

ORDINANCE 30.

AN ORDINANCE FOR THE PURPOSE OF PROMOTING HEALTH, ORDER, CONVENIENCE AND GENERAL WELFARE, BY REGULATING THE USE OF LAND, THE LOCATION AND THE USE OF BUILDINGS AND THE ARRANGEMENT OF BUILDINGS ON LOTS, AND THE DENSITY OF POPULATION IN THE CITY OF PARK RIVER.

Section I.

Short title, this ordinance shall be known and referred to as the "zoning ordinance" of the City of Park River.

Section 2.

General provisions,

1. It shall be the duty of the City Auditor to keep on file in the Auditor's Office, the map of the City indicating the zones as they may be constituted thereto from time to time, This map shall be made available to the public upon request at any reasonable time.
2. Any land which may be added to the City in the future shall be placed in the R-I Residential District until special action of the City Council shall definitely assign such land to another use district.
3. Automobile, junk and scrap iron shall not be located within the zoning limits unless by special permit of the City Council.
4. All buildings on masonry foundations erected on unplatted tracts adjoining any platted part of the city shall conform to the set-back provisions by extending the set back lines of the adjoining platted property.
5. In all future platted additions to the City, the city right of way shall be 66 feet and the minimum street width from curb to curb, 40 feet.
6. In all new subdivisions, after May 1, 2012, sidewalks shall be required.
7. It shall be unlawful to keep any cattle, horses, sheep, swine, goats or poultry within the city limits.
8. New construction after May 1, 2012, in all districts shall be required to comply with the rules and regulations for landscaping as set forth in Exhibit B attached hereto.

9. It shall be unlawful to keep or install a portable storage container within any zoning designation within the City of Park River. A portable storage container shall be defined as any container that is used for storage purposes and are known as shipping containers, cargo containers, cargo-trailer containers, metal freight containers, metal containers, designed for freight and/or cargo. This definition does not include the following: dumpsters actively used for solid waste or recycling collections, contractor's construction trailers or containers being used at active job sites, or trailers normally associated with private use such as stock car trailers, boat trailers, utility trailers, campers or other similar equipment.

a. Notwithstanding the foregoing prohibition, containers may be used for a period not to exceed thirty (30) days for the purposes of loading, unloading or storing furniture and other household items associated with relocation or construction. Any extension beyond thirty (30) days shall require a special permit from the City for longer occupancy accompanied with a projected completion date or removal date prior to authorization. No permit shall be granted for more than ninety (90) days within a one (1) year.

b. That to the best of the City's knowledge, only one property owner has installed a portable storage container, prior to the enactment of this ordinance. Said property is listed as Walsh County Tax Parcel #38.0000.12235.000 and shall not be subject to this restriction. However, any discontinuation or damage referenced in Section 4 of this Chapter shall cease this exception.

For the purpose of insuring reasonable visibility in the residential district, no structure may be erected or any vegetation maintained other than shrubs or hedges trimmed to a height of three (3) feet and trees trimmed to a height of 6 six feet above curb level, for a distance of thirty (30) feet from the intersection of the property lines of the two streets.

Section 3.

Division of Districts For the purpose of this ordinance, the City is divided into the following districts:

R-I SINGLE-FAMILY RESIDENCE DISTRICT.

The following shall apply in all R-I districts:

(J) *Statement of Intent.* This district is intended to preserve, create and enhance areas for single-family dwelling development of stick built construction on site or stick built residences built off site but delivered in one part, exclusive of garage, to the site.

(2) Uses permitted:

- (A) Dwelling, single-family detached, except mobile homes.
- (B) Public parks and playgrounds and other recreational uses.
- (C) Elementary schools, junior high schools, high schools.
- (D) Churches or similar places of worship, parish homes, and convents, provided that no principal structures shall be located within thirty (30) feet of any building lot line.
- (E) Customary accessory uses and buildings, provided such uses are incidental to the principal use. Any accessory building shall be located on the same lot with the principal building.
- (F) Family Child Care Homes.

(3) Building height limit. , Two and one-half (2½) stories, but not exceeding thirty-five (35) feet in height.

Required lot area, lot width and lot depth:

- (A) Lots for one-family dwelling purposes shall contain not less than fourteen thousand (14,000) square feet in area and a lot width of not less than sixty (60) feet at building setback line and a lot depth of not less than one hundred twenty (120) feet, except that when lots of greater width than sixty (60) feet are used, the depth of lot may be reduced to a minimum of one hundred (100) feet, provided the area requirements are not reduced and provided the necessary rear yard as required by this article is maintained. Notwithstanding the above, all rectangular lots shall have a minimum frontage of one hundred twenty (120) feet.

