

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. Title.

Title 4, Land Use Regulations, of the Code, the Chapters and subparts contained therein, and its appurtenant maps shall be known as the "Moscow Zoning Code." The words "the Zoning Code" or "this Zoning Code" shall mean all or any part of the Moscow Zoning Code.

Sec. 1-2. Authority.

This Zoning Code is adopted pursuant to the authority conferred by Chapter 65, Title 67 and Chapter 13, Title 50 of the Idaho Code and to the home rule authority of Idaho cities granted by Article 12, Section 2 of the Idaho Constitution and Section 302 of Title 50, Idaho Code.

Sec. 1-3. Purpose.

The provisions of this Zoning Code shall be applied to fulfill the following purposes:

- A. Promote the health, safety and general welfare of the Moscow community.
- B. Encourage the most appropriate use of land within the City's jurisdiction to protect the natural and human environment.
- C. Mitigate the effects of incompatible land uses upon neighborhoods, public facilities, and the community as a whole.
- D. Provide for public improvements which are serviceable and durable and which provide for effective service delivery by all public agencies.

- E. Preserve the positive aspects of existing neighborhoods while improving the neighborhoods which have fallen into disrepair.
- F. Provide adequate public services and community amenities in newly developing neighborhoods.
- G. Further the goals of the enabling statutes which grant authority to the City to enact ordinances regulating land use and development.

Sec. 1-4. Adoption of Comprehensive Plan.

The Comprehensive Plan of the City of Moscow is hereby adopted by reference as the policy guide for the application of the provisions of this Title. The words "the Plan" or "this Plan" shall mean the Comprehensive Plan of the City of Moscow throughout this Title. Three copies of the Plan, as it now exists and may be subsequently amended, shall be retained by the Clerk, available for public inspection during regular City business hours.

Sec. 1-5. Scope of Zoning Code.

This Zoning Code shall apply to buildings, structures, and lands situated within the City and to those buildings, structures and lands hereafter annexed to the City, and to those buildings, structures and lands situated within the Area of City Impact. The regulations set forth in this Zoning Code for each zoning district shall be minimum standards and shall be applied uniformly to each class or kind of structure or land, particularly as follows:

- A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.
- B. No building or other structure shall hereafter be erected or altered:

- 1. to exceed the height or bulk as herein required; or
 - 2. to accommodate or house a greater number of families than herein allowed; or
 - 3. to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or
 - 4. in any other manner contrary to the provisions of this Zoning Code.
- C. No part of a yard, open space, or off-street parking or loading space required in connection with any building or use for the purpose of complying with this Zoning Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building or use, unless otherwise provided herein.
- D. No yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established by this Zoning Code.

((Ord. 1402, 11/5/79; Res. 93-03, 2/1/93; Ord. 2018-07, 05/21/2018)

Sec. 1-6. Definitions.

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

- A. All words used in the present tense include the future tense; all words in the plural number include the singular number, and all words in the singular number include plural number; unless the natural construction of the wording indicates otherwise. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; and the word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used."

- B. Where applicable, uses have been named and defined using the 2012 North American Industry Classification System (NAICS) which is the standard used by the Federal government in classifying business establishments. The uses that are defined by NAICS will have an associated NAICS code in parenthesis following the named use (i.e., *Bowling Centers (NAICS 713950)*). In many cases, this Code has used an abbreviated definition, which is further defined using the 2012 NAICS Manual that is published on the United States Census Bureau website. Many NAICS subsectors include multiple industries that are included within the subsector. In some circumstances, certain industries have specifically been excluded from subsectors because of incompatibility with certain zoning districts.
- C. Unless otherwise specified, all distances shall be measured horizontally.
- D. Definitions used herein:
- 1. *Accessory Dwelling Unit.* A secondary dwelling unit that is accessory to a single family dwelling on a single lot, containing complete housekeeping facilities and which is added to, created within, or detached from the principal dwelling unit and subject to the Specific Use Standards of this Code.
 - 2. *Accessory Use.* A minor or second use for which a lot, structure or building is designed or employed in conjunction with but subordinate to its primary use. The term is synonymous with "secondary use."
 - 3. *Affected Person.* A person who shows to the City, by a preponderance of evidence, that such person has an interest which may be adversely affected by the issuance or denial of a permit authorizing development or by a decision of the City.

4. *Agencies, Brokerages and Other Insurance Related Activities (NAICS 5242)*. Establishments primarily engaged in (1) acting as agents (i.e., brokers) in selling annuities and insurance policies; or (2) providing other employee benefits and insurance related services, such as claims adjustment and third party administration.

5. *Agriculture, Animal Production and Aquaculture (NAICS 112)*. Establishments that raise or fatten animals for the sale of animals or animal products and/or raise aquatic plants and animals in controlled or selected aquatic environments for the sale of aquatic plants, animals, or their products.

6. *Agriculture, Crop Production (NAICS 111)*. Establishments such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds.

7. *Alley*. A passageway open to public travel which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

8. *Alterations*. A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one (1) location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one-third (1/3) of a single floor area shall be considered an alteration.

