

CHAPTER 154: ZONING CODE

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GENERAL PROVISIONS

§ 154.01 SHORT TITLE.

This chapter shall be known as “the Zoning Ordinance of 2001 of the City of Bronson”.

(Ord. 161, passed 12-10-2001)

§ 154.02 PURPOSE AND INTENT OF CHAPTER.

(A) *Purpose.* In interpretation and application, the provisions of this chapter shall be held to be minimum requirements to provide adequate light, air, access, circulation, open yard spaces, off-street parking areas and protection to property value from incompatible uses; to limit and restrict the height, size and location of buildings and uses; to secure safety from fire and other dangers; to lessen congestion in the streets; to limit the density and intensity of use of land; to promote the most appropriate and compatible uses of land in various districts of the city; to provide for enforcement of and variations to these provisions; and to impose penalties for violation thereof.

(B) *Intent.* It is the intent of this chapter to provide simplified regulations and controls for buildings and uses of land most commonly encountered in city development. Regulations and controls for unusual or unique buildings, conditions or uses of land shall be imposed by the Zoning Board of Appeals so that the intent of this chapter shall be carried out.

(Ord. 161, passed 12-10-2001)

§ 154.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. Any subordinate building, such as a private garage, located on the same lot with the main building, or any portion of the main building if the portion is occupied or devoted exclusively to an accessory use. When an **ACCESSORY BUILDING** is attached to a main building by a wall or roof, the building shall be considered part of a main building for the purpose of determining the required dimensions of yards.

ACCESSORY USE. Any use customarily incidental to the main use of the premises. **ACCESSORY USE** shall include satellite antennae receivers.

ADULT FOSTER CARE FACILITY. A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An **ADULT FOSTER CARE FACILITY** does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, or a residential center for persons released from or assigned to a correctional facility.

ADULT FOSTER CARE FAMILY HOME. A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The **ADULT FOSTER CARE FAMILY HOME** licensee must be a member of the household and an occupant of the residence.

ADULT FOSTER CARE LARGE GROUP HOME. A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

ADULT FOSTER CARE SMALL GROUP HOME. A facility with approved capacity to receive 12 or fewer adults who are provided supervision, personal care and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

ALLEY. A public way which affords only secondary access to abutting property, not a street as herein defined.

ALTERATION OF BUILDING. A change in the supporting members of a building, and addition to, or a diminution, change in use or conversion of a building or a part thereof.

ANIMAL HOSPITAL. See **KENNEL**.

AUTOMOBILE STORAGE, DAMAGED. Any storage of vehicles that are not road worthy (defined as unable to pass a state police safety check) not incidental to a vehicle repair shop or service garage.

BASEMENT. A room or portion thereof or any portion of a building which has a floor level more than three feet below ground, containing any of the following features:

- (1) Mechanical equipment such as heating, metering or laundry facilities;
- (2) No doorway opening directly to ground level or upon a hallway with such a doorway; and/or
- (3) No sash windows.

BED AND BREAKFAST. The actual or intended rental of a lodging room or lodging rooms in an owner-occupied dwelling for periods of not more than 14 continuous days, without the provision of separate cooking facilities or meals except breakfast.

BOARD OF APPEALS. The Zoning Board of Appeals of the City of Bronson.

BOARDING HOUSE or ROOMING HOUSE. A dwelling having one kitchen and used for the purpose of providing meals or lodging for pay or compensation of any kind to more than two persons other than members of the family occupying the dwelling.

BREEZE WAY. Any covered passageway between two buildings, the sides of which may be enclosed by lattice, screens or other material allowing passage of air.

BUILDING. A structure erected or placed on-site, a moveable pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

CHILD CARING INSTITUTION. A child care facility which is organized for the purpose of receiving minor children for care, maintenance and supervision, usually on a 24-hour basis, in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools or an adult foster care facility in which a child has been placed.

CHURCH. An organization that provides for religious worship.

