encompasses all of the letters.

(Ord. 353 §17(part), 2013).

**17.19.050 – Off-Premise Signs.**

- (a) Purpose. It is the general intent of this section to restrict the location of signs that advertise or identify a business to the property in which the business is located. However, it is acknowledged that there may be special circumstances in which such an off-premise sign may be warranted.
- (b) An off-premise sign may be permitted as a conditional use by the city council only when the following conditions exist:
  1. The property is in a commercial or industrial zoning district.
  2. The property has thirty (30) feet or less of frontage on a public street.
  3. The principal building is setback such a distance from the public street or that the physical characteristics of the property are such that the principal structure is not plainly visible from the public street.

4. The off-premise sign shall be allowed only on commercially and industrially zoned property.
  5. A recorded easement from an abutting property allowing the placement of a sign with the easement has been officially recorded.
  6. The maximum area of the sign shall be fifty (50) square feet.
  7. The maximum height of the sign shall be fifteen (15) feet, measure from finished grade.
- (c) At its discretion the city commission may refer a conditional use permit application to the planning board. The planning board shall hold a public hearing to review the application, hear public comments and provide a recommendation to the city council. The review by the planning board and city council shall consider each of the criteria provided in subsection (b), above, as well as any other factors that promote the public interest. The planning board may recommend and the city council may require any condition that mitigates the impact of the off-premise sign.

(Ord. 353 §17(part), 2013).

**17.19.060 - Prohibited signs.**

The following signs are prohibited in all zoning districts.

- (a) Signs painted on or attached to rocks, trees or other natural objects.
- (b) Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets or which create a traffic hazard.
- (c) Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
- (d) Abandoned signs which is any sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service or other activity or use formerly occupying a site, or which contains no sign copy on all sign faces for a continuous period of six (6) months. Any abandoned sign must be removed within six (6) months of the date of abandonment. Removal shall include removal of abandoned structural components.

(Ord. 353 §17(part), 2013).

**Chapter 17.24 – RECREATIONAL VEHICLE PARKS**

**17.24.010 – Approval Process.**

Any new recreational vehicle park or an expansion of an existing recreational vehicle park shall require conditional use approval by the city council. A request for conditional use shall not be considered by the City of Baker until the applicant has submitted documentation that the Montana Department of Public Health and Human Services (DPHHS) has approved the plans and specifications for any new or expanded recreational vehicle park. A DPHHS “trailer court” license for a recreational vehicle park shall only include recreational vehicles in the license.

Existing recreational vehicle parks will be required to comply with the updated zoning regulations within five (5)



years of City adoption or the sale of the park or change of ownership, whichever occurs first. An owner may file for an extension for up to two (2) additional years to operate "as is."

(Ord. 353 §17(part), 2013).

**17.24.020 - Permitted Uses.**

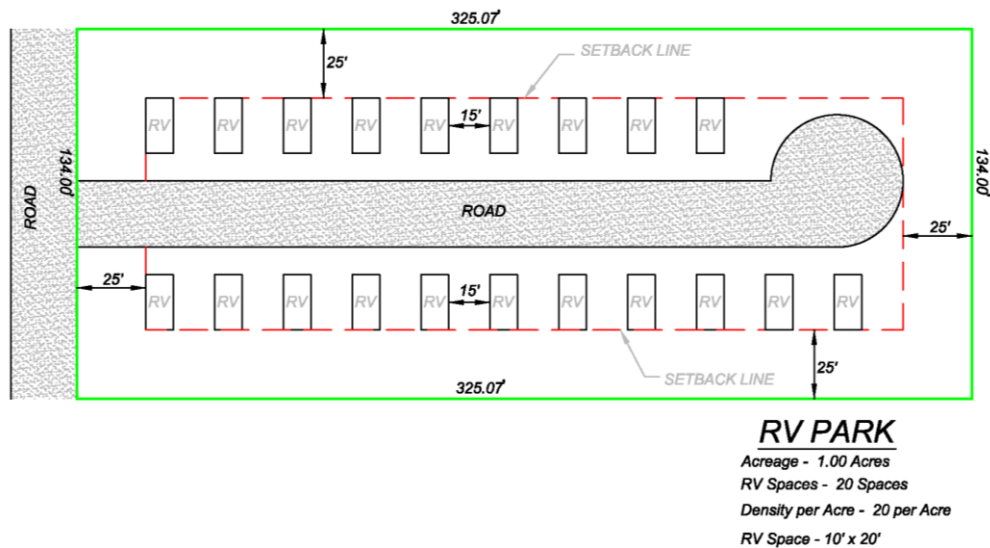
- (a) Only recreational vehicles shall be permitted in approved recreational vehicle parks.
- (b) Complimentary uses typically provided in recreational vehicle parks such as laundry facilities, gathering area, recreational facilities, management office and other customary accessory uses shall be permitted.

