

# **Ordinance #101**

## **AN ORDINANCE REPEALING ORDINANCE #71 AND AMENDING CHAPTER 17 OF THE MUNICIPAL CODE REGARDING ZONING**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
HARLEM, MONTANA:**

*Section 1: Ordinance #71 passed and adopted by the City Council of the City of Harlem on September 6, 1984, on a temporary basis and passed and approved on a final basis on February 5, 1985. Said ordinance was amended by the City Council of the City of Harlem on December 3, 1985. This ordinance was amended by the City Council of the City of Harlem on January 5, 1988, amendment effective on February 5, 1988.*

*Section 2: Chapter 17 and Sections 17.04 through 17.32 of the Harlem Municipal Code are amended to read as follows:*

### **Title 17**

### **ZONING**

Chapters:

- 17.04 General Requirements
- 17.08 Zoning Districts Designated
- 17.12 Residential – Class A District
- 17.16 Residential – General District
- 17.20 Commercial – Local District
- 17.24 Commercial – General District
- 17.28 Board of Adjustment
- 17.32 Enforcement

*Application for City Zoning Permit*

## Chapter 17.04

### GENERAL REQUIREMENTS

#### Sections:

- 17.04.010 General provisions
- 17.04.020 Nonconforming uses

#### 17.04.010 General provisions

##### A. Uses

1. Conformance and Permits Required. No building or structure shall be hereafter erected, reconstructed, structurally altered, enlarged, or moved, nor shall any building, structure, or land be hereafter used, designed, or intended to be used for any other use other than is permitted in the district in which such building, structure, or land is located and then only after applying for and securing a permit;
2. Public Utilities and Railways. For the purpose of this title, nothing herein shall be so interpreted as to interfere with the construction, maintenance and operations of the facilities of any public utility or public service including railway tracks and rights-of-way, on any property where such use lawfully existed at the time the ordinance codified in this title became effective.

##### B. Area

1. Area Requirements. Except as herein provided, no building or structure nor enlargement of any building or structure shall be hereafter erected, located or maintained on a lot unless such building, structure, or enlargement conforms with the area regulations of the district in which it is located.

##### C. Exceptions

1. Exceptions to Height Regulations. This title shall not be deemed to limit or restrict the height of belfries, chimneys, clock towers, cooling or catalytic cracking towers, elevators, bulkheads, grain elevators, penthouses, stacks, water towers, ornamental towers, wireless or television towers, or any similar appurtenances to buildings, imposed by other ordinances. Churches, public or semi-public buildings, hospitals, schools, colleges, and private clubs may exceed the height restrictions of the district as approved by the board of adjustment. (Ord. 71 s1-5 (part), 1985).

#### 17.04.020 Nonconforming uses

A. The lawful use of land or buildings existing at the time of adoption of the ordinance codified in this title may be continued although such use does not conform with the provisions of this title.

B. This title shall not apply to existing structures or the existing use of any buildings, but shall apply to any alteration of a building to provide for its use for a purpose, or in any manner, different from the use to which it was put before alteration. (Ord. 71 s1-6, 1985).

## Chapter 17.08

### ZONING DISTRICTS DESIGNATED

#### Sections:

17.08.010 Districts designated

#### 17.08.010 Districts designated

For the purpose of classifying, regulating, and restricting the locations of trades, industries, and enterprises, and the locations of buildings designed, erected, or altered for specific uses, and limiting the height and size of such buildings, and regulating and determining the area of yards and other open spaces surrounding such buildings, the city, for the purposes of this title, is divided into four districts termed respectively as follows:

- A. Residential – Class A
- B. Residential – General
- C. Commercial – Local
- D. Commercial – General.

The districts aforesaid and the boundaries of such districts are shown upon the map attached to the ordinance codified in this title and made a part of this title, being designated the “Zoning Map A” and said map and all the notations, references, and other information shown thereon shall be as much a part of this title as if the matters and information set forth by said map were fully described herein. (Ord. 71 s1-1, 1985).