9. *Animal Slaughtering and Processing (NAICS 31161)*. Establishments primarily engaged in one (1) or more of the following: (1) slaughtering animals; (2) preparing processed meats and meat byproducts; and (3) rendering and/or refining animal fat, bones, and meat scraps.

This industry includes establishments primarily engaged in assembly cutting and packing of meats (i.e., boxed meats) from purchased carcasses.

10. *Antenna Tower*. A structure to house or hold a device which transmits or receives television, radio, or telephone communications but excluding those which are used as accessory to a residential use.

11. *Amusement and Recreation Industries (NAICS 713990)*. Establishments (except amusement parks and arcades; gambling industries; golf courses and country clubs; skiing facilities; marinas; fitness and recreational sports centers; and bowling centers) primarily engaged in providing recreational and amusement services.

12. *Archery/Shooting Ranges*. A controlled area of activity, located indoors, specifically designed for the discharging of projectiles at targets.

13. *Automobile and RV Dealers (NAICS 4411)*. Establishments primarily engaged in retailing new and used automobiles and light trucks, such as sport utility vehicles, and passenger and cargo vans.

14. *Automotive Repair and Maintenance (NAICS 8111)*. Establishments involved in providing repair and maintenance services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers. Establishments in this industry group employ mechanics with specialized technical skills to diagnose and repair the mechanical and electrical systems for automotive vehicles, repair automotive interiors, and paint or repair automotive exteriors.

15. *Basement*. That portion of a building partly underground and having at least one-half (1/2) of its height more than five feet (5') below the adjoining finish grade.

16. *Bed and Breakfast Inn*. Establishments primarily engaged in

providing short-term lodging (durations of less than twenty-one (21) consecutive days per guest) for compensation in private homes or accessory buildings where the owner resides upon the property and where breakfast may or may not be provided.

17. *Bedroom.* A room within an apartment unit other than a living room, kitchen, bathroom, eating area or utility room which may be used for sleeping purposes.

18. *Boarding House.* A building occupied by its owner in which not more than six (6) roomers, lodgers and/or boarders are housed or fed for compensation on a weekly or longer basis.

19. *Bowling Centers (NAICS 713950).* Establishments engaged in operating bowling centers. These establishments often provide food and beverage services.

20. *Broadcasting (NAICS 515).* Establishments that create content or acquire the right to distribute content and subsequently broadcast the content.

21. *Building Area.* The total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members or from a point four feet (4') in from the outside edge of a cantilevered roof, whichever covers the greatest area.

22. *Building or Structure.* "Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this Zoning Code requires that a use shall be within an entirely enclosed building, then the term "building" means one so designed and constructed that all exterior walls of the structures shall be solid from the ground to the roof line, and shall contain no openings except

for windows and doors which are designed so that they may be closed.

23. *Building or Structure, Accessory.* A subordinate building or structure, the use of which is incidental to the use of the main building on the same lot, attached to or located adjacent to a home, or on the same lot, including awnings, steps, porches, carports, garages, and storage buildings. Accessory buildings or structures may contain incidental uses such as but not limited to workshops, artist studios, hobby spaces, and accessory living spaces for residents of the main building which are not to be rented out for compensation unless otherwise permitted by this Code. Size limitations contained within this Code pertaining to accessory buildings or structures shall apply to the enclosed building footprint (the enclosed land area occupied by such accessory structure).

24. *Building or Structure, Detached.* A building surrounded on all sides by open space and which is located more than two feet (2') from the principal/primary structure.

25. *Building Height.* The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point on the roof or parapet wall.

26. *Building Line.* The line of that face or corner or part of a building nearest the property line.

27. *Building Material Sales and Garden Equipment/Supplies (NAICS 444).* Establishments that retail new building material and garden equipment and supplies from fixed point-of-sale locations. Establishments in this subsector have display equipment designed to handle lumber and related products and garden equipment and supplies that may be kept either indoors or outdoors under covered areas.

28. *Business, Professional, Political, Social Advocacy, Grantmaking, and Similar Organizations (NAICS 8132, 8133, 8139).* See individual NAICS sectors for definitions.

29. *Cemeteries and Crematories (NAICS 812220).* Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains and/or cremating the dead.

30. *Child Care Facility.* Any business, place of business or establishment which provides Child Care. This definition includes any premises, location, play area, playground, organization, institution, partnership, school, home, residence, dwelling, group home, foster home, place or facility whether such business or concern calls itself a mini school, kindergarten, nursery, pre-school, club, cooperative, mother's-day-out, learning center or any other business whose activity is the same or substantially similar to a Child Care operation or concern.

a. The definition of Child Care Facility shall not include:

(1) Any institution, school or facility operated by or under the direction of the State of Idaho, by any agency or political subdivision of the State of Idaho, or by any other public body or public entity.

(2) Any elementary, junior high, or high school licensed and designated as such by the State of Idaho.