(5) Impervious surface area. The impervious surface area shall not exceed thirty-five (35) percent of the total lot area.

(6) Set Back.

(A) Front Yard.

- (1) The front yard depth on corner lots shall be in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards (12.5 feet) shall be provided on the other frontage.
- (2) On a lot which fronts a local street, a depth of twenty-five (25) feet shall be required. This front hard depth requirement may be

reduced a maximum of five (5) feet for a dwelling unit utilizing a rear-loaded garage, or a front-loaded garage under the following condition: The front yard depth for a dwelling unit may be reduced at a rate of one (1) foot per each two (2) feet of additional setback for a front-loaded garage beyond the minimum setback requirements as hereto before stated.

(C) *Side yard requirements.*

- (1) Each lot shall have two (2) side yards, one on each side of the principal building of a minimum width of 10 feet.
- (2) Under no circumstances may the distance between the eave line of, any building and the adjacent lot line be less than ten (10) feet.

(D) *Rear yard requirements.* Each lot shall have a rear yard of not less than forty (40) feet. No alley shall constitute a part of any rear yard. If there is an outbuilding that has a rear loaded overhead garage door, the building shall be a minimum of fifteen (15) feet from the alley.

R-2 RESIDENCE DISTRICT

(1) *Statement of intent.* This district is intended to allow development of houses, including modular, townhouses, condominiums, apartments and other types of multiple-family units,

(2) *Uses permitted.*

- (A) Any use permitted in paragraph (2) of the R-1 single-family residence district.
- (B) Modular houses which come in on flatbeds in sections and are placed on a solid block, wood, or concrete foundation.
- (C) Multiple-family dwellings, apartment buildings, and condominium apartments.
- (D) Townhouses.
- (E) Home occupations limited to office use only.
- (F) Boarding and lodging houses.

- (G) Clubs and lodges.
- (H) Congregate housing.
- (I) Off-street parking and loading.

(3) Conditional uses:

(A) Hospitals, sanitariums, rest homes, philanthropic, and other charitably supported institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two (2) acres in area; nor shall any principal structure of such use be permitted within fifty (50) feet of any building lot line.

(B) Child care centers, provided that:

1. The proposed child care center will not be detrimental to or endanger the public health, safety, convenience, or general welfare.
2. The proposed child care center will not be injurious to the use and enjoyment of adjacent property and will not significantly diminish or impair the values of such property.
3. The proposed child care center will not impede the normal and orderly development and improvements of the surrounding property.
4. The proposed child care center provided adequate parking, access, playground and other necessary facilities.
5. Adequate ingress and egress will be provided to minimize traffic congestion in the public streets.
6. The traffic generated by the proposed child care center can be safely accommodated on existing or planned street systems.
7. The child care center will agree to such limitations or conditions as may be deemed appropriate by the governing body, including but not limited to, locations, construction, maintenance, landscaping, maximum number of staff, maximum number of children, hours of operation, operation, location of playgrounds, and duration of existence.
8. Notice of the child care center's application for a conditional use permit is given to property owners lying within three hundred (300) feet of the proposed site of the child care center.

9. The proposed child care center is compatible with the character, use, appearance, construction, and lot size of adjacent properties.

(C) Private wireless communication towers and antennas.

(4) *Building height limit.* Three (3) stories, but not exceeding forty (40) feet in height.

(5) *Required lot area, width, depth:*

(A) Lots for one-family dwelling purposes in the original townsite and all additions, subdivisions, and unsurveyed city lots in existence on May 1, 2012, shall contain not less than ten thousand five hundred square feet (10,500') of area and a lot width of not less than seventy-five (75) feet and a minimum depth of not less than one hundred forty (140) feet. Lots for construction of one-family dwellings in all new additions, subdivisions, and unsurveyed city lots after May 1, 2012, shall contain not less than fourteen thousand (14,000) square feet.

(B) Multiple family dwellings (three (3) units and up); No multiple-family dwelling shall be established on a lot having an area width or depth less than specified for one-family dwellings, provided, however, that each building shall be located on a lot having an average area of not less than twenty-five hundred (2,500) square feet for each dwelling unit therein.

