

## CHAPTER 17

### GENERAL YARD, LOT AREA, AND BUILDING REGULATIONS

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**01-17-1: PURPOSE:** This Chapter identifies yard, lot area, building size, building type, and height requirements in each zoning district.

**01-17-2: HIGH-WATER ELEVATION:** No structure, except piers, docks, and retaining walls shall be placed at an elevation such that the lowest floor, including basement floor, is less than three feet (3') above the highest known water level, or less than one foot (1') above the 100-year regulatory flood protection elevation, if determined, of any adjacent lake, pond, river, watercourse, or wetland. If sufficient data on known high-water levels is not available, the elevation of the line of permanent aquatic vegetation shall be used as the estimated high-water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Official. If requested by the Building Official, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.

**01-17-3: BUILDING HEIGHT:** The following building height requirements shall apply to residential, business and industrial districts:

- A. No structure in the R-1, R-2, R-3, R-4, R-5, R-6, R-7, B-2, or I-1 Districts shall exceed three (3) stories or forty feet (40'), whichever is less.

- B. No structure in the B-1 or I-2 Districts shall exceed four (4) stories or fifty feet (50'), whichever is less.
- C. Building heights in excess of these above noted standards may be permitted through a conditional use permit provided that:
  - 1. The site is capable of accommodating the increased intensity of use.
  - 2. The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
  - 3. Public utilities and services are adequate.
  - 4. For each additional story over three (3) stories or for each additional ten feet (10') above thirty five feet (35'), front and side yard setback requirements shall be increased by five percent (5%).
  - 5. The performance standards and criteria of Chapter 5 of this Article are considered and satisfied.
- D. The building height limits established herein for districts shall not apply to the following:
  - 1. Agricultural buildings on farm properties.
  - 2. Antenna support structures as regulated by Chapter 23 of this Article.
  - 3. Belfries.
  - 4. Chimneys or flues.
  - 5. Church spires.
  - 6. Cooling towers.
  - 7. Cupolas and domes which do not contain usable space.
  - 8. Elevator penthouses.
  - 9. Flagpoles.
  - 10. Monuments.
  - 11. Necessary mechanical and electrical appurtenances.

12. Parapet walls extending not more than three feet (3') above the limiting height of the building.
  13. Poles, towers and other structures for essential services.
  14. Wind energy conversion system towers as regulated by Chapter 29 of this Article.
- E. No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than twenty five percent (25%) of the area of such roof nor exceed ten feet (10') unless otherwise noted.

#### **01-17-4: BUILDING TYPE AND CONSTRUCTION:**

##### **A. General Provisions:**

1. Steel Or Aluminum Buildings: Except in association with farming activities, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel shall be permitted in any zoning district.
2. Architectural And Aesthetic Compatibility: Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the community's public health, safety and general welfare.
3. Exterior Building Finishes:
  - a. Building facades in special areas of the City shall comply with the standards adopted by the City Council. The special areas, as defined by the Comprehensive Plan or specialized studies, are:
    - (1) City of Howard Lake "Downtown" Architectural Guidelines for new development and redevelopment.
  - b. The primary exterior building facade finishes for residential uses shall consist of materials comparable in grade to the following:
    - (1) Brick.
    - (2) Concrete composite board.
    - (3) Stone (natural or artificial).

- (4) Integral colored split face (rock face) concrete block.
  - (5) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
  - (6) Stucco (natural or artificial)/EFIS.
  - (7) Vinyl, steel, aluminum.
- c. The primary exterior building facade finishes for institutional, commercial, and industrial uses shall consist of materials comparable in grade to the following:
  - (1) Brick.
  - (2) Concrete composite board.
  - (3) Stone (natural or artificial).
  - (4) Cast in place concrete or precast concrete panels.
  - (5) Integral colored split face (rock face) concrete block.
  - (6) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
  - (7) Glass curtain wall panels.
  - (8) Stucco (natural or artificial)/EFIS.
  - (9) Steel or aluminum siding.
- d. Building foundations not exceeding two feet (2') and other such portions of a building's facade need not comply with the requirements for the primary facade treatment or materials.
- 4. Pole Buildings. Except for farming operations, pole buildings or post and beam construction shall not be allowed as a principal or accessory structure.

**B. Residential And Business Districts:**

- 1. All accessory buildings in excess of one hundred twenty (120) square feet that are accessory to residential dwelling units shall be constructed with a

design consistent with the general character of the principal structure on the lot.