(3) Any medical or hospital facility operated pursuant to license issued by the State of Idaho.

b. There shall be four (4) classifications of Child Care Facility:

(1) *Family Child Care Facility:* A Child Care Facility providing Child Care for five (5) or fewer children;

(2) *Group Child Care Facility:* A Child Care Facility providing Child Care for six (6) to twelve (12) children;

(3) *Small Child Care Facility:* A Child Care Facility providing Child Care for thirteen (13) to twenty (20) children; and

(4) *Large Child Care Facility:* A Child Care Facility providing Child Care for twenty-one (21) or more children.

(5) The number of children in each of the above classifications (1) through (4) may be increased with the addition of school-aged children (first grade and up) from 3:00 p.m. until 6:00 p.m. on weekdays, on teacher work days, and on snow days, without affecting the classification level.

31. *Civic and Social Organizations (NAICS 813410).* Establishments primarily engaged in promoting the civic and social interests of their members. Establishments in this industry may operate bars and restaurants for their members.

32. *Coffee/Esspresso Stand.* A beverage service establishment where drive-up window service is the primary customer access.

33. *Commercial and Industrial Machinery and Equipment Repair and Maintenance (NAICS 811310).* Establishments primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment.

34. *Commercial Banking (NAICS 522110).* Establishments primarily engaged in accepting demand and other deposits and making commercial, industrial, and consumer loans. Commercial banks and branches of foreign banks are included in this industry.

35. *Community Center.* A building or group of buildings in which members of a community may gather

for group activities, social support, educational activities, cultural activities, and other purposes. They may sometimes be open for the whole community or for a specialized group within the greater community.

36. *Conditional Use.* "Conditional use" means a use permitted in one (1) or more zoning district as defined by this Zoning Code but which, because of characteristics peculiar to such use, or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make uses consistent with and compatible to other existing or permissible uses in the same zoning district(s).

37. *Conditional Use Permit.* "Conditional Use Permit" means the documented evidence of authority granted by the Board of Adjustment to locate a conditional use at a particular location.

38. *Construction Contractor Services (NAICS 238).* Establishments whose primary activity is performing specific activities (e.g., pouring concrete, site preparation, plumbing, painting, and electrical work) involved in building construction or other activities that are similar for all types of construction, but that are not responsible for the entire project.

39. *Consumer Goods Rental (NAICS 5322).* Establishments primarily engaged in renting personal and household-type goods. Establishments classified in this industry group generally provide short-term rental although in some instances, the goods may be leased for longer periods of time. These establishments often operate from a retail-like or store-front facility.

40. *Correctional Institutions (NAICS 922140).* Government

establishments primarily engaged in managing and operating correctional institutions. The facility is generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

41. *Credit Unions (NAICS 522130).* Establishments primarily engaged in accepting members' share deposits in cooperatives that are organized to offer consumer loans to their members.

42. *Dance Halls.* Establishments where amplified sound or music is provided for entertainment.

43. *Data Processing, Hosting, and Related Services (NAICS 518).* Establishments that provide the infrastructure for hosting and/or data processing services.

44. *Dormitory.* A building typically located at a college or university, containing a number of private or semiprivate rooms for residents, usually along with common bathroom facilities and recreation areas.

45. *Drinking Places (Alcoholic Beverages) (NAICS 722410).* Establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services.

46. *Dwelling, Single Family.* A detached building or manufactured home designed for, and occupied exclusively by, one (1) family. The classification "single family dwelling" shall include any home in which eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons reside; and which is supervised. Resident staff, if employed, need not be related to each other or to any of the mentally or physically handicapped or elderly

persons residing in the home. No more than two (2) such staff shall reside in the dwelling at any one (1) time.

47. *Dwelling, Townhouse.* A structure which contains three (3) or more attached single family dwelling units that share a single common wall and where each unit is located upon a separate platted lot to allow for individual sale.

48. *Dwelling, Twinhome.* A structure which contains two (2) attached single family dwelling units that share a single common wall and where each unit is located upon a separate platted lot to allow for individual sale.

49. *Dwelling, Two (2) Family.* A building containing two (2) kitchens and designed to be occupied by two (2) families living independently of each other.

50. *Dwelling, Multi-Family.* A building designed to house three (3) or more families living independently of each other and having one (1) yard in common.

51. *Dwelling Unit.* A building or portion thereof providing complete housekeeping facilities for one (1) family. The term "dwelling" shall not be deemed to include motel, hotel, tourist home, bed and breakfast inn, or boarding house.

52. *Educational Services (NAICS 611).* Establishments that provide instruction and training in a wide variety of subjects. The instruction and training is provided by specialized establishments, such as schools, colleges, universities, and training centers.

53. *Electronic and Precision Equipment Repair and Maintenance (NAICS 8112).* Establishments primarily engaged in repairing electronic equipment, such as computers and communications

equipment, and highly specialized precision instruments.

54. *Established Grade.* The high point of the sidewalk at the front or side lot line as established by the City.

55. *Fairgrounds.* An area where outdoor fairs, circuses, exhibitions, etc. are held.