(C) Lots for two-family dwelling purposes shall contain not less than twelve hundred (12,000) square feet in area and a lot width of not less than one hundred (100) feet at the building setback line and a lot depth of not less than one hundred twenty (120) feet, provided the area requirement is not reduced and provided the necessary rear yard as required by this chapter is maintained.

(6) *Impervious surface area.* The impervious surface area shall not exceed forty-five (45) percent of the total lot area.

(7) *Front yard requirements:*

(A) In a block in the residential district in which less than twenty-five percent (25%) of the total number of lots have permanent buildings erected upon them, no building shall be erected which is set back from the front lot line less than twenty-five (25) feet. If more than 25% of the lots in a block are built upon no building shall be erected which is set back from the lot line less than a distance which shall be the average of the set back observed by the adjoining houses on either side. Reference to a "block" in this paragraph shall be construed to mean anyone side of a street between two intersecting streets.

- (B) in the case of a corner lot, set-back requirements for the street upon which the lot fronts shall apply, and the set back shall be twenty-five (25) feet except that when a building has been constructed on the adjoining lot less than that distance from the front lot line the corner lot shall have a setback not less than the average distance between twenty-five (25) feet and the setback distance of the adjoining building. Nothing herein shall prevent the construction of a building fronting on a street running parallel to the platting of the lot upon which it is to be constructed, but in that case, it shall not be less distance from the front of the lot than it would be by fronting upon the proper street and shall have a similar set back on the side street.
- (C) On a lot which fronts a local street, a depth of twenty -five (25) feet shall be required. This front yard depth requirement may be reduced a maximum of five (5) feet for any single-family, two-family, semi-detached, or townhouse dwelling unit utilizing a rear-loaded garage, or a front-loaded garage under the following conditions: The front yard depth for a dwelling unit may be reduced at a rate of one (1) foot per each two (2) feet of additional setback for a front-loaded garage beyond the minimum setback requirements as hereto before stated.
- (D) At the discretion of the zoning administrator, the front yard depth may be in accordance with the prevailing yard pattern, when the depth is less than stated above.

(8) Side yard requirements.

- (A) Side yard requirements shall be no less than five (5) feet.
- (B) Under no circumstance may the distance between the eave line of any building and the adjacent lot line be less than five (5) feet.

(9) Rear yard requirements. Each lot shall have a rear yard of not less than twenty (20) percent of the lot depth, but in no case shall the rear yard be less than forty (40) feet. No alley shall constitute a part of any rear yard. If there is an outbuilding that has a rear loaded overhead garage door, the building shall be a minimum of fifteen (15) feet from the alley.

(10) Special conditions:

- (A) Townhouses, subject to the following conditions:
 - 1. Covenants or townhouse association agreements shall be recorded with the register of deeds and shall govern the maintenance of the party wall, repainting and other conditions deemed necessary. No building permit shall be issued prior to approval of the covenants or townhouse association agreements

or prior to the filing of the same in the office of the register of deeds in and for Walsh County.

2. Lot shall contain a minimum of three thousand live hundred (3,500) square feet per townhouse unit and have a minimum of twenty-five (25) feet of frontage for each townhouse unit.

(B) Offices may not exceed thirty (30) percent of the main floor space of the dwelling and shall be conducted in the principal building, not in an accessory building and may not employ more than two (2) persons not residing on the premises.

(11) *Off Street Parking:* There should be provided for all newly constructed multi-unit dwellings, two (2) off-street parking spaces for each unit in said dwelling. In addition to the penalties provided in this ordinance, no building permit shall be issued until provision for such off street parking shall be included in the general plans submitted with the application for said building permit. A multi-unit dwelling shall mean any building or structure designed to house two or more families.

R-3 MANUFACTURED HOME RESIDENCE DISTRICT.

(1) *Statement intent.* It is the intent of this section to increase the supply of housing and variety of housing types available to the public by establishing a method to locate manufactured homes on a permanent foundation of solid block, wood or concrete on private lots while protecting the surrounding neighborhood from potential adverse effects.

(2) *Uses permitted:*

(A) All uses permitted in the R-1 and R-2 Districts.

(B) Off-street parking.

(3) *Conditional uses:*

(A) Child care centers, provided:

1. The proposed child care center will not be detrimental to or endanger the public health, safety, convenience, or general welfare.
2. The proposed child care center will not be injurious to the use and enjoyment of adjacent property and will not significantly diminish or impair the values of such property.