2. Accessory buildings for nonresidential uses, including those allowed in the residential districts, shall be of a similar character, design, and facade as the principal structure.

**C. Industrial Districts:**

1. In all industrial districts defined by Chapter 50 of this Article, all buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or precast concrete panels on wall surfaces abutting public rights of way, a non-industrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

D. **Exceptions:** Exceptions to the provisions of this Section may be granted as a conditional use permit by the City Council, provided that:

1. The proposed building maintains the quality intended by this Article.
2. The proposed building is compatible and in harmony with other structures within the district.
3. The provisions of Chapter 5 of this Article are considered and satisfied.

**01-17-5: YARDS:** Except as provided below, no lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Article, and if the existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another structure.

A. **Exceptions:** The following shall not be considered as encroachments on yard setback requirements:

1. Cantilevers up to ten feet (10') in width, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two feet (2') into a yard.

2. Except as may be limited within Environmental Protection Districts established by Chapter 50 of this Article, terraces, steps, decks, uncovered porches, stoops or similar structures limited to not more than a height of three (3) feet above grade may extend to within five feet (5') of side yard and ten feet (10') of rear yard lot lines, but not more than five feet (5') into a required front yard or side yard adjacent to a public right of way.
  3. Recreational and laundry drying equipment, arbors and trellises, gazebos, and air-conditioning or heating equipment shall be allowed only in a rear or side yard, provided they are at a distance of five feet (5') from any lot line. No encroachment shall be permitted in existing or required drainage and/or utility easements.
  4. In residential districts established by Chapter 50 of this Article, a one story entrance for a detached single-family or two-family dwelling may extend into the front yard setback not more than five feet (5'), subject to the approval of an administrative permit.
  5. No encroachment shall be permitted in existing or required drainage and utility easements.
- B. **Required Front Yard Setback Exceptions:** In the case of lots platted prior to February 10, 2003, the principal building setback requirements for front and side yards adjacent to a public right of way, as established by the respective zoning districts, may be reduced upon the approval of an administrative permit, to a distance equaling the average setback of principal buildings within the block frontage in which the lot is located. In no case shall this distance be less than fifteen feet (15'), nor shall a principal structure be placed more than seven feet (7') beyond the setback of any principal structure on a directly abutting lot.
- C. **Triangular Lots:** In the case of triangular lots, where the rear lot line is a single vertex, the rear yard setback points of reference shall be determined by measuring the length of the setback distance from the vertex along the side lot lines. The rear setback line shall be determined by traversing the lot and connecting these points of reference.

01-17-6: MINIMUM FLOOR AREA PER DWELLING UNIT:

- A. **Single-Family Dwelling Units:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, single-family homes as classified below shall have the following minimum floor areas per unit:

1 and 2 bedroom	960 square feet above grade
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3 bedrooms or more                      1,040 square feet above grade

- B. **Multiple Dwelling Units:** Except as otherwise specified in zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as multiple dwelling (excepting elderly housing) shall have the following minimum floor areas per unit:

Efficiency units	500 square feet
1 bedroom units	700 square feet
2 bedroom units	800 square feet
More than 2 bedroom units	An additional 80 square feet for each additional bedroom

- C. **Elderly (Senior Citizen) Housing:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as elderly (senior citizen) housing units shall have the following minimum floor areas per unit:

Efficiency units	440 square feet
1 bedroom	520 square feet
More than 1 bedroom units	An additional 80 square feet for each additional bedroom

- D. **Two-Family, Manor Homes, Quadraminiums And Townhouses:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, two-family, quadraminiums, manor homes, and townhouses, as classified below, shall have the minimum floor area per unit:

Two-Family	650 square feet first floor above grade, plus 100 additional square feet for each bedroom
Quadraminiums, manor homes and townhouses	600 square feet first floor above grade, plus 100 additional square feet for each bedroom

**01-17-7: EFFICIENCY APARTMENTS:** Except for elderly (senior citizen) housing, the number of efficiency apartments in multiple-family dwellings shall not exceed one unit or ten percent (10%) of the total number of dwelling units in the building, whichever is greater. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty percent (30%) of the total number of apartments.

**01-17-8: MINIMUM FLOOR AREA, COMMERCIAL AND INDUSTRIAL STRUCTURES:** Commercial and industrial buildings (principal structure) having less

than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit.

