

ORDINANCE NO. 2019 - 1

AN ORDINANCE OF THE CITY OF PRESTON, IDAHO, AMENDING ZONING PROVISIONS OF THE PRESTON MUNICIPAL CODE AS FOLLOWS: 17.08.030 – AREA AND HEIGHT REQUIREMENTS, RESIDENTIAL A-1 DISTRICT, AMEND 45% OF ALLOWED LOT COVERAGE TO INCLUDE ASPHALT, CEMENT OR DRIVEWAYS AND INCREASE MAXIMUM HEIGHT OF BUILDING TO THIRTY-FIVE (35) FEET; 17.08.060 ACCESSORY USES, RESIDENTIAL A-1 DISTRICT, AMEND ALLOWED LOT COVERAGE, HEIGHT OF ACCESSORY BUILDINGS, ACCESSORY BUILDING SETBACKS, REMOVE REQUIREMENT OF LAND SURVEY FOR MOVEABLE ACCESSORY BUILDING, AND EXCLUDE KITCHENS IN ACCESSORY BUILDINGS; 17.10.030 – AREA AND HEIGHT REQUIREMENTS, RESIDENTIAL A-2 DISTRICT, AMEND 45% OF ALLOWED LOT COVERAGE TO INCLUDE ASPHALT, CEMENT OR DRIVEWAYS AND INCREASE MAXIMUM HEIGHT OF BUILDING TO THIRTY-FIVE (35) FEET; 17.10.060 ACCESSORY USES, RESIDENTIAL A-2 DISTRICT, AMEND TO PROVIDE THAT ACCESSORY USES SHALL BE THE SAME AS PERMITTED FOR RESIDENTIAL A-1 IN SECTION 17.08.060; 17.12.030 – AREA AND HEIGHT REQUIREMENTS, RESIDENTIAL B DISTRICT, AMEND 45% OF ALLOWED LOT COVERAGE TO INCLUDE ASPHALT, CEMENT OR DRIVEWAYS AND INCREASE MAXIMUM HEIGHT OF BUILDING TO THIRTY-FIVE (35) FEET; 17.12.060 ACCESSORY USES, RESIDENTIAL B DISTRICT, AMEND TO PROVIDE THAT ACCESSORY USES SHALL BE THE SAME AS PERMITTED FOR RESIDENTIAL A-1 IN SECTION 17.08.060; 17.14.030 – AREA AND HEIGHT REQUIREMENTS, TRANSITIONAL DISTRICT, AMEND 45% OF ALLOWED LOT COVERAGE TO INCLUDE ASPHALT, CEMENT OR DRIVEWAYS AND INCREASE MAXIMUM HEIGHT OF BUILDING TO THIRTY-FIVE (35) FEET; 17.14.060 ACCESSORY USES, TRANSITIONAL DISTRICT, AMEND ALLOWED LOT COVERAGE, HEIGHT OF ACCESSORY BUILDINGS, ACCESSORY BUILDING SETBACKS, REMOVE REQUIREMENT OF LAND SURVEY FOR MOVEABLE ACCESSORY BUILDING, AND EXCLUDE KITCHENS IN ACCESSORY BUILDINGS; 17.16.060 ACCESSORY USES, BUSINESS DISTRICT, AMEND HEIGHT OF ACCESSORY BUILDINGS, AND REMOVE REQUIREMENT OF LAND SURVEY FOR MOVEABLE ACCESSORY BUILDING; 17.20.010 – CERTAIN ANIMALS PROHIBITED-A-1 AND A-2 DISTRICTS, ALLOW FOR UP TO FIVE (5) CHICKENS, PROHIBIT CHICKENS TO ACCESS SURROUNDING PROPERTIES, PROHIBIT ROOSTERS IN ALL ZONES, AND CAUSE OWNERS OF ANIMALS TO BE RESPONSIBLE FOR ANY DAMAGE CAUSED; 17.20.020 – CERTAIN ANIMALS PROHIBITED-B DISTRICT, AMEND TO INCLUDE TRANSITIONAL DISTRICT, AMEND PROVISIONS FOR ANIMALS IN MULTI-FAMILY DWELLINGS AND DUPLEXS IN RESIDENTIAL B AND TRANSITIONAL, ALLOW FOR CERTAIN ANIMALS BASED UPON ACREAGE, ALLOW CHICKENS, GOATS AND STEERS, PROHIBIT CHICKENS TO ACCESS SURROUNDING PROPERTIES, PROHIBIT ROOSTERS IN ALL ZONES, CAUSE OWNERS TO BE RESPONSIBLE FOR ANY DAMAGE CAUSED, AND PROVIDE THAT GRANDFATHER RIGHTS SHALL APPLY TO PROVISIONS OF CHAPTER 17.20 IN ACCORDANCE WITH 17.24.090; ALLOW PUBLICATION BY SUMMARY; DISPENSE WITH READING ON THREE SEPARATE DAYS AND ESTABLISH AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PRESTON, IDAHO, AS FOLLOWS:

Section 1. Title 17 – Zoning, Chapter 8 – Residential A-1 District, Preston Municipal Code, is amended as follows:

17.08.030 - Area and height requirements.