COMPARISON RETAIL. A facility which offers for sale to the general public, products and commodities of a durable nature such as hardware, apparel and appliances.

CONVENIENCE RETAIL. A facility which offers for sale to the general public, products, commodities or services for daily living, primarily foodstuffs, health and beauty aids and products of a consumable or perishable nature.

DENSITY. A calculation of the maximum number of dwelling units per acre.

DWELLING. Any building or portion thereof usable exclusively for residential purposes.

(1) **DWELLING, TWO-FAMILY.** A building containing not more than two separate dwelling units designed for residential use and conforming in all other respect to the standards set forth in § 154.58.

(2) **DWELLING, MULTIPLE-FAMILY.** A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in § 154.58.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including buildings other than the buildings as are primarily enclosures or shelters of the mentioned equipment.

FAMILY. Two or more persons related by blood, marriage or adoption, and residing together.

FAMILY DAY CARE HOME. A private home in which one but less than seven minor children are received for care and supervision for periods less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage or adoption. **FAMILY DAY CARE HOME** includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

FARM. Any area of two acres or more, used for agricultural purposes and uses incidental thereto, but not to include the raising or keeping of livestock or fowl, provided that the incidental uses shall be subordinate to normal agricultural uses.

FARM BUILDINGS. Any detached accessory building or portion of a main building used for the storage or housing of farm implements or produce.

FLOOR AREA. The area of all floors computed by measuring the dimensions of the outside walls, excluding attic and basement floors, porches, patios, breeze ways, carports and garages, or portions of rooms with less than seven feet of space between the floor and ceiling.

FOSTER FAMILY GROUP HOME. A private home in which more that four but less than seven minor children, who are not related to an adult member of the household by blood, marriage or adoption are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

FUEL DISPENSING SITE. A location for retail self-service refueling of diesel, gasoline, kerosene, propane, fuel cells or any vehicle propulsion product.

GARAGE, PRIVATE. A detached accessory building or portion of a main building used for the storage of passenger vehicles and/or trucks of a rated capacity of one ton or less.

GARAGE, SERVICE. Any building or structure designed or used for the hire, sale, storage, service, repair or refurbishing of motor vehicles or trailers, but not for the storage of dismantled vehicles or parts thereof for purposes of reuse or resale.

GASOLINE SERVICE STATION. Any building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water or other operating commodities for motor vehicles, and including the customary space and facilities for the installation or furnishing of the commodities on or in or to the vehicles and for the washing or polishing of the vehicles, but not including the use of space or facilities for the refinishing of motor vehicles or for the dismantling, for purposes of reuse or resale, of motor vehicles or parts thereof, or for the outdoor storage or repair of motor vehicles or parts thereof.

GRAMMAR CLARIFICATION. The present tense shall include the future; the singular number shall include the plural; and the plural shall include the singular. The word "shall" is always mandatory. The words **ZONE** and **DISTRICT** are the same.

GROUP DAY CARE HOME. A private home in which six but not more than 12 minor children are received for care and supervision for periods less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage or adoption. **GROUP DAY CARE HOME** includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

HEIGHT OF BUILDING. The vertical distance, measured from the adjoining curb level, to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

HOME APPLIANCE REPAIR SHOP. A commercial facility for the restoration of damaged, inoperable or broken machines which are typically used in the home.

HOME OCCUPATION. See § 154.09(C)(1).

INSTITUTIONAL AND PUBLIC USES. Churches, schools, hospitals, convalescent or nursing homes, public or quasi-public nonprofit uses, utility transmission towers, above ground regulator or substation structures, buildings owned or occupied by public utilities and governmental buildings.

JUNK YARD. An establishment or place of business which is maintained, operated or used for storing, keeping, or selling junk. **JUNK** is considered to be old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked automobiles, or parts thereof. **JUNK YARDS** are considered to be different in nature than salvage resource recovery facilities, which act as temporary storing and transfer facilities.