**01-17-9: MINIMUM LOT AREA, UNSEWERED LOTS:** Lot sizes where public sewer is not available shall conform to the minimum requirements set forth below:

**A. Residential Uses:**

1. Except as herein provided, the minimum single-family lot size is ten (10) acres.
2. The minimum lot size of ten (10) acres shall not apply to smaller separate parcels of record in separate ownership legally existing prior to February 10, 2003, provided that they comply with minimum standards for the district in which they are located or Chapter 15 of this Article and that it can be demonstrated by means satisfactory to the City that the smaller parcels will not result in ground water, soil or other contamination which may endanger the public health.
3. Prohibited Structures: Dwelling unit structures other than single-family detached units are prohibited.

**B. Non-Residential Buildings And Uses:** Subject to the other provisions of this Article, other uses, as allowed within the respective zoning districts, may be allowed on unsewered lots by conditional use permit, provided that:

1. **Except as herein provided, the minimum lot size for each principal use is ten (10) acres. The minimum lot size shall not apply to smaller separate parcels of record in separate ownership legally existing prior to February 10, 2003, provided the conditions of the conditional use permit are met.**

**C.** A conditional use permit under this section shall not be granted unless it can be demonstrated by means satisfactory to the City that the use:

1. Will not result in ground water, soil or other contamination which may endanger the public health.
2. Will not increase future City utility service demands and expense.
3. Will not jeopardize public safety and general welfare.

**01-17-10: EXCEPTIONS TO LOT AREA DEFINITIONS:** Exceptions to the "lot area" definition provided for by Chapter 2 of this Article for lots of record created after



February 10, 2003 (not including preliminary platted lots having legal standing on February 10, 2003):

- A. **Steep Slopes:** Subject to the approval of the City Council, lots containing slopes steeper than three to one (3:1) may be included in the lot area minimum provided that:
  - 1. If applicable, flood control measures are implemented.
  - 2. The construction will not adversely affect area stormwater drainage.
  - 3. Natural vegetation is protected and preserved pursuant to applicable tree preservation policies and regulations and Shoreland Zoning District standards.
  - 4. The structure conforms to the natural limitations presented by topography and soil so as to create the least potential of soil erosion.
  - 5. Appropriate measures are utilized to control erosion subject to the approval of the City Engineer.
- B. **Lot Area Expansion:** The minimum gross lot area shall not be required to be expanded by more than one hundred percent (100%) as a result of excluding "major drainageways", as defined by the Comprehensive Storm Drainage Plan, wetlands, water bodies, road rights of way, required buffer strips, regional utility/pipeline easements, and slopes steeper than three to one (3:1).

**01-17-11: SINGLE FAMILY DWELLINGS:** All single-family detached homes except in the R-5 District and in approved manufactured home parks shall conform to the following requirements:

- A. **State Building Code:** Be constructed upon a continuous perimeter foundation that meets the requirements of the State Building Code.
- B. **Measurements:** Not be less than thirty feet (30') in length and not less than twenty two feet (22') in width over that entire minimum length. Width measurements shall not take into account overhangs and other projections beyond the principal walls. Dwellings shall also meet the minimum floor area requirements as set out in this Chapter.
- C. **Roof:** Have an earth covered, composition, metal, shingled or tiled roof.
- D. **Receive A Building Permit:** The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the

construction materials proposed to be used, and the delineation of future deck, porch and/or garage additions whether or not such construction is intended. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.

- E. **Requirements:** Meet the requirements of the State Building Code or the applicable manufactured housing code.
- F. **Site Plan Required:** For lots of record established after February 10, 2003, all site plans for single family homes must provide for the location of a three (3) stall garage, whether or not construction is intended, in conformance with all provisions of this Article.

#### **01-17-12: BUILDING RELOCATION:**

- A. The relocation of any building or structure on a lot or onto another lot within the City shall require an administrative permit, subject to the following conditions:
  - 1. Upon relocation, the building shall comply with the applicable requirements of this Article, the City Code, and the Uniform Building Code.
  - 2. The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.
  - 3. A performance security shall be provided in an amount determined by the Building Official to ensure timely completion of the project and to protect against damage to public facilities during the building relocation.
- B. The following are exempt from the provisions of this Section:
  - 1. Relocations which occur solely within the confines of a single lot or parcel.
  - 2. Manufactured homes within manufactured home parks.
  - 3. Prefabricated and industrialized/modular buildings as defined by the State Building Code being relocated to their first permanent building site.
  - 4. Temporary structures as allowed by Section 01-17-13 of this Article.