(Ord. 353 §17(part), 2013).

**17.24.030 – Development Standards.**

- (a) A recreational vehicle park shall be comprised of one (1) parcel or lot under common ownership.
- (b) The maximum density in a recreational vehicle park shall be a maximum of twenty(20) recreational vehicles per gross acre.
- (c) Each recreational vehicle space shall be arranged to allow for the safe movement of traffic and access to spaces.
- (d) The separation of recreational vehicles, including stationary-use apparatus such as expandable rooms and awnings and propane tanks or other flammable materials, shall be a minimum of fifteen (15) feet.
- (e) The minimum area of a recreational vehicle park shall be one (1) acre.
- (f) Each recreational vehicle park shall have a minimum perimeter setback of twenty-five (25) feet from all exterior lot, parcel or property lines, including public street right-of-way. No recreational vehicle space or any other structure shall be permitted in the required perimeter setback. Within the perimeter setback, a four (4) foot fence shall be erected. The fence may be a wood fence, masonry wall, a landscaping screen, using plant materials capable of providing a hedge-like barrier.
- (g) Each recreational vehicle park shall abut and have access to public street right-of-way of at least fifty (50) feet and the minimum frontage on a public street right-of-way shall be fifty (50) feet.
- (h) A minimum of six (6) feet shall be provided between any recreational vehicle and an unattached accessory structure or building.
- (i) Each recreational vehicle park shall provide a minimum gravel interior vehicular circulation on a private street or driveway. A private street or driveway providing two-way traffic circulation shall have a minimum width of twenty-four (24) feet, and Private Street or driveway providing one-way traffic circulation shall have a minimum width of twelve (12) feet.
- (l) Each recreational vehicle space shall have a minimum of one (1) hard-surfaced parking space.
- (m) Each recreational vehicle space shall be connected to and have City of Baker central sewer and water service.

- (n) Each recreational vehicle space shall be provided standard electrical service, and all electric, telephone, and other utility lines shall be installed underground.
- (o) A minimum of fifteen (15) percent of gross park area should be dedicated to green space and landscaping.
- (p) Green space or ground cover shall be placed adjacent to or within recreational vehicle spaces whenever possible to help with erosion control and to provide an attractive living space.
- (q) Propane tanks/bottles larger than 100lbs. shall be installed by a business that follows NFPA (National Fire Protection Association) rules. Any propane tanks/bottles over 30lbs. shall be placed on a solid surface and secured to a solid structure.
- (r) Diagram of required setbacks for illustrative purposes only.



(Ord. 353 §17(part), 2013).

## Chapter 17.26 –MANUFACTURED HOME PARK

### 17.26.010 – Approval Process.

Any new manufactured home park or an expansion of an existing manufactured home park shall require conditional use approval by the city council. A request for conditional use shall not be considered by the City of Baker until the applicant has submitted documentation that the Montana Department of Public Health and Human Services (DPHHS) has approved the plans and specifications for any new or expanded manufactured home park. A DPHHS “trailer court” license for a manufactured home park shall only include manufactured homes in the license.

Existing manufactured home parks will be required to comply with the updated zoning regulations within five (5) years of City adoption or the sale of the park or change of ownership, whichever occurs first. An owner may file for an extension for up to two (2) additional years to operate “as is.”

(Ord. 353 §17(part), 2013).

### 17.26.020 - Permitted Uses.

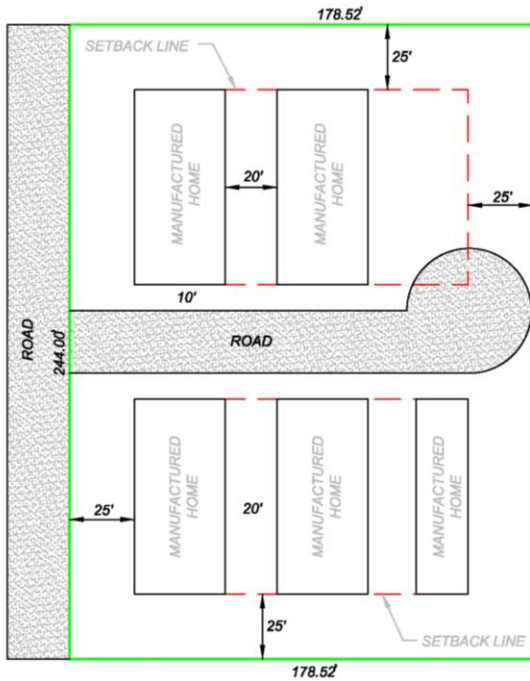
- (a) Only manufactured homes shall be permitted in approved manufactured home parks.
- (b) Complimentary uses typically provided in manufactured home parks such as laundry facilities, gathering area, recreational facilities, management office and other customary accessory uses shall be permitted.

