

10-1-7: MISCELLANEOUS, UNILATERAL HEIGHT, AREA, YARD REGULATIONS INCLUDING STRUCTURE HEIGHT EXCEPTIONS, LOT AREA EXCEPTIONS, STRUCTURE QUANTITY AND LOT SPLITTING CONTROLS, SWIMMING POOL SECUREMENT REQUIREMENTS, SETBACK INTRUSION ALLOWANCES, ETC.: 🌐

A. Building Height Exceptions:

1. Through Lots:

- a. On through lots having a depth of one hundred fifty feet (150') or less, the building height may be measured from the adjoining sidewalk level on either street.
 - b. On through lots having a depth of more than one hundred fifty feet (150'), the height regulations and basis of height measurements for the street permitting the greater height shall apply to a depth of not more than one hundred fifty feet (150') from such street.
- #### 2. Roof Structures:
- Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fore or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, TV and CB antennas, satellite dishes, steeples and similar structures may be erected above the height limits prescribed in each of the use districts, provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space.
- #### 3. Additional Height Allowed For Public Buildings:
- Public utility buildings, public and parochial schools and churches may be erected to any height provided the building is set back from required building setback lines at least one foot (1') for each additional foot of building height above the maximum height, in feet, permitted in the zone within which the building is located.
- #### 4. Minimum Height Of Principal Building(s):
- Structures that have their entire or the majority of their superstructure underground (i.e., basement style houses not houses with basements) shall not be permitted anywhere within the city limits.

B. General Yard/Frontage/Access Regulations:

1. Legal Access To Or Frontage On A Public Street:

- a. Generally: All building lots/parcels, or lots/parcels proposed as future building lots, in all land use zones whereon some structure will be emplaced are, and shall be, required to have legal access to a public street before any building permits for structures on those lots/parcels may be issued by the city (as noted in the definition of "property" in section [10-1-2](#), "Definitions", of this chapter).
- b. Abutting A Public Street: All building lots/parcels abutting or proposed to abut a public street shall comply with any street frontage requirement required by the zoning district within which those lots/parcels are, or will be, located.

- c. **Abutting A Private Street Or Common Driveway:** Lots/parcels abutting or proposed to abut an approved private street or an approved common driveway shall have, or be demonstrated to have, legal access to a public street (often accomplished via viable and recorded easements) before any building permits for structures on those lots/parcels may be issued by the city.
2. **Yard Requirements For Property Abutting Partial Or Future Street Rights Of Way:** No building shall be erected on a lot which abuts a public street having only a portion of its required width dedicated, unless the lot/parcel area provided and maintained in connection with such building has a width and/or depth needed to complete the street width and provide the width and/or depth of land necessary to comply with the required setbacks according to the regulations of the zone within which the structure will be placed.
3. **Open Space And Yards Around Buildings:**
 - a. No yard (setback area) or open space around any building shall be considered as providing a yard or open space for any other building.
 - b. No yard (setback area) or open space on adjoining property shall be considered as providing a yard or open space for another lot or development site.
 - c. No structure/building, whether principal or accessory, shall occupy or be placed over a required setback or an easement except as may be allowed for portable, temporary stands allowed by the planning director to so reside in conjunction with provisions in section [10-1-12](#) of this chapter.
4. **Setback For Garages And Carports:** Any newly proposed or existing garage or carport structure shall be required to comply with zoning district setback requirements pertinent to the land whereon the garage or carport lies, or, is proposed be emplaced. Furthermore, there shall be provided at least twenty feet (20') of driveway from the street line (i.e., front or side street property line) to the foremost entry point of any attached/detached garage's or attached/detached carport's door or entry respectively.

Garages or carports on corner or through (double fronted) lots/parcels whose doors or entries face, or are intended to face, and access a side street must be set back twenty feet (20') from that side street line; notwithstanding any ten foot (10') setback allowance stated elsewhere in the rest of these zoning regulations (this title). However, garages or carports on corner lots/parcels with the middle of their auto bay doors/entries turned at least fifty five degrees (55°) away from the side street may use the ten foot (10') setback instead of twenty feet (20'). In such cases, the ten foot (10') setback will be measured from the point of the garage nearest the street, perpendicularly, to the edge of the adjoining right of way.