**Chapter 17.12**

**RESIDENTIAL – CLASS A DISTRICT**

**Sections:**

- 17.12.010 Residential – Class A district
- 17.12.020 *Extension of Services*
- 17.12.025 *Annexation*

**17.12.010 Residential – Class A district**

The following regulations shall apply in the residential – Class A district.

A. Use. No buildings, structure or land shall be used and no building or structure shall be erected, structurally altered, or enlarged, except for the following uses:

1. One-family dwellings;
2. A church building which conforms to all restrictions defined in this section;
3. A mobile home which conforms to the restrictions defined in this section.

B. Height. No building or structure nor the enlargement of any building or structure shall be hereafter erected with any exposed side greater than twenty-five feet in height.

C. Area. No building or structure nor the enlargement of any building or structure shall be hereafter erected or situated thereon, unless the following yards and lot areas are provided and maintained in connection with such building, structure, or enlargement.

1. Front Yard. There shall be a front yard of not less than twenty feet in depth from any street or avenue.

2. Side Yards. There shall be a side yard on each side of a dwelling unit or accessory buildings of not less than eight feet. Except on corner lots where setbacks must be twenty feet from all designated streets. (Exceptions to this may be in the form of a variance to the rule).

*moved to #5* ~~3. Lot Area. Every dwelling unit erected hereafter within this district shall have a minimum of seven thousand square feet.~~

~~4. Rear Yard. There shall be a rear yard of not less than forty feet.~~

3. Sidewalks. All sidewalks shall be five feet in width and/or shall conform to the existing sidewalks in the neighborhood. If a boulevard has been established, the new sidewalk shall contain a boulevard. All sidewalks shall be built according to the Montana Public Works Standard Specifications.

4. Fences.

a. A fence erected on the street side of an individual's property shall be at least five feet from the curb and/or shall conform in placement to the existing fences in the neighborhood. Fences and hedges should be maintained in a manner which will not interfere with detection of oncoming traffic. The city inspector shall be the authority in matters of properly locating hedges and fences.

b. Barbed wire fences are prohibited within the city limits.

5. Lot Area. Every dwelling unit erected hereafter within this district shall have a minimum lot area of seven thousand square feet.

D. Storage Sheds. Notwithstanding the restrictions set forth in subsection A of this section, ~~one~~ a storage shed may be erected or placed upon property within this classification under the following circumstances:

- ~~1. After a building permit is first obtained for such storage shed.~~
- 1. After a zoning permit is first obtained for such storage shed.
- 2. That the total area of said structure (exterior measurements) shall not exceed one hundred fifty square feet;
- 3. The height of said structure shall not exceed ten feet at its highest point;
- 4. The structure shall be placed at the rear of the lots and shall not be placed closer than five feet to the rear thereof nor closer than eight feet to the side of said lots. (Ord. 71 s1-2, 1985).
- ~~5. No more than one storage shed shall be placed on any lot or series of lots upon which one residence may be located. The purpose of this section is to permit the erection or placement of not more than one shed per house and lot(s).~~

17.12.020 Extension of Services

*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.*

*The city council, however, shall be authorized to grant or deny 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.*

17.12.025 Annexation

*A. 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 – Class A.*

*B. Upon the date of acceptance of the annexation petition, the newly incorporated property shall be subject to all rules, regulations, and privileges of the applicable zoning district.*

**Chapter 17.16**

**RESIDENTIAL – GENERAL DISTRICT**

**Sections:**

17.16.010 Residential – General district

**17.16.010 Residential – General district.**

The following regulations shall apply in the residential – general district:

A. Use. No building, structure, or land shall be hereafter erected, structurally altered, or enlarged except for the following uses:

1. Any use permitted in the residential – class A district;
2. Multiple dwellings;
3. Apartments;
4. Rest homes, nurseries, schools, or nursing homes.

B. Height. No building or structure nor the enlargement of any building or structure shall be hereafter erected with any exposed side greater than thirty-five feet in height.