KENNEL. Any building or land used for the sale, boarding, treatment or breeding of dogs, cats or other household pets.

LEGISLATIVE BODY. The City Council of the City of Bronson.

LOT. A parcel or portion of land, exclusive of any adjoining street, separated from other parcels or portions by description.

LOT, CORNER. Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of the two sides is less than 135 degrees. A lot abutting upon a curbed street or streets shall be considered a **CORNER LOT** if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.

LOT LINE. Any line bounding a lot:

(1) **FRONT LOT LINE.** The line separating the lot from the street; in the case of a corner lot, the line separating the narrowest side of the lot from the street.

(2) **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.

(3) **SIDE LOT LINES.** Any line other than front or rear lot lines.

(4) **STREET OR ALLEY LOT LINES.** Any line separating a lot from a street or alley.

MEDICAL MARIJUANA. Defined in accord with M.C.L.A. § 333.26423 and the regulations adopted by the state, Department of Community Health, pursuant to authority conferred by § 5 of Initiated Law 1 of 2008, being M.C.L.A. § 333.26425, and the where contemplated by the city code, unless defined otherwise herein.

MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION. Defined in accord with M.C.L.A. § 333.26423, and the regulations adopted by the state, Department of Community Health, pursuant to authority conferred by § 5 of Initiated Law 1 of 2008, and the where contemplated by the city code, unless defined otherwise herein.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, and which includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. **MOBILE HOME** does not include a recreational vehicle.

MOBILE HOME PARK - MANUFACTURED HOUSING COMMUNITY. A parcel of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.

MOTELS. Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade.

MUNICIPALITY. The City of Bronson.

NONCONFORMING BUILDING. Any building or portion thereof lawfully existing at the time this chapter became effective and which now does not comply with its regulations.

NONCONFORMING USE. Any property use which was lawful at the time this chapter became effective and which now does not comply with its regulations.

PARKING, OFF-STREET ACCESSORY. Any parking area located on the same property it is intended to serve, or across an alley therefrom, and within a district which is not of greater restriction than the property it is intended to serve.

PARKING, OFF-STREET RESTRICTED ACCESSORY. Any parking area located in a residential district intended to serve a business or industrial establishment, provided at least 50 feet of a lot line of the parking abuts a business or industrial district either directly or across an alley therefrom.

PARKING SPACE, MOTOR VEHICLE. Any accessible area of not less than nine feet by 18 feet exclusive of access drive and aisles and which is not located on a public street or alley right-of-way and has a shape satisfactory for parking of motor vehicles.

PETROLEUM BULK PLANT. An establishment for the storage of petroleum products, in bulk and in packages, distribution by tank car, tank vehicle or motor truck.

PLANNING COMMISSION. The Planning Commission of the City of Bronson.

POOL PRIVATE SWIMMING. Any artificially constructed basin or other structure for the holding of water for use for swimming, diving and other aquatic sports and recreation.

PRINCIPAL BUILDING. A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

PRINCIPAL USE. The primary or predominant use of the premises.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation or water.

RECREATION EQUIPMENT. This equipment shall include travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, snowmobiles, boats, trampolines, boat trailers and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

RECREATIONAL VEHICLE. A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

SALVAGE YARD. A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, cleaned or handled, including house and vehicle wrecking yards, used lumber yards and places or yards for use of salvaged house and vehicle parts and structural steel materials and equipment, but excluding the uses conducted entirely within a completely enclosed building and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and excluding the processing of used, discarded or salvaged materials as part of manufacturing operations.

SCHOOL. An organization that provides general instruction and teaching for children.

SIGNS. Any announcement, declaration, display, illustration or insignia used to advertise or promote the interests of any persons or product when the same is placed out-of-doors in view of the general public, including every sign, billboard, ground sign, roof sign, sign painted or printed on the exterior surface of a building or structure, illuminated sign and temporary sign.

SINGLE OWNERSHIP. Ownership by one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common of a separate parcel of real property not adjacent to land in the same ownership.