5. **Vision Clearance Required:** Trees in the vision clearance area shall be trimmed below at least nine feet (9') above the curb line to provide clear visibility up to that height. Shrubs and site obscuring fences or walls in vision clearance areas shall not exceed two and one-half feet (2¹/₂') in height above the curb line or projected future curb line.

On all corner properties located at the intersection of the alleys or streets with adjacent streets, unless otherwise permitted by the city engineer and commission, there shall be provided vision clearance in accordance with the definition of "vision clearance" in section [10-1-2](#) of this chapter.

6. **Common Property Line:** When the common property line separating two (2) or more contiguous properties, if and when under common ownership, is covered by a building such properties shall constitute a single development site and the interior yards (setbacks) as required by the district(s)

pertinent thereto shall then not apply to the intervening, common property lines (except in the case of carport structures which shall not be allowed to connect over property lines). This code's stated allowance to have structures straddle property lines of lots/parcels under the same ownership shall not have or be construed to have the effect of abrogating codes, laws, regulations or requirements as administered by other agencies (e.g., building, stormwater and fire codes) pertaining to such common connections.

7. Dwellings Where Permitted In Commercial Zones Above Nonresidential Buildings: The front and interior yard requirements for residential uses shall not be applicable, provided that all yard requirements for the district in which such building is located are complied with. (Ord. 3895, 1-7-2010)

C. Lot Area Exceptions: The following exceptions shall be deemed to exist and to be eligible for legal, nonconforming status when demonstrated to be legitimate (a historical reality):

1. Lots of record with less than the area required by each use district of an imposed subdistrict which existed prior to June 11, 2002.
2. Lots or development sites which, as a process of their creation, were approved with substandard area by the commission.

D. Principal Buildings And Uses; And Number Of Accessory Buildings Allowed:

1. On any property in any residential zone, except the RML, RMH and RP districts, there shall be allowed only one principal use (as allowed by section [10-3-2](#) of this title) or structure (containing an allowed use). Still, in the RML, RMH or RP zone, if land division is proposed and/or executed in order to separate structures (apartment buildings) once planned and/or proposed, perhaps, as a singular development, then all new parcels/lots created shall meet zoning dimensional, setback and property area standards in order to be considered as acceptable and "conforming to code".

New parcels/lots shall also be encumbered with sufficient easements/maintenance agreements to allow shared vehicular maneuvering and parking access across and via service drives between the buildings unless total site redevelopment, that would legally separate parking for each building, is done. The planning director or his/her designee may review and/or inspect such proposals to determine their legitimacy before the law.

2. Either a record of survey or subdivision plat shall be required to be approved and recorded in order to divide property that the city will recognize and may issue building permits upon. That is, creation of new lots or parcels merely/solely by creation of metes and bounds descriptions is/shall not be considered an acceptable means of land division (where the intent is to split a property into various properties for immediate or future conveyance) and will prevent the city from issuing building permits upon such pieces of land so divided. Lot splits done by description for lending purposes shall not create nonconforming setbacks or lot areas without variance approval as reiterated in subsection G of this section. This restriction shall not preclude site clearance work nor emplacement of utilities where approved by city engineering and/or the state division of environmental quality.
3. In any single-family residential district, there shall be no more than two (2) accessory buildings on any lot or development site.

4. It shall be unlawful for any person owning, leasing, occupying, or having charge of any premises to facilitate and/or allow any person(s) to permanently reside in or stay more than thirty (30) days and nights in an "unauthorized dwelling unit" (as defined by this code) on their private property (or that which they manage) unless approved otherwise via a CUP. Use of guesthouses as/for residential unit rentals is prohibited (see section [10-3-2](#) of this title). (Ord. 3960, 4-4-2011)

E. Property Coverage, Parking Coverage And Outdoor Living Area Requirements: Refer to provisions of specific districts. (Ord. 3895, 1-7-2010)

F. General Setback (Required Yard(s)) Exceptions And Permitted Intrusions Into Required Yards (Setbacks): The following intrusions may project into required yard (setback) space to the extent and under the conditions and limitations indicated:

1. Depressed Ramps Yard Intrusions Allowed: In any district, openwork fences, hedges, guardrailings or other landscaping or architectural devices for safety protection around depressed ramps or stairs may be located in required yards provided that such devices are not more than three and one-half feet (3¹/₂') in height.
2. Accessory Structures Yard Intrusions Allowed:
 - a. In Front Yards On Through/Double Fronted Lots: In any case where a through property has a depth of not more than one hundred forty feet (140'), accessory structures, except for garages or carports, may be located in one of the required front yards provided that every portion of such accessory building is not less than ten feet (10') from the nearest street line, that same front yard is thereafter identified and serves as the functional rear yard, and that the accessory building is fenced from view from any adjoining street.
 3. Projecting Building Features Yard Intrusions Allowed: The following features may project into the required front yard no more than five feet (5') and into the required interior yards no more than two feet (2') provided that such projections are no closer than three feet (3') to any interior lot line:
 - a. Eaves, cornices, bay windows lacking floor area, belt courses, sills, awnings, buttresses or other similar features.
 - b. Chimneys and fireplaces, provided they do not exceed eight feet (8') in width.
 - c. Porches, platforms, ramps, decks or landings that do not extend above the level of the ground more than forty two inches (42").
 4. Structure Setback Measurement Criteria: Setbacks in all zones for all structures and parking or landscaping features shall not be measured off of or from utility easement edges. Setbacks shall only measure from the edge of an access type easement (e.g., private driveways, private roads, service drives) if such access easement abuts/adjoins a property's boundary, but does not cross over/traverse that property. If such an easement crosses or traverses a property or any portion thereof, then setbacks shall not be taken off the easement's edges but rather the property lines, as commonly done.

5. Swimming Pools: Swimming pools not completely enclosed within a building having solid walls shall be set back at least five feet (5') from the property lines of the lot upon which the pool is located and shall either be completely surrounded by a fence (either around the pool or encompassing the yard/property wherein the pool is located) that shall be at least five feet (5') tall (there shall be no openings in the fence larger than 36 square inches, except for a gate(s), which shall be equipped with self-closing and self-latching devices), or, an approved safety cover shall be provided to cover the pool. An approved safety cover may be allowed as a substitution for a fence provided the cover is of design agreeable to the planning director and set forth in written policy.

G. Lot Splitting:

1. In the process of splitting property, unless otherwise allowed in accordance with applicable city ordinances, no space needed to meet the width, depth, yard, area, coverage, parking or other requirements of this title for a property or building may have ownership transferred apart from such property or building unless other space is simultaneously provided back to the grantor in order to keep the grantor property compliant with pertinent bulk zoning requirements.
2. Unless otherwise allowed in accordance with applicable city ordinances, no property that has less than the minimum width, depth and area requirements for the zoning district in which it is located, may be divided off from a larger property for the purpose, whether immediate or future, for building or development and still be considered a "buildable" lot or parcel.
3. Division of a building into condo units may and shall not have the effect of increasing the density of dwelling or nondwelling (e.g., office, store, or storage) units of said building beyond that normally allowed in the zone in which the building is located. (For example, division of a single-family dwelling into 2 condo units shall not be allowed but division of a legal fourplex into 4 condo units could be allowed.) (Ord. 3960, 4-4-2011)

H. Bus Stop Benches: Bus benches and signage may only be installed by an authorized entity of the regional transportation organization that has entered into a memorandum of understanding with the city of Nampa to provide bus service for the same.

Bus stop benches with signage affixed thereto may be located on public right of way only with prior authorization from the city engineer. Bus stop benches may be located on private residentially zoned, U or GB2 zoned properties; or private properties zoned commercially or industrially even if said properties in those zones already have preexisting, freestanding signs located on them along/in the same street frontage yard area as a/the newly proposed bus bench location(s).

Bus stop benches with signage affixed thereto shall not be placed on properties zoned DH, DV or DB. (For additional details regarding bus bench signage controls, refer to subsections [10-23-4P](#) and [10-23-6A](#) and B of this title.) Bus stop benches without signage affixed thereto may be placed in the DH, DV or DB zones in accordance with the regulation in the first paragraph of this subsection. (Ord. 3895, 1-7-2010)