C. Area. No building or structure nor the enlargement of any building or structure shall be hereafter erected, unless the following yards and lot areas are provided and maintained in connection with such building, structure, or enlargement;

1. Front yard. There shall be a front yard of not less than twenty feet in depth from any street or avenue;

2. Side yards. There shall be a side yard on each side of the dwelling unit or accessory buildings of not less than eight feet;

3. Rear yards. There shall be a rear yard of not less than twenty feet. In the case of a single-family dwelling the rear yard shall be no less than forty feet;

4. Off-street parking. Off-street parking shall be provided on private property for one vehicle for each dwelling unit. (For multiple-family dwellings and apartments a dwelling unit is defined as an individual apartment.) Each off-street parking space shall consist of an adjacent area located entirely on private property, consisting of a rectangle measuring no less than ten feet by twenty-four feet. In addition, adequate drives or aisles providing access, turning and maneuvering space shall be provided on private property. (Ord. 71 s1-3, 1985).

**Chapter 17.20**

**COMMERCIAL – LOCAL DISTRICT**

**Sections:**

17.20.010 Commercial – Local district

**17.20.010 Commercial – Local district.**

The following regulations shall apply in the commercial – local district:

A. Uses. No building, structure, or land shall be hereafter used and no building or structure shall be hereafter erected, structurally altered or enlarged except for the following uses:

1. Any use permitted in the residential – general district, and in addition, the following:

Ambulance service office	Janitorial supplies
Antiques	Jewelry manufacturing
Architects, supplies	Kiddieland
Artificial limbs, braces, sales	Laboratories, clinical and dental
Artists materials and supplies	Laundries
Assembly halls and auditoriums	Laundromat
Automobile laundries	Laundry equipment and supplies
Automobile parks and supplies	Lawn mower repair shops
Automobile service station	Leather goods, sales and repairing
Auto seat covers and trim shops	Linen supply laundry service
Awnings, fabrication and sales	Lithographing
Bakers and baked goods	Liquor, storage and wholesale
Balls and bearings, retail shops	Lockers, food storage
Bank	Locksmiths' repair shops
Barber shop, drugstore or beauty parlor	Miniature golf
Bars and cocktail lounges	Mirrors, custom work
Bathroom accessories	Monuments, retail sales and display
Bath, public	Mortuary
Beer, ale and wine distributor, wholesale and storage	Motion picture theaters
Beverages, wholesale and storage	Musical instruments, repairing and sales
Bicycles, retail sales and repair	Music studios
Blood banks	News dealers
Blueprinting	Newspaper printing
Boats, retail	Offices, business, or professional
Book, stationery, florist, gift or jewelry store	Office service
Building materials, retail	Parking lots, commercial
Bookbinding, commercial	Pawnbroker
Bowling alleys	Photographer
Brushes, retail	Photographic developing and printing
Bus line depots	Photo-engraving
Business machines	Plastic and plastic products, retail and wholesale
Butcher's supplies, retail and wholesale	Plumbing fixtures and supplies, display and retail sales
Candy, wholesale	Pool and billiard halls
Carpet, rug and furniture clean	Precision instruments, repair
Car wash, hand	Printers
Cat and dog hospital, enclosed and limited to five cages of one animal capacity – outdoor runs	Private clubs and lodges qualifying as a non-profit entity
Chemicals and drugs, storage and distribution	Public storage garages
Cigarette services	Professional offices
Cleaning and dyeing plants	Radio and television repair
Clothing or wearing apparel shop	Radio and television studios
Coin machines, rental service	Reducing salons
Contractor's office with inside storage of materials only	Refrigeration equipment, repair and sales
Dental laboratories	Restaurant
Dental supplies	Riding equipment sales
Diaper supply service	Saddlery shops
Draperies, manufacturing	Salvation Army welfare activities
Drive-in restaurants	Schools
Dry-goods, wholesale and storage	Sign painters
Electric equipment, sales and repair	Sound system and equipment sales rental and repair
Exhibition hall	Taxidermists
Family game center	Telephone companies
Fire protection equipment, retail sales and service	Tire repairing
Floor coverings, sales	Upholsterers
Food markets	Veterinarian supplies
Frozen food, wholesale sales and distribution	Water softening equipment
Furniture, repair and refinishing	Window glass installation shops
Furniture, used, no outdoor display	
Furs, cleaning and storage	
Garage, repair	
Garages, public	
Glass shop, custom	
Guns, sales and repair	
Gymnasiums, private or commercial	
Hardware store	
Hospital	
Hotels and motels	



B. Height. No building or structure nor the enlargement of any building or structure shall be hereafter erected, with any exposed side greater than fifty feet in height.