Area and height requirements in the residential A-1 district are:

A. The minimum lot area for each residential structure shall be twelve thousand five hundred (12,500) square feet.

B. Not more than forty-five (45) percent of the lot area shall be covered by buildings, ~~or structures, asphalt, cement, or driveways.~~

C. A maximum height of ~~twenty-five (25)~~ thirty-five (35) feet to be measured from the existing grade of the proposed building to the peak of the roof of the building.

D. For planned unit developments (PUD), the area and height requirements shall be per Chapter 16.34.

17.08.060 - Accessory uses.

A. Accessory uses are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to no more than two (2) buildings, each ten (10) feet in height the height of which shall be equal to or less than the existing home, which buildings shall total no more than two hundred fifty (250) square feet in size for both buildings. Not more than forty-five (45) percent of the lot shall be covered by buildings, structures, or hard surfaces. Accessory uses shall not be permitted in front or side yards. ~~All a~~ Accessory buildings shall be set back a minimum of eight (8) feet from ~~the all~~ property lines ~~in the rear yard, except structures one hundred twenty (120) square feet or less in size and ten (10) feet or less in height may be located anywhere in the rear yard, except that any accessory building on a corner lot shall maintain a twenty-five (25) foot side yard adjacent to the street, which intersects the street upon which the principle building fronts in a rear yard must be located at a minimum distance of sixteen (16) feet from any residence located upon any adjoining property. No accessory building shall be located on, under, or over a utility easement, unless the building can be readily moved~~ If such structures are located over, across or under utility easements, at the request of the utility owner, the property owner shall remove such structures when necessary for maintenance, repair or replacement of the utility. Any accessory building over one hundred twenty (120) square feet in size shall require a building permit. Any structure one hundred twenty (120) square feet or less in size shall not require a building permit. Other accessory uses may be allowed pursuant to the provisions of Chapter 17.26 of this title relating to special use permits.

B. Pre-built accessory buildings that can be moved as a single unit, are not permanently affixed to the ground, and able to be readily moved after final placement, do not require a survey in order to obtain a building permit. Accessory buildings built or rebuilt on an existing foundation do not require a survey so long as area, set back requirements, and all other provisions of this code are met. Metal framed carports (a roof over unenclosed walls, not attached to any other structure) that are moveable even after construction do not require a survey.

C. In addition to those accessory uses permitted in this Section 17.08.060, an accessory use for a detached garage, constructed on a permanent foundation, exceeding two hundred fifty (250) square feet in size, designed for the parking of motor vehicles, on a lot or property where a single-family dwelling is located, shall be permitted if the accessory building for said use complies with the area and set back requirements set forth in Sections 17.08.030 and 17.08.040 of this Code. Said accessory building shall not exceed the height of the existing home ~~twenty (20) feet in height. A garage may be located in a side yard so long as its foundation is even with or behind the front most portion of the existing foundation of the home to which it is an accessory.~~ Said accessory building shall not be used as a dwelling or dwelling unit or as a living quarters for human occupancy. Said structure shall not be used for commercial or business purposes or for a home occupation. No such accessory building shall be located in front or side yards or be located on or over utility easements. Applicants for a detached garage accessory use must first obtain a building permit from the city.

D. An accessory building shall not be used as a dwelling, dwelling unit, or as a living quarters for human occupancy. An accessory building shall not include a kitchen. Restroom facilities may be allowed in an accessory building so long as they are connected to the existing sewer line/septic system of the home. No other drains in an accessory building will be allowed to connect to the sewer line/septic system.

E. No accessory building shall be used as a place of commerce or business nor shall it be used as the primary location from which a business is operated as such uses would adversely affect the character of a residential neighborhood.

FA. For planned unit developments (PUD), accessory uses requirements shall be per Chapter 16.34.

Section 2. Title 17 – Zoning, Chapter 10 – Residential A-2 District, Preston Municipal Code, is amended as follows:

17.10.030 - Area and height requirements.