(Ord. 353 §17(part), 2013).

### 17.26.030 – Development Standards.

- (a) A manufactured home park shall be comprised of one (1) parcel or lot under common ownership.
- (b) The maximum density in a manufactured home park shall be a maximum of eight (8) manufactured homes per gross acre.
- (c) Each single-wide manufactured home space shall have a minimum width of twenty (20) feet and minimum depth of seventy-five (75) feet. Each double-wide manufactured home space shall have a minimum width of thirty-five (35) feet and minimum depth of seventy-five (75) feet.
- (d) The separation of manufactured homes, including accessory structures, shall be a minimum of twenty (20) feet, with a minimum side setback of fifteen (15) feet per manufactured home space.
- (e) The minimum area of a manufactured home park shall be one (1) acre.
- (f) Each manufactured home park shall have a minimum perimeter setback of twenty-five (25) feet from all exterior lot, parcel or property lines, including public street right-of-way. No manufactured home space or any other structure shall be permitted in the required perimeter setback. Within the perimeter setback, a four (4) foot fence shall be erected. The fence may be a wood fence, masonry wall, a landscaping screen, using plant materials capable of providing a hedge-like barrier.
- (g) Each manufactured home park shall abut and have access to public street right-of-way of at least fifty (50) feet and the minimum frontage on a public street right-of-way shall be fifty (50) feet.

- (h) A minimum of six (6) feet shall be provided between any manufactured home and an unattached accessory structure or building.
- (i) Each manufactured home park shall provide a minimum graveled interior vehicular circulation on a private-street or driveway. A private street or driveway providing two-way traffic circulation shall have a minimum width of twenty-four (24) feet, and private-street or driveway providing one-way traffic circulation shall have a minimum width of twelve (12) feet.
- (j) Each manufactured home space shall have a minimum of two (2) hard-surfaced parking spaces.
- (k) Each manufactured home space shall be connected to and have City of Baker central sewer and water service.
- (l) Each manufactured home space shall be provided standard electrical service, and all electric, telephone, and other utility lines shall be installed underground.
- (m) A minimum of fifteen (15) percent of gross park area should be dedicated to green space and landscaping.
- (n) Green space or ground cover shall be placed adjacent to or within manufactured home spaces whenever possible to help with erosion control and to provide an attractive living space.
- (o) Diagram of required setbacks for illustrative purposes only.



**MANUFACTURED HOME PARK**

Acreage - 1.00 Acres  
 Density per Acre - 5 per Acre  
 Manufactured Home Spaces - 5 Spaces  
 -Double Wide (35'x75') Spaces - 4 Spaces  
 -Single Wide (20'x75') Spaces - 1 Spaces

(Ord. 353 §17(part), 2013).

## Chapter 17.28 - HOME OCCUPATIONS

### 17.28.010 - Purpose.

(a) It is the intent of this title that all commercial enterprises are not permitted in residential districts. It is recognized, though, that certain home occupations can be compatible with a neighborhood, subject to compliance with the performance standards provided in subsection (c), below.

(b) Procedure to obtain approval of a home occupation.

A conditional use permit granted by the city council shall be required for any home occupation. At its discretion the city commission may refer a conditional use permit application to the planning board that shall hold a public hearing to review the application, hear public comment and provide a recommendation to the city council. The planning board and city council review shall consider each of the performance standards provided in subsection (c), below, as well as other factors related to the proposed home occupation that may negatively impact nearby residential properties. The planning board shall recommend the application be approved, approved with conditions or denied. The city council shall hold a public meeting for any application for a home occupation and shall base its decision on compliance with the performance standards provided in subsection (c) below as well as other factors related to the proposed home occupation that may negatively impact nearby residential properties. The city council may approve a conditional use permit subject to conditions that mitigate impacts of the proposed home occupation.

(c) Performance standards for home occupations.