56. *Family.*

a. For purposes of this "family" definition:

(1) "related" shall mean persons related by blood, marriage, adoption, and/or guardianship or other duly authorized relationship, and

(2) "family" shall not mean any society, club, fraternity, sorority, association, lodge, federation, bed and breakfast inn, boarding house, residential rental unit, or other like use or organization, and

(3) there shall be no more than one (1) "family" per dwelling unit, unless otherwise permitted by this Code.

(4) "living together as a single housekeeping unit" shall mean where all occupants of the dwelling unit enjoy a common right to use the entire dwelling, despite informal arrangements among members to designate certain areas as individual sleeping spaces, and where such persons share household living arrangements, including, but not limited to, rental or mortgage payments, utility payments, groceries, chores, maintenance of the premises, and common sanitary, living, and cooking supplies and/or facilities.

(5) "related by blood" shall mean persons related in any combination of the following: parents, step-parents, children, step-children, siblings, step-siblings, half-siblings, uncles, aunts, nephews, nieces, grandparents, grandchildren, great grandparents, great grandchildren, and first cousins.

b. One (1) or more related persons living together as a single housekeeping unit in a dwelling unit; or

c. Not more than four (4) persons living together as a single housekeeping unit in a dwelling unit, when one (1) or more of them is not related to any other person in such dwelling unit; or

d. Two (2) persons who are not related and any number of additional persons related to either of such two (2) unrelated persons, as long as all persons are living together as a single housekeeping unit in such dwelling unit; or

e. Eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons reside; and which is supervised. Resident staff, if employed, need not be related to each other or to any of the mentally or physically handicapped or elderly persons residing in the home. No more than two (2) such staff shall reside in the dwelling at any one (1) time.

57. *Farm and Garden Machinery and Equipment Merchant Wholesalers (NAICS 423820)*. Establishments primarily engaged in the merchant wholesale distribution of specialized machinery, equipment, and related parts generally used in agricultural, farm, and lawn and garden activities.

58. *Fitness Centers (NAICS 713940)*. Establishments primarily engaged in operating fitness and recreational sports facilities featuring exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating, or racquet sports.

59. *Floor Area*. The sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the center line of division walls.

Floor area shall include: basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet (7') six inches (6"), exterior steps or stairs, terraces, breezeways and open spaces.

60. *Fraternity, Sorority Or Student Cooperative*. A building occupied by and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning and regulated by such institution.

61. *Functional Open Space*. Land within a development which is permanently reserved as open space, free from permanent structures, useful for recreational or social use by the residents of the development, or others; such space shall not include streets, roadways or parking areas.

62. *Funeral Homes and Funeral Services (NAICS 812210)*. Establishments primarily engaged in preparing the dead for burial or interment and conducting funerals (i.e., providing facilities for wakes, arranging transportation for the dead, selling caskets and related merchandise). Funeral homes combined with crematories are included in this industry.

63. *Garage and/or Workshop, Private*. An enclosed space for the storage of one (1) or more private vehicles for residents of the premises.

64. *Garden, Accessory*. The use of land for growing of produce and/or plants that is accessory to a permitted principal use, and where the produce from the garden is primarily grown for the consumption and use or donation by the person(s) residing or employed upon the subject property. Accessory Gardens may include the keeping of animals and fowl as permitted by this Code. On-site retail sales are not

permitted in association with Accessory Gardens unless specifically permitted under this Code.

65. *Garden, Community.* The collective use of land for growing of produce and/or plants conducted by a group of people, where the site is commonly divided into plots that individuals may rent for the season, where the produce or plant materials grown upon the site are intended for consumption, use, or donation by the person(s) cultivating the land. On-site retail sales are not permitted in association with Community Gardens unless specifically permitted under this Code.

66. *Garden, Market.* The use of land for growing of produce and/or plants that is conducted by a single individual or a group of individuals where the produce or plant materials grown upon the site are intended to be sold for consumption by others. Market Gardens may include the keeping of animals and fowl as permitted by this Code. On-site retail sales are not permitted in association with Market Gardens unless specifically permitted under this Code.

67. *Gasoline Stations (NAICS 447).* Establishments that retail automotive fuels (e.g., gasoline, diesel fuel, gasohol, alternative fuels) and automotive oils or retail these products in combination with convenience store items. These establishments have specialized equipment for the storage and dispensing of automotive fuels.

68. *General Freight Trucking (NAICS 4841).* Establishments primarily engaged in providing general freight trucking.

69. *Golf Courses and Country Clubs (NAICS 713910).* Establishments primarily engaged in operating golf courses (except miniature) which also may include dining facilities and other recreational facilities that are known as country

clubs. These establishments often provide food and beverage services, equipment rental services, and golf instruction services.

70. *Golf Facilities, Miniature.* Establishments engaged in operating a novelty golf game played with a putter on a miniature course usually having tunnels, bridges, sharp corners, and obstacles. These establishments often provide food and beverage services.