C. Area.

1. Front Yard. No setback required;
2. Side Yards. No requirements;
3. Rear Yards. There shall be a rear yard of not less than ten feet in depth;
4. Residential Uses. When used as residential, all yard requirements will be the same as residential – general. (Ord. 71 s1-4, 1985).

**Chapter 17.24**

**COMMERCIAL – GENERAL DISTRICT**

**Sections:**

17.24.010 Commercial – General district

**17.24.010 Commercial – General district**

A. Uses. All uses permitted in the commercial – local district, and, in addition, the following:

Agriculture equipment, display and retail sales	Lumber, used and wholesale
Automobile rental and leasing	Machinery retail
Automobile sales, new and used	Meat, storage and wholesale
Beverages, bottling	Microwave relay tower
Blacksmiths	Milk bottling plant
Bottled gas, storage and distribution, no bulk storage	Mobile home sales
Butter and cheese manufacturing	Motor freight company garages
Cabinet making	Movers, warehouse
Camper sales	Paper products, wholesale and storage
Canvas goods, fabrication	Plant, nursery
Carpenters' shops	Plumbers shops
Car wash, mechanical, exterior	Pony rides
Cleaning compounds storage	Produce, warehouse
Cold storage, no slaughtering	Roofing materials, storage and sales
Commercial radio or television transmitting tower or station	Sheet metal work, fabrication
Dairy products, manufacturing	Shooting gallery
Dance halls	Skating rinks
Drive-in theaters	Tire repairing and recapping
Electrical contractors' shops	Trailer and truck rental
Equipment rentals	Travel trailer sales
Express companies	Used car sales
Farm implement sales and repair	
Feed, retail and sales office	
Firewood storage	
Fish, wholesale	
Food processing, wholesale	
Food products, warehouse	
Freight depot	
Furniture, wholesale and storage	
Golf or baseball driving range	
Grain elevators	
Lubricating compounds, storage	
Lumber, cabinet shop	

B. Height. Height requirements will be the same as commercial – local.

C. Area. Area requirements will be the same as commercial – local. (Ord. 71 s1-5 (part), 1985).

## Chapter 17.28

### BOARD OF ADJUSTMENT

#### Sections:

17.28.010 Board of adjustment.

17.28.010 Board of adjustment. The board of adjustment for the purposes of this title shall be the city council, and is established to act on variance applications as detailed herein.

#### A. Meetings.

1. Meetings of the board of adjustment shall be held at the conclusion of any regular monthly meeting of the city council. The president of the council shall act as chairperson;

2. The city ~~engineer~~ attorney shall assist the board for the purpose of giving advice and information on any applications for variance;

3. Meetings of the board shall be open to the public and minutes shall be kept of the proceedings showing the vote of all members.

#### B. Powers of the Board.

1. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this title, the board shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the provisions relating to the construction, setback, yard, area, and height requirements and parking requirements, as well as structural changes in, equipment or alterations of buildings or structures in harmony with their fundamental purpose or intent, so that the public health, safety, and general welfare may be conserved and substantial justice done;

2. In every case, however, where a permit is either granted or revoked by the board of adjustment, it must be affirmatively shown that an unnecessary hardship or practical difficulty would be created.