1. Home occupations shall be permitted only in single-family detached dwellings.
2. The use of the dwelling for the home occupation is clearly incidental and subordinate to the primary residential use.
3. There shall be no change to the exterior appearance of the residential structure or premises and no other visible evidence of the conduct of the home occupation other than one non-illuminated sign, not exceeding six (6) square feet affixed to the principal structure.
4. No traffic shall be generated by the home occupation in volumes greater than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the business shall be met with on-site parking or, when allowed by the city, with on-street parking.
5. No vehicles, except those normally used as passenger vehicles, will be used for the home occupation unless stored or parked elsewhere in compliance with this title.
6. No equipment or process shall be used in a home occupation that creates audible noise, vibration, glare, fumes, odors or electrical interference detectable by normal sense beyond the property line.
7. Any equipment or materials used in conjunction with a home occupation shall be stored with the principal structure, shed, and garage or in a fully enclosed space outside the principal structure.

(Ord. 353 §17(part), 2013; Ord. 318 §8, 1997; Ord. 243 §6(part), 1979).

## **Chapter 17.32 –OFF-STREET PARKING**

### **17.32.010 – Purpose.**

The purpose of off-street parking regulations is to require development to provide on-site parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

(Ord. 353 §17(part), 2013; Ord. 243 §6(part), 1979).

### **17.32.020 - Applicability.**

Off-street parking shall be provided for any new building constructed; for new uses in existing buildings; and for enlargements of existing buildings, except for enlargement to residential buildings that do not result in an increase in the number of dwelling units. Off-street parking may also be exempt when it can be documented that the enlargement of an existing non-residential building will not result in an increased demand for parking for employees or customers. Properties in the downtown commercial district shall be exempt from the off-street parking requirements contained in this chapter except when a commercial use contains residential uses on the second floor.

(Ord. 353 §17(part), 2013; Ord. 318 §10, 1997; Ord. 243 §6(part), 1979).

### **17.32.030 – Design standards.**

- (a) Single-family and two-family dwellings shall be exempt from the design standards contained in this section unless the residential dwelling unit is located in the downtown commercial zone and is located on the second floor of a mixed-use structure.
- (b) Off-street parking facilities shall have access to a public street.
- (c) Except for parking spaces for people with disabilities, an off-street parking space shall have a minimum width of nine (9) feet and a minimum depth of eighteen (18) feet.
- (d) Drive aisles providing access to parking shall be a minimum of twenty-four (24) feet wide for two-way drive aisles. One-way drive aisles with no adjacent parking shall be a minimum width of twelve (12) feet and with adjacent parking the minimum aisle width shall be sixteen (16) feet in width. Drive aisles shall be constructed with asphalt, concrete or other hard surface, excluding gravel, approved by the city.
- (e) Except for the following uses, parking spaces shall be constructed with asphalt, concrete or other hard surface that is approved by the city. Gravel surface is not permitted.
  - 1. Churches and other religious institutions.
  - 2. Public or private parks.

3. Other uses that do not have a daily demand for parking.

- (f) Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating, entering, or exiting the facility and shall not create blind, hidden or hazardous areas.
- (g) Any lighting used to illuminate any off-street parking facility shall not cast direct illumination on any adjoining property or public street.
- (h) When practicable, entrances and exits to off-street parking facilities onto arterial or collector streets as defined by the Fallon County Growth Policy shall be located a minimum of sixty (60) feet from the intersection of the curb line or edge of pavement of intersecting streets. If compliance with this standard is not practicable, the entrances and exits to off-street parking facilities shall be setback the greatest possible distance from an intersecting street.
- (i) All unenclosed off-street parking facilities located between the principal building and a public street in excess of 2,000 square feet (including parking spaces and drive aisles) shall provide a minimum six (6) foot wide landscape buffer adjacent to the street right-of-way line. The landscape buffer shall extend along the entire length of the off-street parking facility that is adjacent to the public street. The landscaping material in the landscape buffer shall be shrubs, planted five (5) feet on center and have a minimum height of two (2) feet at time of planting.
- (j) Any unenclosed off-street parking facility that abuts a residential district shall provide a minimum six (6) foot landscape or screening buffer adjacent to the common property line with the residentially zoned property. The landscape or screen buffer shall extend along the entire length of the off-street parking facility that is adjacent to a residential zoned property and shall include a fence, wall or opaque landscape screen not less than four (4) feet in height measured from finished grade. The buffer shall block the sight line of headlights into the adjacent residentially zoned property.
- (k) Each unenclosed off-street parking facility (including parking spaces and drive aisles) in excess of 5,000 square feet in areas located between the principal building and a public street shall have landscaping within the parking facility equal to not less than five (5) percent of the total area of the parking facility. A minimum of one (1) canopy tree shall be installed in the interior of the parking facility for every twenty (20) parking spaces and the remaining landscaped area shall be landscaped with a combination of shrubs and ground cover vegetation, excluding grass. Curbs or similar material shall be provided where the landscaped area abuts a parking space or drive aisle. Off-street parking facilities in the industrial district shall be exempt from this requirement.
- (l) There shall be a twelve (12) foot long and twenty (20) foot wide turning area beyond the last parking stall in any dead end drive aisle, to allow proper maneuvering of a vehicle backing out of the last parking stall.
- (m) No parking space or drive aisle shall be constructed closer than five (5) feet to any building unless it is completely under the building, an attached carport, an enclosed garage, or at a drive-thru service lane.
- (n) Backing onto a right-of-way is prohibited, except for single family and two-family dwellings. In addition, each space shall be so arranged that any automobile may be moved without moving another, except for single-family and two-family dwellings.