3. The proposed child care center will not impede the normal and orderly development and improvements of the surrounding property.
4. The proposed child care center provided adequate parking, access, playground and other necessary facilities.
5. Adequate ingress and egress will be provided to minimize traffic congestion in the public streets.
6. The traffic generated by the proposed child care center can be safely accommodated on existing or planned street systems.
7. The child care center will agree to such limitations or conditions as may be deemed appropriate by the governing body, including but not limited to, locations, construction, maintenance, landscaping, maximum number of staff, maximum number of children, hours of operation, operation, location of playgrounds, and duration of existence.
8. Notice of the child care center's application for a conditional use permit is given to property owners lying within three hundred (300) feet of the proposed site of the child care center.
9. The proposed child care center is compatible with the character, use, appearance, construction, and lot size of adjacent properties.

(B) Commercial accessory wireless communication towers and antennas.

(4) Building height limit. No building hereafter erected or structurally altered shall exceed a height of thirty-five (35) feet.

(5) Required lot area width, and depth:

(A) Lots for one-family dwelling purposes and lots for one (I) manufactured home shall contain not less than six thousand (6,000) square feet in area and a lot width of not less than fifty (50) feet at building setback line and a minimum of depth of not less than one hundred twenty (120) feet, except that when lots of greater width than fifty (50) feet are used the lot depth may be reduced to a minimum of one hundred (100) feet, provided the area requirement is not reduced and provided the necessary rear yard as required by this article is maintained.

(B) Reserved.

(6) *Impervious surface area.* The impervious surface area shall not exceed forty (40) percent of the total lot area.

(7) *Front yard requirements:*

(A) For all lots a depth of twenty-five (25) feet shall be required.

(8) *Side yard requirements.* Each lot shall have two (2) side yards, one on each side of the principal building not less than five (5) feet wide. In addition, all eaves shall be at least five (5) feet from the lot line.

(9) *Rear yard requirements.* Each lot shall have a rear yard of not less than twenty (20) percent of the lot depth, but in no case shall the rear yard be less than twenty-five (25) feet. No alley shall constitute a part of any rear yard. If there is an outbuilding that has a rear loaded overhead garage door, the building shall be a minimum of fifteen (15) feet from the alley.

(10) *Special conditions.*

(A) No manufactured home may be built, constructed, or otherwise assembled without the owner thereof having obtained a building permit from the office of the building inspector for which a fee shall be calculated in the same manner for which other fees are calculated within the City of Park River.

(B) All manufactured homes shall be covered with an exterior material customarily used on conventional dwellings and approved by the zoning administrator. The exterior covering material shall extend to the top of the foundation.

(C) All manufactured homes shall have a roof with a pitch of not less than two and one-half-inch vertical rise for each twelve (12) inches of horizontal run and consisting of shingles or other material customarily used for conventional dwellings and approved by the zoning administrator.

(D) The manufactured home may be required to have porches and eaves, or roofs with eaves when, in the opinion of the zoning administrator, it is necessary to make it compatible with the dwellings in the area.

(E) A manufactured home shall have a minimum width of twenty (20) feet.

(F) A manufactured home shall be attached to a permanent foundation system in compliance with all applicable regulations.

(G) All manufactured homes must have a date plate attached to the unit specifying, "This manufactured home is designed to comply with

federal manufactured home construction and safety standards in force at the time of manufacture."

(H) A manufactured home shall not be located on a permanent foundation system or a private lot unless it:

1. Was constructed after July 1, 1976, and was issued an insignia of approval by the U.S. Department of Housing and Urban Development; and

2. Has not been altered in violation of applicable codes.

(I) A manufactured home shall be subject to all provisions of this article applicable to residential structures, except that it shall be constructed to specifications adopted by the U.S. Department of Housing and Urban Development.

(11) *Density*. One (1) manufactured home per approved lot.

COMMERCIAL DISTRICT.

(A) *Permitted buildings and uses*. The following buildings and uses are permitted in the Commercial District:

(1) Retail stores and shops;

(2) Service establishments;

(3) Business and professional offices;

(4) Eating establishments;

(5) Funeral homes and mortuaries;

(6) Public garages, gasoline and filling stations;

(7) Amusements and recreation;

(8) Private clubs, lodges, or social buildings;

(9) Hotels, motels, tourist camps;

(10) Churches and parish houses;

(11) Trailer Courts but only by special permit of the City Council; and

- (12) Any accessory use customarily incident to a use herein listed.
- (13) Any other building or use similar to the uses herein listed and the type of services or goods sold;

INDUSTRIAL DISTRICT.