## **01-17-13: TEMPORARY STRUCTURES:**

A. **Purpose:** The purpose of this Section is to provide for the erection of temporary structures (not including model homes/temporary real estate offices or temporary classroom structures for use by a public or private institution) needed for emergency purposes or for temporary use during the construction of a permanent structure.

B. **Procedure:** The erection of a temporary structure shall require an administrative permit, as may be issued by the Zoning Administrator, except as otherwise provided by this Article in all zoning districts.

### **C. Special Requirements:**

1. **Site Plan Required:** No administrative permit shall be issued for a temporary structure unless a site plan pursuant to Chapter 9 of this Article has also been approved if applicable, or unless a building permit has been issued for a new structure, addition or remodeling of an existing structure on the property.
2. **Termination of Permit:** The administrative permit shall terminate nine (9) months from its date of issuance, or within thirty (30) days after a certificate of occupancy has been issued by the Building Official for the permanent structure, whichever occurs first, unless a different time schedule is approved as part of the permit. The permit may be extended for an additional ninety (90) days by the Zoning Administrator.
3. **Setback:** Temporary structures may be placed in a required building setback area, provided that no such structure may be placed within thirty feet (30') of a public right-of-way or obstruct the traffic visibility triangle required by Section 01-16-7 of this Article.
4. **State Building Code:** All applicable requirements of the State Building Code shall be met.
5. **Water and Sewer:** Provisions for water and sewer servicing the temporary structures shall be subject to the review and approval of the Building Official.
6. **Security Measures:** Security measures such as lighting shall be implemented subject to the review and approval of the Zoning Administrator.
7. **Off-Street Parking.** Off-street parking shall be provided subject to the provisions of Chapter 19 of this Article.

8. **Signage:** Any signage shall conform to the provisions of Chapter 24 of this Article.

#### **01-17-14: MODEL HOMES:**

A. **Purpose:** The purpose of this Section is to provide for the erection of model homes, which may include temporary real estate offices, in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to ensure reasonable compatibility with their environment.

B. **Qualification:** To qualify for a building permit for a model home, which may include a temporary real estate office, the following shall be required:

1. Upon receipt of final plat approval and recording, two (2) building permits for model homes per subdivision may be granted. No final certificate of occupancy shall be issued until the infrastructure improvements including the first lift of asphalt have been completed and approved by the City.
2. Upon completion of infrastructure improvements including the first lift of asphalt within the respective final plat subdivision, additional building permits may be issued for model homes and/or temporary real estate offices, provided that the number of model homes and/or temporary real estate offices shall not exceed ten percent (10%) of the number of lots within the final plat.

C. **Procedure:** The erection of a model home(s) within all residential districts, which may include a temporary real estate office(s), shall require an administrative permit, as may be issued by the Zoning Administrator.

D. **Special Requirements:**

1. Model homes and model homes with temporary real estate offices shall be allowed in all residential zoning districts in which they are located and shall be utilized solely for selling purposes of lots and/or homes within the subdivision in which it is located.
2. Temporary parking facilities equal to four (4) paved spaces per model home dwelling unit or a model home with a temporary real estate office shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator.

3. Access from a temporary parking facility shall be directed away from developed and occupied residential neighborhoods to the greatest extent possible.
4. No model home or model home with a temporary real estate office shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 01-16-8 of this Article.
5. All signage shall comply with the sign regulations as contained in Chapter 24 of this Article for the zoning district in which the model home and/or temporary real estate office is located.
6. The administrative permit shall terminate three (3) years from its date of issuance or when eighty-five percent (85%) of the development is completed, whichever comes first, unless extended by the Zoning Administrator.
7. No residential certificate of occupancy shall be issued for a model home or model home with a temporary real estate office until such time as the structure has been fully converted to a residence in compliance with the Uniform Building Code. Additionally, such conversion shall include, but not be limited to, parking lot restoration and the removal of signage and lighting.
8. The restoration of all temporary parking areas with appropriate landscaping shall be completed by the end of the following growing season.

E. **Restricted Use:** Model homes and model homes with temporary real estate offices shall be used solely for the display and sale of home fixtures and products, and real estate for the subdivision in which they are located unless approved by the Zoning Administrator through an administrative permit.