- (o) Driveways for residential district lots or parcels shall not exceed twenty-four (24) feet in width at their intersection with the lot line. Driveways for commercial and industrial district lots or parcels shall not exceed thirty-six (36) feet in width at their intersection with the lot line. The minimum driveway width in any zone shall be twelve (12) feet.
- (p) There shall be no more than two (2) driveways from any project, fronting on a single street. In the case of a corner lot fronting on two (2) streets, no more than a maximum of three (3) driveways shall be allowed for the project. In the case of a project abutting three (3) roadways, a maximum of four (4) driveways shall be permitted for the project.
- (q) Four (4) stacking spaces shall be provided per each drive-through lane, measured from the speaker board or drive-thru bank teller or ATM position, exclusive of any on-site travel lanes.
- (r) Except for the following, the required off-street parking facility shall be located on the same lot or parcel containing the development that generates the demand for parking.
  1. Required off-street parking may be located on land of the same ownership and zoning for off-street parking facilities provided: (1) that such alternative location will not cause any pedestrian or vehicular traffic hazards or congestion, (2) will not cause pedestrian movement across any arterial or major collector street, (3) involves no more than ten (10) percent of the required off-street parking, (4) that all such off-street spaces are within three hundred (300) feet of the principal entrance of the use they are intended to serve, and (5) a recorded easement stipulating such use.
  2. Required off-street parking spaces may be provided cooperatively for two (2) or more uses on contiguous parcels that are similarly zoned, subject to a recorded easement for parking and access. Any additional legal requirements that will assure the permanent availability of such spaces may be required by the city attorney to ensure the rights to off-site access and parking are adequately secured.

The amount of such combined space shall equal the sum of the amounts required for the separate uses; however, a minimum of fifty (50) percent of the required spaces shall be provided on any one lot prior to allowing any cooperative parking arrangement. Provided, however, that the city may reduce up to twenty five (25) percent of the total number of parking spaces required by strict application of said total requirements, when it can be determined the same spaces may adequately serve two (2) or more uses by reason of the different hours of operation of such uses, and so recorded as an easement.

(Ord. 353 §17(part), 2013).

**17.32.040 – Schedule of Off-Street Parking Requirements.**

- a) Fractional Measurements. When units or measurements determining numbers of required off-street parking spaces result in requirement of a fractional space, then such fraction shall require a full off-street parking space, if the fraction is .5 or above.
- b) Off-street parking requirements shall be based on the gross floor area of the building(s), excluding any interior space used for parking or loading of vehicles.



c) Minimum off-street parking requirement for all uses.

1. Parking areas including private and public stalls, driveways and similar parking designs shall be setback five (5) feet from the property line.

d) Minimum off-street parking requirements for residential uses.

All residential uses shall provide two (2) off-street parking spaces per dwelling unit, except for the following:

1. Efficiency/studio or one (1) bedroom apartment: one (1) space per dwelling unit.
2. Housing exclusively for the elderly, excluding independent living facilities: one (1) space per each two (2) beds.
3. Independent living facilities: one (1) space per unit.
4. Boarding houses, rooming houses and bed and breakfast: two (2) spaces, plus one (1) space per room for rent.
5. Residential uses in downtown commercial zones: one (1) space per dwelling unit.

e) Minimum off-street parking requirements for commercial uses.