Uses allowed in the Residential A-2 district are:

A. The minimum lot area for each residential structure shall be twelve thousand five hundred (12,500) square feet.

B. Not more than forty-five (45) percent of the lot area shall be covered by buildings, or structures, asphalt, cement, or driveways.

C. A maximum height of ~~twenty-five (25)~~ thirty-five (35) feet to be measured from the existing grade of the proposed building to the peak of the roof of the building.

D. For planned unit developments (PUD), the area and height requirements shall be per Chapter 16.34.

17.10.060 - Accessory uses.

~~Accessory uses shall be the same as permitted for Residential A-1 in Section 17.08.060. are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to no more than two (2) buildings, each ten (10) feet in height, which buildings shall total no more than two hundred fifty (250) square feet in size for both buildings. Accessory uses shall not be permitted in front or side yards. All accessory buildings shall be set back a minimum of eight (8) feet from the property lines in the rear yard, except structures one hundred twenty (120) square feet or less in size and ten (10) feet or less in height may be located anywhere in the rear yard, except that any accessory building in a rear yard must be located at a minimum distance of sixteen (16) feet from any residence located upon any adjoining property. If such structures are located over, across or under utility easements, at the request of the utility owner, the property owner shall remove such structures when necessary for maintenance, repair or replacement of the utility. Any accessory building over one hundred twenty (120) square feet in size shall require a building permit. Any structure under one hundred twenty (120) square feet in size shall not require a building permit. Other accessory uses may be allowed pursuant to the provisions of Chapter 17.26 of this title relating to special use permits.~~

~~In addition to these accessory uses permitted in this Section 17.10.060, an accessory use for a detached garage, constructed on a permanent foundation, exceeding two hundred fifty (250) square feet in size for the parking of motor vehicles on a lot or property where a single-family dwelling is located, shall be permitted if the accessory building for said use complies with the area and set back requirements set forth in Sections 17.10.030 and 17.10.040 of this code. Said accessory building shall not exceed twenty (20) feet in height. Said accessory building shall not be used as a dwelling or dwelling unit or as a living quarters for human occupancy. Said structure~~

~~shall not be used for commercial or business purposes or for a home occupation. No such accessory building shall be located in front or side yards or be located on or over utility easements. Applicants for a detached garage accessory use must first obtain a building permit from the city.~~

~~A. For planned unit developments (PUD), accessory uses requirements shall be per Chapter 16.34~~

Section 3. Title 17 – Zoning, Chapter 12 – Residential B District, Preston Municipal Code, is amended as follows:

17.12.030 - Area and height requirements.

Area and height requirements in the Residential B district are:

A. The minimum lot area for each single-family dwelling shall be twelve thousand five hundred (12,500) square feet.

B. The minimum lot area for a two-family dwelling shall be seventeen thousand five hundred (17,500) square feet. The minimum lot area for each three-family dwelling structure shall be twenty-one thousand (21,000) square feet. The minimum lot area for a four-family dwelling structure shall be twenty-five thousand (25,000) square feet. The minimum lot area of each dwelling unit above that required for four-family dwellings shall be one thousand five hundred (1,500) square feet of land area for each additional unit within the same structure up to twelve (12) units, and two thousand (2,000) square feet of land area for each additional unit.

C. Not more than fifty-five (55) percent of the lot area may be covered by buildings, structures, asphalt, cement, or driveways.

D. Any building or structure or portion thereof hereafter erected shall not exceed three (3) stories or ~~thirty-five (305)~~ feet in height measured from the existing grade of the proposed building to the peak of the roof of the building, ~~finished elevation of the first floor to the eaves, whichever is less.~~

E. For planned unit developments (PUD), the area and height requirements shall be per Chapter 16.34.

17.12.060 - Accessory uses.

~~Accessory uses shall be the same as permitted for Residential A-1 in Section 17.08.060, are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to no more than two (2) buildings, each ten (10) feet in height, which buildings shall total no more than two hundred fifty (250) square feet in size for both buildings. Accessory uses shall not be permitted in front or side yards. All accessory buildings shall be set back a minimum of eight (8) feet from the property lines in the rear yard, except structures one hundred twenty (120) square feet or less in size and ten (10) feet or less in height may be located anywhere in the rear yard, except that any accessory building in a rear yard must be located at a minimum distance of sixteen (16) feet from any residence located upon any adjoining property. If such structures are located over, across or under utility easements, at the request of the utility owner, the property owner shall remove such structures when necessary for maintenance, repair or replacement of the utility. Any accessory building over one hundred twenty (120) square feet in size shall require a building permit. Any structure under one hundred twenty (120) square feet in size shall not require a building permit. Other accessory uses may be allowed pursuant to the provisions of Chapter 17.26 of this title relating to special use permits.~~