71. *Government Office Buildings.* A building or rooms in which the business of a department of government administration is carried out. Government office buildings include, but are not limited to, courthouses, local city government offices, and libraries.

72. *Habitable Floor.* Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

73. *Health Care Services (Ambulatory) (NAICS 621).* Establishments that provide health care services directly or indirectly to ambulatory patients and do not usually provide inpatient services. Health practitioners in this subsector provide outpatient services, with the facilities and equipment not usually being the most significant part of the production process.

74. *Hospitals (NAICS 622).* Establishments that provide medical, diagnostic, and treatment services that include physician, nursing, and other health services to inpatients and the specialized accommodation services required by inpatients. Hospitals may also provide outpatient services as a secondary activity. Establishments in the Hospitals subsector provide inpatient health services, many of which can only be provided using the specialized facilities and equipment

that form a significant and integral part of the production process.

75. *Hotels and Motels (NAICS 721110)*. Establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms and convention services, laundry services, parking, and other services.

76. *Kitchen*. Any rooms used or intended or designed to be used for cooking and/or preparation of food.

77. *Large Retail Establishment*.

a. A single retail establishment; or any combination of retail establishments in a single building with shared private off-street parking (such as a shopping mall); or any combination of retail establishments in separate and abutting buildings which are planned, constructed, and/or managed as a single property with shared private off-street parking (such as a shopping center); and

b. Which is greater than forty thousand (40,000) square feet of gross floor area.

78. *Laundries and Drycleaners (NAICS 812310)*. Establishments primarily engaged in (1) operating facilities with coin-operated or similar self-service laundry and dry cleaning equipment for customer use on the premises; and/or (2) supplying and servicing coin-operated or similar self-service laundry and dry cleaning equipment for customer use in places of business operated by others, such as apartments and dormitories.

79. *Lot*. A lot, in the meaning of this Zoning Code, is a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, which at the time of

applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street.

80. *Lot Area*. The total horizontal area within the boundary lines of a lot, excluding areas of dedicated and prescriptive public or railroad rights-of-way. The lot area shall include all utility easements and any flag pole portion of a flat lot.

81. *Lot, Corner*. A lot at the junction of and fronting on two (2) or more intersecting streets.

82. *Lot, Depth*. The mean dimension of the lot from the front street line to the rear line.

83. *Lot, Flag*. A lot with access provided to the part of the lot designated for use as a building site by a narrow corridor.

84. *Lot, Interior*. A lot fronting on one (1) street.

85. *Lot Line, Front*. The front lot line is the property boundary that abuts a public or private street; the front lot line for an undeveloped corner lot is either one (1) of the property boundaries that abuts a public or private street, as selected by the property owner.

86. *Lot Line, Rear*. The boundary line of a lot that is opposite and most distant from the front lot line.

87. *Lot Line, Side*. Any lot line not a rear lot line or a front lot line shall be considered a side lot line.

88. *Lot Line, Street Side*. The street side lot line is the property boundary on a corner lot that abuts a public or private street which is not considered the front lot line.

89. *Lot, Through*. A lot fronting on two (2) streets that do not intersect on the parcel's lot lines.

90. *Lot, Width.* The dimension of the lot line at the street, or in an irregular shaped lot the dimension across the lot at the building line, or in a corner lot the narrow dimension of the lot at a street or building line.

91. *Manufactured (Mobile) Home Dealers (NAICS 453930).* Establishments primarily engaged in retailing new and/or used manufactured homes (i.e., mobile homes), parts, and equipment.

92. *Manufactured Home.* A structure as defined by Idaho Code Section 39-4105(14) and which meets the following additional standards:

a. The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet; and

b. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve inches (12") above grade; and

c. The manufactured home shall have a pitched roof of at least three feet (3') in vertical rise for each twelve feet (12') in horizontal run; and

d. The manufactured home shall have any exterior siding and roofing material which is approved by the City for site-built homes; and

e. The manufactured home shall not be permitted within an area defined as a historic district under Section 67-4607, Idaho Code.

93. *Manufacturing, Aerospace Product and Parts Manufacturing (NAICS 3364).* Establishments primarily engaged in one (1) or more of the following: (1) manufacturing complete aircraft, missiles, or space vehicles; (2) manufacturing aerospace engines, propulsion units, auxiliary equipment or parts; (3) developing and making prototypes of aerospace

products; (4) aircraft conversion (i.e., major modifications to systems); and (5) complete aircraft or propulsion systems overhaul and rebuilding (i.e., periodic restoration of aircraft to original design specifications).

94. *Manufacturing, Beverage (NAICS 3121).* Establishments primarily engaged in manufacturing soft drinks, ice, and purifying and bottling water; manufacturing brewery products; winery products; and distillery products. Also included is (1) the artificially carbonating of water; (2) the brewing of beer, ale, malt liquors, and nonalcoholic beer; (3) growing of the grapes, and the manufacturing of wine and brandy, or making of wine or brandy from purchased materials, and the blending of wines and brandies; and (4) the distilling of potable liquors (except brandies) and the blending of liquors and other ingredients.