SPECIAL LAND USE. A special land use is a use permitted in a given zone when the use is specified in § 154.09(A) and has been reviewed by the Planning Commission, after application, to assure that all specified conditions are met.

STABLE, PRIVATE. Any building for shelter of horses not kept for remuneration, hire or sale.

STORY. The portion of a building included between the surface of any floor above the average elevation or ground at the foundation wall and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it.

STREET. A public right-of-way which has been dedicated to the public and accepted for the purpose of providing access to abutting private lots or land, including space for curb, gutter, paving and sidewalks.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TOURIST HOME, BOARDING, ROOMING AND LODGING HOMES. The actual or intended rental of a lodging room or lodging rooms in an owner-occupied dwelling for periods of not more than 14 continuous days, without the provision of separate cooking facilities or meals.

TRAILER. Any vehicle designed to be drawn by an automotive vehicle.

TRUCK TRACTOR AND/OR TRAILER RIG. A truck vehicle unit as classified by the American association of state highway officials as a wb-40 or wb-50 vehicle.

(1) The minimum specifications are as follows:

	Wb-40	Wb-50
Wheelbase	13+27 = 40 feet	20+30 = 50 feet
Front overhang	4	3
Rear overhang	6	2
Overall length	50	55
Overall width	8.5	8.5
Height	13.5	13.5

(2) This classification applies to truck tractors with or without trailer rigs.

VARIANCE. A modification of the required provisions of the physical development or land use standards of the zoning ordinance granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the **VARIANCE** is granted. The crucial points of a **VARIANCE** are undue hardship and unique circumstances applying to the property. A **VARIANCE** is not justified unless both elements are present in the case.

VEHICLE REPAIR SHOP. A building used for the painting or repair of damaged motor vehicles, boats, mobile housing facilities or trailers.

VEHICLE SALES AREA - LOT.

(1) A lot or portion thereof to be used only for the display, sale or rental of new - used motor vehicles, boats, mobile housing facilities or trailers, all in working or road worthy condition.

(2) A **VEHICLE SALES AREA - LOT** shall not be used for:

- (a) The storage of wrecked vehicles;
- (b) The dismantling of the vehicles; or
- (c) The storage of parts.

YARD, FRONT. The open space extending the full width of the lot between the main building and front lot line except as provided in § 154.44.

YARD, LEAST DEPTH OR WIDTH. The shortest horizontal distance from each of the lot lines to the building thereon.

YARD, REAR. The open space extending the full width of the lot between the main building and the rear lot line, except as provided in § 154.46.

YARD, SIDE. The open space extending from the front yard to the rear yard between the main building and the side lot line, except as provided in § 154.45.

ZONING OFFICIAL. City Manager or a designee appointed by the City Manager to enforce and administer this chapter with the cooperation and assistance of the County Building Inspector.

(Ord. 161, passed 12-10-2001; Ord. 176, passed 5-9-2011; Ord. 182, § 2, passed 2-13-2012)

§ 154.04 ZONING DISTRICTS.

(A) Permitted uses in the several districts are listed in §§ 154.20 through 154.28.

(B) The following zoning districts are hereby established and the intended use of each district is stated:

- (1) R-1 One-Family Residential District;
- (2) R-2 Residential District;
- (3) R-3 Residential District;
- (4) MH Manufactured Housing Community (Mobile Home Park);
- (5) B-1 Business Residential District;
- (6) B-2 Central Business District;
- (7) B-3 Community Commercial;
- (8) B-4 Office District; and
- (9) I Industrial District.

(Ord. 161, passed 12-10-2001)

§ 154.05 ZONING MAP.

(A) The zoning map delineating the above zone district is hereby declared to be a part of this chapter.

(B) Except where reference is shown on the map to a street line or other line designated by dimensions, the district boundary lines follow lot lines or the centerlines of streets or alleys as they existed at the time of the adoption of this chapter.