~~In addition to those accessory uses permitted in this Section 17.10.060, an accessory use for a detached garage, constructed on a permanent foundation, exceeding two hundred fifty (250) square feet in size for the parking of motor vehicles on a lot or property where a single-family dwelling is located, shall be permitted if the accessory building for said use complies with the area and set-back requirements set~~

~~forth in Sections 17.10.030 and 17.10.040 of this code. Said accessory building shall not exceed twenty (20) feet in height. Said accessory building shall not be used as a dwelling or dwelling unit or as a living quarters for human occupancy. Said structure shall not be used for commercial or business purposes or for a home occupation. No such accessory building shall be located in front or side yards or be located on or over utility easements. Applicants for a detached garage accessory use must first obtain a building permit from the city.~~

~~A. For planned unit developments (PUD), accessory uses requirements shall be per Chapter 16.34~~

Section 4. Title 17 – Zoning, Chapter 14 – Transitional District, Preston Municipal Code, is amended as follows:

17.14.030 - Area and height requirements.

Area and height requirements in the Transitional district are:

A. The minimum lot area for a single-family dwelling shall be twelve thousand five hundred (12,500) square feet where city water and sewer services are provided. Where city sewer services are not provided, the lot shall be of a size greater than twelve thousand five hundred (12,500) square feet as may be required by the District Health Department. The minimum lot area for single-family dwellings for lots existing at the time of passage of the ordinance codified in this chapter within the Transitional district shall be six thousand (6,000) square feet.

B. The minimum lot area for a two-family dwelling shall be seventeen thousand five hundred (17,500) square feet, the minimum lot area for each three-family dwelling structure shall be twenty-one thousand (21,000) square feet, and the minimum lot area for a four-family dwelling structure shall be twenty-five thousand (25,000) square feet where city water and sewer services are provided. Where city sewer services are not provided, the lot shall be of a size greater than that required herein as may be required by the District Health Department. The minimum lot area of each dwelling unit above that required for four-family dwellings shall be one thousand five hundred (1,500) square feet of land area for each additional unit within the same structure up to twelve (12) units, and two thousand (2,000) square feet of land area for each additional unit.

C. Not more than forty-five (45) percent of the lot area may be covered by buildings or structures.

D. Any building or structure or portion thereof thereafter erected shall not exceed three (3) stories or thirty-five (305) feet in height measured from the existing grade of the proposed site to the peak of the roof of the building, unless approved by a special use permit; provided, however, that silos and storage facilities for grain or feeds may exceed this height limitation.

E. For planned unit developments (PUD), the area and height requirements shall be per Chapter 16.34.

17.14.060 - Accessory uses.

A. Accessory uses are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to a ~~one (1) story in height equal to or less than the existing principle structure~~ and shall not encroach upon the front or side yards other than as specified in this chapter.

B. In addition to those accessory uses permitted in this Section 17.14.060, an accessory use for a detached garage, constructed on a permanent foundation, exceeding two hundred fifty (250) square feet in size, designed for the parking of motor vehicles, on a lot or property where a single-family dwelling is located, shall be permitted if the building complies with the area and set back requirements set forth in this Code. Said accessory building shall not exceed the height of the existing home. A

garage may be located in a side yard so long as its foundation is even with or behind the front most portion of the existing foundation of the home to which it is an accessory.

C. An accessory building shall not be used as a dwelling, dwelling unit, or as a living quarters for human occupancy. An accessory building shall not include a kitchen. Restroom facilities may be allowed in an accessory building so long as they are connected to the existing sewer line/septic system of the home. No other drains in an accessory building will be allowed to connect to the sewer line/septic system.

D. Pre-built accessory buildings that can be moved as a single unit, are not permanently affixed to the ground, and able to be readily moved after final placement, do not require a survey in order to obtain a building permit. Accessory buildings built or rebuilt on an existing foundation do not require a survey so long as area, set back requirements, and all other provisions of this code are met. Metal framed carports (a roof over unenclosed walls, not attached to any other structure) that are moveable even after construction do not require a survey.

Section 5. Title 17 – Zoning, Chapter 16 – Business District, Preston Municipal Code, is amended as follows:

17.16.060 - Accessory uses.