#### C. Procedure.

1. Written application for such zoning variances shall be filled with the city ~~engineer~~ and shall include a scale drawing of the proposal showing the placement of structures on the lot and the approximate locations of buildings thereon. ~~Notwithstanding any other provisions of this title, the uniform fee of fifteen dollars shall be paid to the city upon filing of each application for zoning variance for the purpose of defraying expenses incidental to the proceedings;~~

2. The city ~~engineer~~ shall cause to be made such investigation of fact bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of this title. ~~No application will be regarded as filed until the fee stated above shall be paid to the city.~~

#### D. Notice of Hearing.

1. Notice of hearing shall be published in a newspaper of general circulation

within the city once at least seven days prior to the hearing date, and notice shall be posted on the bulletin board in city hall;

2. Said hearing shall be held at the appointed time and place, in the city council chambers, and testimony taken by the board of adjustment from persons interested in said modifications request, from the city ~~engineer~~, and any persons desiring to be heard;

3. In approving such modifications, the board of adjustment shall designate such lawful conditions as will secure substantial protection for the public health, safety and general welfare, and shall find as follows;

a. Such modifications will not be inconsistent with the intent and purpose of this title,

b. That strict compliance with the provisions of this title would create unnecessary hardship or unreasonable situations on a particular property due to unusual or extreme topography, unusual shape of the property, or the prevalence of similar conditions in the vicinity of the property,

c. That such modifications will have minimal adverse effect on abutting properties or the permitted uses thereof,

d. That the lawful conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare, which provisions may include:

i. Bond to insure the removal of a structure within a specified period of time,

ii. A time period within which the proposed structure will be erected,

iii. Regulations of point of vehicular ingress and egress,

iv. Requiring landscaping and maintenance thereof,

v. Requiring the surfacing and marking of off-street parking and loading,

vi. Any other such conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purpose set forth in the section. Any approval under this section shall be subject to the terms of the condition designated in connection therewith,

vii. The board of adjustment may require that the applicant agree, in writing, to fulfill the conditions as set forth herein, or post with the city a faithful performance bond in the amount equal to the estimated costs of improvements plus fifteen percent to insure the installation of such improvements. This bond shall be furnished by a surety company authorized to write such bonds in the state of Montana, except in cases where a cash deposit is accepted by the city. (Ord. 71 s1-8, 1985).

**Chapter 17.32**

**ENFORCEMENT**

**Sections:**

- 17.32.010      Enforcement
- 17.32.020      Violation – Penalty

**17.32.010 Enforcement.**

A. This title shall be enforced by the ~~office of the city engineer~~ *city council/attorney*. Appeal of any decision made by the city ~~engineer~~ may be made to the city council.

B. A ~~building zoning~~ permit shall be issued by the city ~~engineer~~ upon ~~payment of a fee of \$.02 per square foot of intended improvement~~ *receiving a completed “Application for City Zoning Permit” that has been approved by the city inspector along with the appropriate fee* before any building, or premises, or part thereof may hereafter be created, erected, changed or converted, wholly, or in part, in its use or structure, to the effect that such building and use proposed therefore, conform to the provisions of this title.

C. Each application for a ~~building zoning~~ permit must be accompanied by a plat drawn to scale, and in such form, as may be prescribed by the city, showing the actual size and dimensions of the lot to be built on, the size of the building to be erected, location of building or improvement on the lot, approximate completion date of work to be done, and such other information as may be necessary to provide for the enforcement of the regulations in this title. The city ~~engineer~~ shall maintain a record of such application and plat. (Ord. 71 s1-7, 1985).

**17.32.020 Violation – Penalty.**

A. It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain a building or structure in the city, or cause the same to be done, contrary to or in violation of any provisions of this title.

B. Any person, firm, or corporation violating any of the provisions of this title shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this title is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than three hundred dollars, or by imprisonment for not more than ninety days, or both such fine and imprisonment. (Ord. 71 s1-9, 1985).

**APPLICATION FOR CITY ZONING PERMIT**

*Section 3: This Ordinance was passed, approved, and adopted by the City Council on the 11<sup>th</sup> day of August, 2014, and was approved by the Mayor on the 11<sup>th</sup> day of August, 2014.*

*Section 4: This Ordinance shall be effective thirty (30) days after its passage by the City Council and approval by the Mayor of the City of Harlem.*

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William J. Taylor  
Mayor of the City of Harlem

Attested to by:

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Rebecca Skoyen  
Clerk of the City of Harlem