(C) Where a district line does not coincide with the lines, or the dimensions, it shall be deemed to be 132 feet from the nearest parallel street centerline.

(1) *Lot divided by zone line.* Where a district boundary line, as established in this chapter, or as shown on the zoning map, divides a lot shown or recorded as being in single ownership at the time of enactment of this chapter, the district regulations and uses shall be observed on the respective side of the district line to which they apply.

(2) *Annexed areas.* Where property not now in the city shall become annexed to the city, the property shall be zoned automatically as shown by the zoning pattern on the zoning map.

(3) *Zoning table incorporated.* The zoning table delineating, among other things, the zoning district uses and the minimum yard, height and area requirements for each zone are hereby declared to be a part of this chapter.

(Ord. 161, passed 12-10-2001)

§ 154.06 SCHEDULE OF LOT, YARD, HEIGHT AND AREA REQUIREMENTS.

Principal Structure	R-1	R-2	R-3	B-1	B-2	B-3	I(1)
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Principal Structure	R-1	R-2	R-3	B-1	B-2	B-3	I(1)
Min. lot frontage, width (ft.)	60	60	60	60	25	100	
Min. lot area (sq. ft.)							
Single-family	9,000		9,000				
Agricultural and two-family (duplex)			11,500				
Institutional or public uses	2 ac	2 ac					
Multi-family per dwelling unit, conversion up to 4 units, apt. bld. 2-12 units, boarding house, 2-attached apt. bld.			2,000				
Max. bldg. or structure height (ft.)	35	35	40/2.5 stories	28	35	32	45
Max. lot coverage (%)	25	25	25(2)				
Min. floor area (sq. ft.)	1,100	720					
Front yard setback	25	25	25	25	0	30	25 loc st 50 maj st 60 hwy
Side yard setback 2 per lot	5	5		10	0	10	10
Single-family (min. 1)	5	5	6				
Aggregate width of both side yards	16						
Conversion up to 4 units			6				
Group dwellings			6				
Special land uses			6				
Rear yard setback	5	5	35	25	0	25	10
Minimum lot depth	130	125					
(1) Yards in I District. No building shall be closer to a residentially zoned lot than a distance equal to two times the height of the building. No setback is required adjacent to a railroad right-of-way.							
(2) Lot coverage is 25% for all R-3 lots except professional offices.							

(Ord. 161, passed 12-10-2001)

§ 154.07 NONCONFORMING USES AND STRUCTURES.

(A) Nonconforming uses established.

(1) Within the districts established by this chapter or amendments that later may be adopted, there may exist lots, structures, uses of land and structures and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.

(2) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival.

(B) *Nonconforming uses of land.* Where, at the time of the passage of this chapter, a lawful use of land exists which would not be permitted by the regulations imposed by this chapter and where the uses involve individual structures, the use may be continued so long as it remains otherwise lawful, provided:

(1) No like nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

(2) No like nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment to this chapter;

(3) If any like nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent uses of the land shall conform with the regulations specified by the ordinance for the district in which the land is located; and

(4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(C) *Nonconforming structures.* Where a lawful structure exists or is lawfully under construction at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, height, yards, its location on the lot or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Any such nonconforming structure which has been damaged or destroyed by any means to an extent of more than 50% of its replacement cost at the time of damage or destruction, shall not be reconstructed except in case of unusual hardship for which the Zoning Board of Appeals may grant conditional approval for reconstruction.

(3) Should the nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) *Nonconforming use of structure or of structures and land in combination.* If a lawful use involving individual structures or of structure and land in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter but no such use shall be intended to occupy any land outside the building.

(3) Any structure, or structure and land in combination, in or on which a nonconforming use is changed to a permitted use, shall thereafter conform to the regulations for the district and nonconforming use may not thereafter be resumed.

(4) When a nonconforming use of a structure or structure and land in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period

(except when government action impedes access to the premises or if it is a seasonal type use), the structure, or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(5) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this division is defined as damage to an extent of more than 50% of the replacement cost at the time of destruction.