A. Accessory uses for commercial buildings are permitted if constructed either at the same time or subsequent to the main buildings. Such uses shall be limited to two (2) stories, or thirty-five (35) feet in height and shall not encroach upon required setback areas. For single-family residential properties existing prior to the passage of this ordinance, accessory use requirements and restrictions for the nearest residential zone shall be met.

B. Pre-built accessory buildings that can be moved as a single unit, are not permanently affixed to the ground, and able to be readily moved after final placement, do not require a survey in order to obtain a building permit. Accessory buildings built or rebuilt on an existing foundation do not require a survey so long as area, set back requirements, and all other provisions of this code are met. Metal framed carports (a roof over unenclosed walls, not attached to any other structure) that are moveable even after construction do not require a survey.

Section 6. Title 17 – Zoning, Chapter 18 – Industrial District, Preston Municipal Code, is amended as follows:

17.18.060 - Accessory uses.

Accessory uses are permitted. Pre-built accessory buildings that can be moved as a single unit, are not permanently affixed to the ground, and able to be readily moved after final placement, do not require a survey in order to obtain a building permit. Accessory buildings built or rebuilt on an existing foundation do not require a survey so long as area, set back requirements, and all other provisions of this code are met. Metal framed carports (a roof over unenclosed walls, not attached to any other structure) that are moveable even after construction do not require a survey. Accessory buildings may not be used as a dwelling, dwelling unit, or as a living quarters for human occupancy.

Section 7. Title 17 – Zoning, Chapter 20 – Prohibited Uses, Preston Municipal Code, is amended as follows:

17.20.010 - Certain animals prohibited-A-1 and A-2 districts.

A. In zoning districts Residential A-1 and A-2 as defined previously in this title, there shall be no horses, cattle, sheep, swine, goats, mules, donkeys, chickens, or other similar domestic animals kept or harbored, and there shall furthermore be no raising of any animals for any commercial purposes whatsoever in said districts.

B. Up to five (5) chickens are allowed per single family residence, for personal use. No chickens should be allowed to freely access surrounding properties. Roosters are prohibited in all zones. Any sheds constructed for the use of chickens, shall be at least twenty (20) feet from any residential dwelling, in addition to conforming to all other building regulations or city code.

C. Owners of such animals are responsible for any damages made by an animal to the property of another. All facilities used to house or shelter animals shall be kept neat and clean, so as not to attract rodents, flies, and other pests or create an odor offensive to adjacent property owners.

17.20.020 - Certain animals prohibited- Residential B and Transitional districts.

A. In Residential B and Transitional districts, lots containing multi-family dwellings, including duplexes, shall adhere to 17.20.010 with respect to animals.

B. In zoning districts Residential B and Transitional there shall be no stallions, goats, bulls, or swine kept or harbored. A maximum of two (2) cows/steers or two (2) horses per acre (up to a ten (10) animal maximum) or ~~eight (8)~~ four (4) sheep/goats per acre (up to a twelve (12) animal maximum) or a proportionate combination thereof according to the foregoing limitations may be kept in private stables in zoning districts Residential B or Transitional for personal use only. Any stables, corrals, or sheds constructed for the use of such animals, or for chickens, shall be at least thirty (30) one hundred (100) feet distant from any residential dwelling, in addition to conforming to all other building regulations stated in this or other city ordinances.

C. Additionally, in both Residential B and Transitional districts, property owners with less than one (1) acre may keep up to five (5) chickens, while property owner with one (1) acre or more may keep up to ten (10) chickens for personal use. No chickens should be allowed to freely access surrounding properties. Roosters are prohibited in all zones.

D. Owners of such animals are responsible for any damages made by an animal to the property of another. All facilities used to house or shelter animals shall be kept neat and clean, so as not to attract rodents, flies, and other pests or create an odor offensive to adjacent property owners.

E. Provisions for animals contained in this chapter shall not apply to existing agricultural operations or property with grandfathered animal rights in accordance with Section 17.24.090.

Section 8. This Ordinance is hereby declared to be severable. Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purposes of the Ordinance before the declaration of partial invalidity.

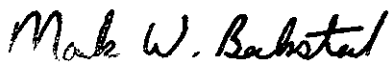
Section 9. This Ordinance may be published in summary form allowed by Idaho Code.

Section 10. The rule requiring an ordinance to be read on three separate days, one of which shall be a reading in full, is dispensed with and this Ordinance shall become effective upon its passage, approval and publication according to law.

PASSED BY THE COUNCIL on February 11, 2019 AND APPROVED BY THE MAYOR on February 11, 2019.

Approved

Attest



Mark W. Beckstead, Mayor



Linda Acock, City Clerk