(A) *Permitted buildings and uses.* The following buildings and uses are permitted in the Industrial District.

- (1) The compounding, fabrication, assembly, treatment, manufacture, processing, and packaging of articles or materials shall be permitted in the industrial district; and
- (2) All uses permitted in the Commercial district.
- (3) Wholesale business;
- (4) Warehouses;
- (5) Grain elevators;
- (6) Contractor Plants and Accessory Storage;
- (7) Gasoline and Oil Bulk Stations and distributing plants;
- (8) Trailer Courts;
- (9) Any other use similar to the uses listed which is not in conflict with an ordinance of the City of Park River.

(B) *Permit required.* All uses in the Industrial District must by a special permit of the City Council.

AGRICULTURAL DISTRICT.

The following uses are permitted in an agricultural district:

- (A) Agricultural and agricultural buildings, except that confinement and feeding of livestock and poultry shall not be permitted within the zoning jurisdictional limits of the city; and
- (B) Single-family dwellings allowed under R-I Single-Family Residence District.

Section 4.

Non-conforming uses, provisions.

- 1.) The lawful use of a building or premises existing at the time that this ordinance takes effect may be continued, although such use does not conform to the provisions hereof. Such use may be extended through use of the building, provided no structural alterations are made therein, other than those required by ordinance or law. If such non-conforming use consists of a substantial building and is discontinued for one year or more, any future use of the building must be in conformity with the provisions of this ordinance. However, if any non-conforming use of lands on which there are no substantial buildings is discontinued, for any length of time, any future use of the land must be in conformity with the provisions of this ordinance.
- 2.) No billboards or signs shall be erected in any residential district.
- 3.) Any building which is partially damaged or destroyed by fire, wind, water or explosion may be restored to its former use, provided, however, that a building which does not conform to the requirements of the use district in which it is located and which is partially damaged or destroyed to the extent of fifty (50) percent or more, may not be rebuilt or reconstructed. Estimate of the extent of damage or destruction shall be made by the City Councilor its appointed agent.
- 4.) Public utility buildings to be used for the purpose of rendering service to the community when the City Council shall deem them to be clearly necessary for the public convenience may be permitted in any use district. Such variation from the district regulation may be allowed for such building by the City Council as they deem necessary.

Section 5.

Enforcement and Administration. It shall be the duty of the City Council to see that this ordinance is enforced through the proper legal channels.

In administering the provisions of this ordinance, the Council may:

- 1.) Issue a permit for a temporary non-conforming building, such permit to be issued for not more than one year, nonrenewable.
- 2.) Issue a permit for a reasonable variation of set-back regulations when the strict enforcement thereof will work unnecessary hardship.
- 3.) Issue special permits to build, maintain or operation non-conforming uses as set forth in paragraph 3 of this section.

- 4.) Make interpretations of the provisions of this ordinance, in such a way that when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance, a reasonable modification or variation in the application of the regulations established by this ordinance may be provided so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- 5.) Not issue special permits for house trailers in that it is required that trailers must be located in State authorized trailer parks or courts.

Petitions for special permits to allow the construction or operation of any non-conforming use must be accompanied by the written consent of the owners of at least seventy-five percent (75%) of the real property within three hundred (300) feet of the proposed non-conforming use. Following the fulfillment of this requirement, any petition for special permit must be approved by a vote of the Council after a public hearing. Due notice of the time, place, and purpose of such public hearing shall be published in the official paper of the City at least seven (7) days prior to the time of holding such public hearing.

The provisions of this ordinance defining the division of districts may be amended, changed or altered only by a majority vote of the City Council and only after public hearing which has been duly advertised. This action may initiate with the council, or may be commenced by a petition of no less than fifty percent (50%) of the property owners affected by the proposed change or alteration and fifty percent (50%) of those property owners within three hundred (300) feet of the proposed change.

Section 6.

Extension of Zoning Regulation.

Pursuant to Section 40-47-01.1 of the Century Code, the City of Park River, effective on and after October 6, 1975, hereby extends the application of its city's zoning regulations to all unincorporated territory located within one-half (1\2) mile of the city limits in all directions, and effective March 2, 1998, to all unincorporated territory located within one (1) mile of the city limits in all directions.

(Adopted 7-9-12)