(6) The use of a nonconforming building may be changed to another nonconforming use if the Zoning Board of Appeals finds that the new use would markedly decrease the degrees of nonconformance and would enhance the value and desirability of adjacent conforming uses.

(E) *Repair or replacement.* Repair or replacement of non-bearing walls, fixtures, wiring or plumbing may be performed in or on a nonconforming structure or portion of a structure containing a nonconforming use provided:

(1) During any consecutive 12-month period the extent of repair or replacement shall not exceed 10% of the current replacement cost of the nonconforming structure;

(2) Cubic contents of the structure shall not be increased; and

(3) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of the official.

(F) *Change of ownership.* Change of ownership between private parties does not remove the nonconformity nor extend time limits.

(G) *Replacement cost.* Replacement cost as used in the above provision is the cost of restoring the structure to its original condition as appraised by a qualified appraiser employed by the City Council. Persons aggrieved by the appraisal may appeal to the Zoning Board of Appeals.

(H) *Removal of nonconforming status.* Any nonconforming structure or land may be made conforming by appropriate action or modification which cause the structure or land to fulfill the requirements of the district in which it is located. In case of a nonconforming use which is a use designated as a special land use by this chapter, the nonconforming status may be removed upon issuance of a special land use permit after the appropriate action has been taken in accordance with the provisions of this chapter. It shall be the responsibility of the owner or person requesting the special land use permit to initiate the request in accordance with § 154.09.

(I) *Elimination of nonconforming structures or land.*

(1) The city may acquire by purchase, condemnation or otherwise, private property for the removal of nonconforming uses and structures, provided, the property shall not be used for public housing.

(2) The legislative body may in its discretion provide that the cost and expense of acquiring the private property be paid from general funds, or the cost and expense or any portion thereof may be assessed to a special district.

(3) The elimination of the nonconforming uses and structures in a zoned district as herein provided is hereby declared to be for a public purpose and for a public use.

(4) The legislative body shall have authority to institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the laws of the state or provisions of any city charter relative to condemnation.

(Ord. 161, passed 12-10-2001)

§ 154.08 OFF-STREET PARKING AND LOADING AREA REQUIREMENTS.

(A) *Specific requirements loading and off-street parking.*

(1) Loading and unloading spaces shall be provided in all business and industrial districts in connection with all commercial and industrial uses, except in cases where adequate space, as determined by the Zoning Official, is or can be provided on adjacent public property, as follows:

- (a) One space for 10,000 to 20,000 square feet of floor area;
- (b) Two spaces for 20,000 to 50,000 square feet of floor area;
- (c) Three spaces for 50,000 to 100,000 square feet of floor area; and

(d) One additional space for each additional 100,000 square feet of floor area or part thereof; providing that:

- 1. Each loading space shall be at least ten feet in width, 25 feet in length and have a clearance of 14 feet above grade;
- 2. The space may occupy all or any part of any required yard or court space, excluding front yard; and
- 3. No such space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six feet in height.

(2) Parking or storage of motor vehicles shall be provided for in all districts in connection with all industrial, commercial, business, trade, institutional, recreational or dwelling uses and similar uses, in accordance with the following schedule in compliance with division (B) below.

- (a) Vehicle sales - one parking space per each 500 square feet of building floor area.
- (b) Vehicle service garages: one parking space for each 500 square feet of building floor area.
- (c) Barber and beauty shops: three parking spaces for the first chair or booth and two for each additional chair or booth.
- (d) Bowling alleys: seven parking spaces for each alley. If in addition to alleys, patrons are provided with assembly halls, bars, restaurants or other businesses, additional off-street parking spaces will be required in accordance with regulations of this section for the uses.
- (e) Churches or places of public assembly: one parking space for each three seats.
- (f) Commercial amusements (outdoor): 25% of lot area, but in no case less than ten parking spaces.
- (g) Commercial recreation: one parking space for each 100 square feet of building floor space.
- (h) Dance hall, roller rink, assembly hall, without fixed seats: 500% of building floor area used for dancing or assembly.
- (i) Dwellings: two parking spaces for each family or dwelling unit. An additional parking space for each non-related person. Apartments require one and one-half spaces per dwelling unit.
- (j) Fraternities and sororities: one parking space for each bed.
- (k) Funeral homes and mortuaries: one parking space per 25 square feet of building floor area of assembly rooms.