1. General retail uses: one (1) space per 200 square feet of gross floor area.
2. Drive-in restaurants: one (1) space per 75 square feet of gross floor area.
3. Restaurants, taverns, clubs and bars: one (1) space per three (3) seats of maximum seating capacity.
4. Hotels and motels: five (5) spaces plus one (1) space per rental unit plus one(1) space per 250 square feet of public meeting or assembly area.
5. Medical and dental clinics, including veterinary services: one (1) space per 250 square feet of gross floor area.
6. Auto service and repair: two (2) spaces per service/repair stalls or bays.
7. Business, professional and government offices: one (1) space per 300 square feet of gross floor area.
8. Commercial storage facilities: one (1) space plus one (1) space per twenty (20) storage units.
9. Outdoor auto rental or sales: one (1) space per 300 square feet of gross floor area of office or administration space plus one (1) space per two (2) service/repair stalls/bays plus one(1) space per 2,000 square feet of outdoor sales or display area.
10. Indoor auto rental or sales: one (1) space per 300 square feet of gross floor area of office or administration space plus one (1) space per two (2) service/repair stalls/bays plus one (1) per 500 square feet of indoor sales or display.

11. Equipment sales/service: one (1) space per 300 square feet of gross floor area of office or administration space plus one (1) space per 1,000 square feet of indoor or outdoor equipment servicing, sales or display.
  12. Other commercial uses: the minimum number of parking spaces shall be based on the ITE Parking Demand Manual; if the specific use is not included in the manual shall be required to substantiate anticipated parking demand.
- f) Minimum off-street parking requirements for civic uses.
1. Hospital: one (1) space per two (2) beds.
  2. Public or religious assembly: one (1) space per maximum person capacity in the largest assembly space.
  3. Other civic uses: the minimum number of parking spaces shall be based on the ITE Parking Demand Manual; if the specific use is not included in the manual shall be required to substantiate anticipated parking demand.
- g) Minimum off-street parking requirements for industrial uses.
1. General industrial uses: one (1) space per 300 square feet of gross floor area of office or administration space plus one(1) space 1,000 square feet of gross floor area of manufacturing, fabrication and other industrial space plus one (1) space per 5,000 square feet of indoor or outdoor storage or warehousing space.
  2. Warehousing: one (1) space per 300 square feet of gross floor area of office or administration space plus one (1) space per 5,000 square feet of indoor or outdoor storage or warehousing space.
  3. Construction yards: one (1) space per 300 square feet of gross floor area of office or administration space plus one (1) space per 5,000 square feet of indoor or outdoor storage.
- h) Parking for people with disabilities.
1. Each off-street parking facility shall provide the number of parking space set forth in ANSI A-117 Standards designed and designated for use by people with disabilities consistent with the Americans with Disabilities Act. Off-street parking facilities for single-family and two-family dwellings are exempt from this requirement.
- i) Off-street loading.
1. Any use that involves the receipt or distribution of freight, merchandise, supplies, vehicles or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks.
  2. Loading spaces for each use requiring a loading space shall be provided in compliance with the minimum

requirements.

<u>Gross floor area of use (square feet)</u>	<u>Number of required loading spaces</u>
5,000 or less	None
5,001 – 25,000	1
25,001 – 75,000	2
75,001 – 150,000	3
Over 150,000	4 plus 1 for each additional 100,000 square feet.

3. Each loading space shall be a minimum of ten (10) feet wide and fifty (50) feet in depth. Off-street loading areas are subject to the landscaping and buffering requirements set forth in this section.

(Ord. 353 §17(part), 2013).

## Chapter 17.36 - NONCONFORMING USES, LOTS AND STRUCTURES

### 17.36.010 -Purpose.

Within the districts established by this title, land uses, structures and lots may exist that were lawful at the time this title was adopted or amended, but would be prohibited or regulated under the terms of this title or future amendments. The intent of this section is to permit these nonconformities to continue until they are removed, but not to encourage the continuation of these nonconformities. This title further intends that nonconformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

Nonconforming uses are declared by this title to be incompatible with permitted uses in the same zoning district. However, to avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction or designated uses of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this title and which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction; provided, that work shall be carried on diligently.

(Ord. 353 §17(part), 2013; Ord. 243 §6(part), 1979).

### 17.36.020 - Nonconforming Lots of Record:

- (a) Single Lot: In any district, notwithstanding other limitations imposed by this title, structures permitted in a district may be established on any single lot of record on the effective date hereof. The lot must be in separate ownership and not of contiguous frontage with other lots of the same ownership. A lot of record that does not meet lot area or lot width requirements must meet all other requirements of the district.
- (b) Two or More Lots Under Single Ownership: If two (2) or more nonconforming lots with contiguous frontage in single ownership are of record at the time of passage or amendment hereof, and if any of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of this parcel shall be used or sold in a manner which diminishes compliance; nor shall any division of any parcel be made which creates a lot with width or area that fails to meet the requirements stated in this title.
- (c) Two or more existing nonconforming lots may be rearranged or re-subdivided to create new residential lots provided that there is no increase in the number of resulting lots and that the resulting lots are not less than the average size of the original lots.