95. *Manufacturing, Computer and Electronic Product (NAICS 334).* Establishments that manufacture computers, computer peripherals, communications equipment, and similar electronic products, and establishments that manufacture components for such products.

96. *Manufacturing, Electrical Equipment, Appliance, and Component (NAICS 335).* Establishments that manufacture products that generate, distribute and use electrical power.

97. *Manufacturing, Light.* The manufacturing, compounding, treatment, processing, assembling, packaging, or testing of goods or equipment that is primarily indoors and which does not present any adverse effect upon surrounding property from smoke, noise, vibration, dust, glare, air pollution, or water pollution.

98. *Manufacturing, Medical Equipment and Supplies (NAICS 3391)*. Establishments primarily engaged in manufacturing medical equipment and supplies.

99. *Manufacturing, Pharmaceutical and Medicine (NAICS 3254)*. Establishments primarily engaged in one (1) or more of the following: (1) manufacturing biological and medicinal products; (2) processing (i.e., grading, grinding, and milling) botanical drugs and herbs; (3) isolating active medicinal principals from botanical drugs and herbs; and (4) manufacturing pharmaceutical products intended for internal and external consumption in such forms as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

100. *Manufacturing, Heavy*. The extraction, processing or treatment of raw materials, or the manufacturing, compounding, treatment, processing, assembling, packaging, testing, handling, or storage of explosive or radioactive materials or products.

101. *Motorized Vehicle*. A motor driven conveyance capable of carrying one (1) or more passengers.

102. *Movie Theaters (NAICS 512131)*. Establishments primarily engaged in operating motion picture theaters (except drive-ins) and/or exhibiting motion pictures or videos at film festivals, and so forth.

103. *Museums and Art Galleries (NAICS 712110)*. Establishments primarily engaged in the preservation and exhibition of objects of historical, cultural, and/or educational value.

104. *Nonconforming Building Use*. The use of a building or structure which was a lawful use at the time this Zoning Code was passed but which use, because of the passage of this Zoning Code, does not conform to the regulations of the zoning district in which the use exists.

105. *Nonconforming Use*. A use which lawfully occupied a building or land at the time this Zoning Code becomes effective and which does not conform with the use regulations of the zoning district in which it is located.

106. *Nursing and Residential Care Facilities (NAICS 623)*. Establishments that provide residential care combined with either nursing, supervisory, or other types of care as required by the residents. In this subsector, the facilities are a significant part of the production process and the care provided is a mix of health and social services with the health services being largely some level of nursing services.

107. *Off-Street Parking*. Parking facilities for motor vehicles located on private property.

108. *Parking Lots and Garages (NAICS 812930)*. Establishments primarily engaged in providing parking space for motor vehicles, usually on an hourly, daily, or monthly basis and/or valet parking services. For the purposes of this Code, a parking lot is an off-street parking facility designed for more than four (4) parking spaces.

109. *Personal and Household Goods Repair and Maintenance (NAICS 8114)*. Establishments primarily engaged in home and garden equipment and appliance repair and maintenance; reupholstery and furniture repair; footwear and leather goods repair; and other personal and household goods repair and maintenance.

110. *Personal Care Services (NAICS 8121)*. Establishments such as barber and beauty shops, that provide appearance care services to individual consumers.

111. *Parking Space*. A usable space for the storage of one (1) passenger automobile or commercial vehicle,

exclusive of access drives, aisles, or ramps, within a public or private parking lot or a building that meets the parking standards of this Code.

112. *Pet Care Services (NAICS 812910)*. Establishments primarily engaged in providing pet care services (except veterinary), such as boarding, grooming, sitting, and training pets.

113. *Planned Unit Development (PUD)*. The PUD is characterized by a unified site design for a number of housing units and/or other buildings where clustering of buildings and utilization of open space will allow for enhanced land use. Through a PUD, a development may be planned as a unit and the density of use may be calculated on the basis of the entire project, rather than on a lot by lot basis. Individual uses and structures in a PUD need not comply with specific building locations, height, building size, floor area, lot size and open space requirements of the underlying basic zone provided that requirements set forth herein are complied with, and the development as a whole is harmonious with the community, particularly adjacent land uses.

114. *Principal Use*. The primary or predominant use(s) to which a property is or may be devoted.

115. *Professional, Scientific, and Technical Services (NAICS 541)*. Establishments engaged in processes where human capital is the major input. These establishments make available the knowledge and skills of their employees, often on an assignment basis, where an individual or team is responsible for the delivery of services to the client. The individual industries of this subsector are defined on the basis of the particular expertise and training of the services provider.

116. *Public Service and Utility Facility*. Public facilities necessary to

serve the neighborhood or community, including, but not limited to, fire stations, police stations, national guard armories, fire training facilities, pumping stations, electrical substations, and telephone switching facilities.

117. *Publishing Industries (except Internet) (NAICS 511)*. Establishments engaged in the publishing of newspapers, magazines, other periodicals, and books, as well as directory and mailing list and software publishing.