- (l) Furniture sales, retail: one parking space for each 500 square feet of building floor area.
- (m) Convenience stores: seven parking spaces for general public plus one per employee at the maximum employment shift.
- (n) Hospitals and rest homes: one parking space for each hospital bed and one parking space for each three rest home beds.
- (o) Laundromats: one parking space for every two washing machines or 200 square feet of gross building floor area, whichever is greater.
- (p) Professional office: one parking space for each 200 square feet of building floor area.
- (q) Motels, hotels, motor courts, tourists or lodging homes, trailer courts and clubs: one and one-tenth parking spaces for each sleeping room. If, in addition to assembly halls, bars, restaurants, retail shops or other businesses, additional off-street parking spaces or other businesses, additional off-street parking spaces shall be required for the other uses in accordance with the regulations of this section for those uses.
- (r) Libraries, museums, art galleries, community center buildings, municipal, county, state and federal administrative buildings, schools and colleges: provide adequate parking facilities as approved by the Planning Board.
- (s) Manufacturing and industrial uses: one parking space for every one employee on the largest shift.
- (t) Office buildings, including banks, business and professional offices: one parking space for each 200 square feet of building floor area, but in no case less than five spaces.
- (u) Restaurants, taverns, bars and cocktail lounges and similar eating establishments: one parking space for each two seats provided for patron use.
- (v) Retail sales and personal services (except self-service food markets or supermarkets): parking equivalent to 150% of the building floor area.
- (w) Self-serve food market or supermarket: parking area equivalent to 300% of the building floor area.
- (x) Theaters: one parking space for each four seats.
- (y) Warehouses, storage buildings, lumber and supply yards, wholesale sales: two parking spaces for each employee. If retail sales exist, required parking spaces shall be determined by using retail floor space requirements for the building floor area used for retail in conjunction with employee requirement.
- (z) In the case of a building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is mentioned and to which the use in question is similar, shall apply.
- (aa) In case of a situation where there is more than one use in a single structure the following off-street parking regulations may apply:
 - 1. For two uses per structure 95% of the otherwise combined required parking;
 - 2. For three uses 90%;
 - 3. For four uses 85%;
 - 4. And for five or more 80%; and
 - 5. In no case shall less than 80% be allowed.

(3) Provision of paved access drives between the nearest public street and a parking area shall be considered as an off-street parking requirement but not as part of the required parking area.

(4) The required parking area for a building shall be figured on the entire floor area of the first floor; parking for additional stories, including any basement, shall be added to the total of the required area for the first floor. Storage area on other than the first floor shall not be included in the total required area.

(5) The occupancy of a building or any part of a building shall not change from one use to a use in another classification unless the minimum parking requirements are provided for the new use.

(6) No building shall be enlarged if the enlargement requires additional parking space unless the minimum requirements for off-street parking are provided.

(B) *General requirements.*

(1) *Application for parking lot construction.* Any person desiring to establish or change a parking area shall submit plans to the Zoning Official showing the location design, size, shape, landscaping, surfacing, marking, lighting, drainage, curb cuts, entrances, exits and any other features of the parking lot. Any curb cuts, entrances, exits, drainage and design shall have the written approval of the city engineer or the Zoning Official and be presented for site plan approval by the Planning Commission.

(2) *Design and construction.*

(a) Off-street parking lots shall be so arranged and marked with adequate drives and aisles for safe and convenient maneuvering giving access to parking spaces, and in no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.