(Ord. 353 §17(part), 2013).

### 17.36.030 - Nonconforming Uses of Land.

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

- (a) Enlarged, Increased Or Extended: A nonconforming use may not be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied on the effective date of adoption or amendment hereof;
- (b) Moved: No nonconforming use may be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of adoption or amendment hereof. If a nonconforming use is removed from a property, thereafter only permitted uses shall be permitted on the property; and
- (c) Cease In Use: Should any nonconforming use cease for any reason for a period of more than one year, any subsequent use of the land or structure shall conform to the regulations specified by this title for the district in which such land is located.

(Ord. 353 §17(part), 2013).

**17.36.030 - Nonconforming Structures.**

- (a) Nonconforming Structures. Where a lawful structure exists on the effective date of adoption or amendment hereof, but becomes nonconforming under the terms of this title by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued, provided it remains otherwise lawful, subject to the following provisions:
  1. Enlargement Prohibited: A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
  2. Destruction: Should a nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in compliance with the provisions of this title.
  3. Moved: Should a nonconforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  4. Repair; Maintenance: Nothing in this title shall be deemed to prevent the routine repair and maintenance of a nonconforming structure.
  5. Strengthening, Restoring to Safe Condition: Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any officials charged with protecting the public safety, upon order of such official.

(Ord. 353 §17(part), 2013).

## **Chapter 17.37 – GATEWAY DEVELOPMENT STANDARDS**

### **17.37.010 - Purpose.**

The purpose of this section is to convey to the traveling public a strong image that the City of Baker is a high quality place to live, work and visit. The purpose is to also provide standards and criteria by which proposed development in these entranceway areas, as designated in the Fallon County Growth Policy, will be reviewed.

(Ord. 353 §17(part), 2013).

### **17.37.020 - Applicability.**

All properties with frontage on a designated gateway roadway, including those properties that receive access from frontage roads adjacent to a designated gateway roadway, shall comply with the following standards.

(Ord. 353 §17(part), 2013).

### **17.37.030 - Location of site improvements.**

- (a) All loading facilities shall be located to the rear of the principal building(s).
- (b) All dumpsters, compactors and other utility equipment shall be located to the rear of the principal building(s).
- (c) All outdoor storage of materials, equipment and vehicles shall be located to the rear of the principal buildings and adequately screened with a fence, wall or landscaping so as not be visible from the public right-of-way.

(Ord. 353 §17(part), 2013).

### **17.37.40 - Landscaping improvements.**

- (a) A minimum twenty (20) foot wide landscaped buffer strip shall be required along all gateway arterial and collector street frontages adjacent to the project.
- (b) Landscaped buffers shall consist of minimum one (1) canopy tree planted every twenty-five (25) feet on center in compliance with the specifications and requirements provided in section 17.13.090. In addition, shrubs, in compliance with the specifications and requirements provided in section 17.13.090, shall be planted to achieve sixty (60) percent opacity at a height of five (5) feet within two (2) years after planting.

(Ord. 353 §17(part), 2013).

### **17.37.50 - Sign regulations.**

- (a) One freestanding sign (ground mounted or pole sign) shall be allowed per road frontage per premise. In the case of a shopping center with outparcel(s), each outparcel may be permitted a separate ground sign provided that the out parcel has a minimum of one hundred (100) feet of frontage on the roadway where the sign is located.

(b) The maximum sign area and height of free-standing on-site signs shall be as follows:

<u>Type of Sign</u>	<u>Maximum Area</u>	<u>Maximum Height</u>
Ground mounted	60 square feet	10 feet
Pole sign	45 square feet	15 feet

(Ord. 353 §17(part), 2013).

## **Chapter 17.40 - VARIANCES**

### **17.40.010 - Procedure.**

The planning board shall hold a public hearing on the variance application when it receives a complete variance application and application fee as set by resolution of the city council. Upon receipt of testimony and public comment, the planning board shall make a recommendation to the city council to approve, approve with conditions or deny the variance application. The city council may authorize a variance from the terms of this title as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary and undue hardship.