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

119. *Railroad Yards (NAICS 488210)*. Establishments primarily engaged in providing specialized services for railroad transportation, including servicing, routine repairing (except factory conversion, overhaul or rebuilding of rolling stock), and maintaining rail cars; loading and unloading rail cars; and operating independent terminals.

120. *Real Estate Services (NAICS 531)*. Establishments that are primarily engaged in renting or leasing real estate to others; managing real estate for others; selling, buying, or renting real estate for others; and providing other real estate related services, such as appraisal services.

121. *Religious Facilities (NAICS 813110)*. Establishments primarily engaged in (1) operating religious organizations, such as churches, religious temples, and monasteries; and/or (2) establishments primarily engaged in administering an organized

religion or promoting religious activities.

122. *Rental and Leasing Services (NAICS 532)*. Establishments that provide a wide array of tangible goods, such as automobiles, computers, consumer goods, and industrial machinery and equipment, to customers in return for a periodic rental or lease payment.

123. *Restaurants (NAICS 72251)*. Establishments primarily engaged in one (1) of the following: (1) providing food services to patrons who order and are served while seated (i.e., waiter/waitress service), and pay after eating; (2) providing food services to patrons who generally order or select items (e.g., at a counter, in a buffet line) and pay before eating; or (3) preparing and/or serving a specialty snack (e.g., ice cream, frozen yogurt, cookies) and/or nonalcoholic beverages (e.g., coffee, juices, sodas) for consumption on or near the premises.

124. *Retail Sales (NAICS 44-45)*. Establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

125. *Riding Stables*. Establishments where horses are kept for riding, driving, or stabling for compensation.

126. *RV (Recreational Vehicle) Parks and Campgrounds (NAICS 721211)*. Establishments primarily engaged in operating sites to accommodate campers and their equipment, including tents, tent trailers, travel trailers, and RVs (recreational vehicles). These establishments may provide access to facilities, such as washrooms, laundry rooms, recreation halls and playgrounds, stores, and snack bars.

127. *Savings Institutions (NAICS 522120)*. Establishments primarily engaged in accepting time deposits, making mortgage and real estate loans,

and investing in high-grade securities. Savings and loan associations and savings banks are included in this industry.

128. *Sawmills (NAICS 321113)*. Establishments primarily engaged in sawing dimension lumber, boards, beams, timbers, poles, ties, shingles, shakes, siding, and wood chips from logs or bolts.

129. *Scrap Yards / Material Recycling (NAICS 423930)*. Establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap.

130. *Securities, Commodity Contracts, and Other Financial Investments and Related Activities (NAICS 523)*. Establishments that are primarily engaged in one (1) of the following: (1) underwriting securities issues and/or making markets for securities and commodities; (2) acting as agents (i.e., brokers) between buyers and sellers of securities and commodities; (3) providing securities and commodity exchange services; and (4) providing other services, such as managing portfolios of assets; providing investment advice; and trust, fiduciary, and custody services.

131. *Self-Storage Facilities (NAICS 531130)*. Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.

132. *Setback*. The distance that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines. When

measuring front and street side yard setbacks for lots that abut a Local Residential Street, as designated upon the Thoroughfare Plan within the City's Comprehensive Plan, the front and street side setbacks shall be measured from the building lot side of the public sidewalk to the nearest point of the wall of the main building on the lot. In such cases where sidewalks do not exist in the front or street side of a building lot, the Zoning Administrator shall determine the point of measurement based upon the location of adjacent principal structures, the likelihood of future sidewalk installation, and the anticipated location of such future sidewalk.

133. *Sign.* A presentation, display, or representation of words or letters, or of a figure, design, picture, painting, color pattern, logo, emblem, symbol, trademark or other representation so as to give notice, advertise, call attention to, or identify an entity.

134. *Software Publishers (NAICS 5112).* Establishments primarily engaged in computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only.

135. *Stadiums and Sports Arenas (NAICS 713940).* Establishments primarily engaged in operating fitness and recreational sports facilities featuring exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating, or racquet sports.

136. *Street.* A public thoroughfare which affords the principal means of access to abutting properties.

137. *Telecommunications Services (NAICS 517).* Establishments that provide telecommunications and the services related to that activity (e.g., telephony, including Voice over Internet Protocol (VoIP); cable and satellite television distribution services; Internet access; telecommunications reselling services). The Telecommunications subsector is primarily engaged in operating, and/or providing access to facilities for the transmission of voice, data, text, sound, and video.

138. *Temporary Use.* A land use established for a limited duration which does not require permanent site improvements. Temporary Uses include, but are not limited to, the erection of temporary structures for activities such as fruit and vegetable sales, Christmas tree sales, fireworks sales, art sales, and other retail sales permitted in the zoning district within which the proposed use is to be located.

139. *Use.* The purpose land, a building or a structure now serves or for which it is occupied, maintained, arranged, designed or intended.

140. *Use District.* A portion or portions of the City designated on the Moscow Zoning Map as one (1) or more of the categories listed and described in this Zoning Code.

141. *Variance.* A modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

142. *Veterinary Services (NAICS 541940).* Establishments of licensed

veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals; and establishments primarily engaged in providing testing services for licensed veterinary practitioners.

143. *Warehousing and Storage (NAICS 493)*. Establishments that are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide facilities to store goods. They do not sell the goods they handle. These establishments take responsibility for storing the goods and keeping them secure. They may also provide a range of services, often referred to as logistics services, related to the distribution of goods.

144. *Wholesale Uses (NAICS 423)*. Establishments that sell capital or durable goods to other businesses.

145. *Yard*. An open unoccupied space, except as otherwise permitted in this Code, in the front, rear or side on the same lot with a building or proposed building, which extends along a lot line and at right angles to the lot line to a depth or width specified in the setback requirements of the zoning district where the property is located.

(Ord. 2018-07, 05/21/2018)

Sec. 1-7. Nonconformities.

A. Intent:

1. Within the zoning districts established by this Zoning Code or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of uses and structures which were lawful before this Zoning Code was enacted or amended, but which would be prohibited, regulated, or restricted under the terms of this Zoning Code or future amendment. It is the intent of this Zoning Code to permit these

nonconformities to continue until they are removed, destroyed or lost by time, but not to encourage their survival. Further it is the intent of this Zoning Code 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.

2. Nonconforming uses are declared by this Zoning Code to be incompatible with permitted uses in the same zoning district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Zoning Code by attachment to a building or by the addition of other uses, of a nature which would otherwise be prohibited in the same zoning district.

3. To avoid undue hardship, nothing in this Zoning Code shall be deemed to require a change in the City-approved plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Code and upon which actual building construction has since been diligently pursued. Actual construction includes the placing of construction materials in permanent position and fastening in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun in preparation for rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on.

B. **Nonconforming Lots of Record:** In any zoning district in which single family dwellings are permitted, where any single lot of record existing as of the effective date of adoption of this

Zoning Code has been previously approved by the City, a single family dwelling and customary accessory buildings may be erected on such lot.

This provision shall apply even if such lot otherwise fails to meet the requirements for area or width, or both, which are generally applicable in the district. Such lot shall conform to yard dimensions and requirements other than those applying to lot area or width for the zoning district in which such lot is located.

Variance of yard requirements may be granted only pursuant to the procedure set forth in this Zoning Code.

- C. Nonconforming Use of Land (or land with minor structures only): Where at the time of passage of this Zoning Code, or of an amendment thereto, lawful use of land exists which would not be permitted by the regulations imposed by this Zoning Code or an amendment, and where such use involves no individual structure with a replacement cost exceeding Two Thousand Dollars (\$2,000), such use may be continued as long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code; and

2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that physically occupied by such use on the effective date of adoption or amendment of this Zoning Code; and

3. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the zoning district in which such land is located. This provision shall not apply when the discontinuance or abandonment is

caused by government action impeding access to the premises; and

4. No additional structure not conforming to the requirements of this Zoning Code shall be erected in connection with such nonconforming use of land.

- D. Nonconforming Structures: Where a lawful structure exists on the effective date of adoption or amendment of this Zoning Code that could not be built under the terms of this Zoning Code by reason of standards for area, lot coverage, height, yards, the structure's location on the lot, or other requirements concerning the structure, such structure may be retained if it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in any manner which increases its nonconformity, except as provided in M.C.C. 4-1-8(D)(4) below; and

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by no fault of the owner (fire, flood, natural disaster, etc.), it may be reconstructed having the same zoning nonconformities, but no more than as existed before the damage occurred;

3. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved; and

4. A nonconforming structure may be enlarged or altered with the same zoning nonconformities through the issuance of a Conditional Use Permit.

- E. Nonconforming Uses of Structures or of Structures and Premises in Combination: If lawful use of individual structures with a replacement cost of Two Thousand Dollars (\$2,000) or more, or of such structures and land in combination, exists on the effective date of adoption

or amendment of this Zoning Code that would not be allowed in the zoning district under the terms of this Zoning Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Zoning Code in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located. An exception would be when destruction of an existing structure and use in combination occurs by no fault of the owner (fire, flood, natural disaster, etc.), the structure and use in combination may be replaced to its original size and use prior to the destruction; and

2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building; and

3. Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the zoning district in which it is located. The nonconforming use shall not thereafter be resumed; and

4. When a nonconforming use of a structure, or of a structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the

zoning district in which the structure is located. This provision shall not apply when the discontinuance or abandonment is caused by government action impeding access to the structure or premises;

F. Repairs and Maintenance:

1. Ordinary repairs and maintenance may be done on any nonconforming structure or nonconforming portion of a structure.

2. Further, upon order of any official charged with protecting the public safety, any building or part thereof declared to be unsafe by such official may be strengthened or restored to a safe condition.

(Ord 2016-15, 11/21/2016; 2018-07, 05/21/2018)