(Ord. 353 §17(part), 2013; Ord. 318 §7, 1997; Ord. 243 §6(part), 1979).

### **17.40.020 – Authority.**

The authority of the city council shall be limited to the granting of variances from the following zoning regulations:

- (a) Yard or setback requirements.
- (b) Lot area and width requirements.
- (c) Building height requirements.
- (d) Off-street parking and loading requirements.
- (e) Sign regulations, limited to maximum sign area.

(Ord. 353 §17(part), 2013).

### **17.40.30 – Variance Criteria.**

In order to authorize any variance from the terms of this title, the city council must and shall find the following:

- (a) The variance is in fact a variance as set forth within this chapter and within the jurisdiction of the city council after consideration of the recommendation of the city attorney.
- (b) Special conditions and circumstances exist that are peculiar to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district.
- (c) The special conditions and circumstances do not result from the actions of the applicant.

- (d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, buildings or structures in the same zoning district.
- (e) Literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title and would work unnecessary and undue hardship on the applicant.
- (f) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (g) The granting of the variance will be in harmony with the general intent and purpose of this title, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (h) An applicant for a variance shall have the burden of establishing both that a literal enforcement of the provisions of this title will result in unnecessary hardship, as that term is defined by law, including court decisions; and that allowance of the variance shall not be contrary to the public interest.

In granting any variance, the city council may prescribe appropriate conditions and safeguards in conformity with this title. Violation of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this title. The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. Under no circumstances, except as permitted above, shall the city council grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this title in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district, no permitted use of lands, structures or buildings in other zoning districts and economic hardship of the applicant shall be considered grounds for the authorization of a variance.

In granting any variance, the city council shall hold a public hearing as set forth in this section, and shall make specific findings of fact which establish that a literal enforcement of this zoning ordinance will result in unnecessary and undue hardship. The city council shall also make specific findings of fact that each of the criteria set forth in subsections (a) through (h) of this section have been met. The findings of fact as required by these subsections shall be incorporated in the minutes of the meeting.

(Ord. 353 §17(part), 2013).

## **Chapter 17.48 - ENFORCEMENT**

### **17.48.010 - Violation.**

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 title, the City of Baker, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation including the prevention of occupancy of such building, structure or land and the prevention any illegal act, conduct, business, or use in or about such premises. Furthermore, the city council of the City of Baker may institute any appropriate action to prohibit continued violation of this title.

(Ord. 353 §17(part), 2013).



**17.48.020 – Penalty.**

A violation of this title or any resolution adopted pursuant thereto is based on a sliding scale.

- (a) A letter will be sent to the property owner/resident explaining the violation. The property owner/resident has thirty (30) days to respond in writing to the violation.
- (b) If the property owner/resident fails to respond to the letter with thirty (30) days, a fine of one-hundred dollars (\$100) will be issued to the property owner/resident and may be assessed against the property owner/resident's taxes.
- (c) A second letter will be sent to the property owner/resident thirty (30) days after the first letter. The property owner/resident has thirty (30) days to respond in writing to the second letter. Failure to respond shall result in a fine of one-hundred dollars (\$100) and will be issued to the property owner/resident and may be assessed against the property owner/resident's taxes.
- (d) If after sixty (60) days the property owner/resident has failed to respond to the letters, a fine of one-hundred dollars (\$100) will be issued to the property owner/resident for every thirty (30) days the violation remains in effect and may be assessed against the property owner/resident's taxes. The fine amount will be backdated for every day after sixty (60) days from issuance of the first letter.
- (e) If after ninety (90) days the property owner/resident has failed to respond to letters or correct the violation, the City may issue a misdemeanor offense which shall be punishable by a fine of five-hundred dollars (\$500), or by imprisonment of not more than six (6) months, or by both fine and imprisonment.
- (f) If after one-hundred-twenty (180) days the property owner/resident has failed to respond to the letters, pay the fines or correct the violation, the City shall issue a letter notifying the property owner/resident's water service will be terminated. Water service will resume pending payment of all applicable fines and the correction of the violation.

(Ord. 353 §17(part), 2013)

**17.48.030 – Correcting Violation.**

- (a) Correcting the violation will be dependent upon the circumstances, but will be determined by the Planner, City Clerk or Planning Board. Property owners/residents shall be given no more than one-hundred-eighty (180) days to correct the violation. An extension of another one-hundred-eighty (180) days may be granted if the property owner/resident can show extenuating circumstances.

(Ord. 353 §17(part), 2013; Ord. 318 §2, 1997; Ord. 243 §6(part), 1979).