(b) Parking spaces shall be at a minimum nine feet by 18 feet in size. This does not include access drives and aisles.

(c) Each nonresidential parking space shall be served by a drive or aisle. Design and construction of drives and aisles must be approved by the city engineer or Zoning Official.

(d) There shall be a curb or bumper rail provided wherever an off-street parking and loading area adjoins a public sidewalk or right-of-way. The bumper rail shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk or right of way.

(e) Any lighting used to illuminate any off-street parking and loading area shall be arranged to direct light away from adjoining premises.

(f) Except for single and two family dwellings off-street parking and loading areas shall be surfaced with asphalt, bituminous or concrete pavement, and shall be graded and drained to dispose of all surface water.

(g) Access drives to and from a parking area shall be paved as stated in division (B)(2)(f) above. Design and construction of access drives must be approved by the city engineer or Zoning Official.

(h) Any construction or rearrangement of existing drives which involve the ingress and -or egress of vehicular traffic to or from a public street shall be arranged to insure the maximum safety and the least interference of traffic upon the streets.

(C) *Off-street parking regulations within a residential district.*

(1) For all residential buildings or nonresidential buildings in a residential district the required parking area shall be provided on the same lot with the buildings or on a lot immediately adjacent to the lot with the building intended to be served.

(2) All parking areas, except for dwellings, shall be screened on all sides abutting either a residential district or a street with an ornamental fence or compact hedge not less than four feet or more than six feet high of a type which will obscure vision at all seasons from adjoining premises.

(3) Within a residential district parking shall be limited to passenger vehicles, recreational vehicles and trucks with a load capacity of 214 tons or less.

(4) No commercial repair work, commercial servicing or selling of any kind shall be conducted on parking areas in residential districts, and no sign of any kind other than those indicating entrances, exits and conditions of use shall be erected thereon.

(5) Except as provided in § 154.58, the establishment and operation of an off-street parking area in a part of a residential district that is immediately adjacent to or across an alley from a business or industrial district and is intended to serve that business or industry may be authorized by the Planning Commission under the conditions and safeguards as hereinafter provided.

(a) Entrance and exit drives shall be a distance of at least 20 feet from any adjoining property line in a residential district.

(b) All requirements of this section shall be applied along with any other requirements deemed necessary or desirable by the Planning Commission for the protection of the parking area and the residential district in which the parking areas are to be located.

(6) The Zoning Official shall require execution of a performance agreement in the form, manner and amount he or she determines and may compel compliance with the performance of all off-street parking requirements of this chapter.

(D) *Variances and exceptions.*

(1) The parking provisions of this chapter may be met by participation in a municipal or joint community parking program designed to serve a larger area, provided all plans for the community parking have been approved by the Planning Commission.

(2) The Zoning Board of Appeals shall have authority to interpret this section and may in specific cases and after public hearing grant variances and exceptions to these requirements.

(Ord. 171, passed - -; Ord. 161, passed 12-10-2001)

§ 154.09 SPECIAL LAND USES AND STRUCTURES.

(A) *Purpose.*

(1) The development and execution of this chapter is based upon the division of the city into districts within which the uses of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform.

(2) It is recognized, however, that there are special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighborhood land, of the:

(a) Uses publicly operated or traditionally affected with a public interest; and

(b) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(B) *General provisions.*

(1) *Initiation of special land use.* Any person having a freehold interest in land, or a possessor interest entitled to exclusive possession, or a contractual interest which may become a freehold

interest, and which is specifically enforceable, may file an application to use the land for one or more of the special uses provided for in this chapter in the zoning district in which the land is located.

(2) *Application of special land use.* An application for a special land use shall be filed with the Zoning Official on a form prescribed by the Zoning Official. The application shall be accompanied by the plans and/or data prescribed by the Zoning Official and shall include as a minimum the requirements for site plan review as noted in § 154.70. The application shall also include a statement in writing by the applicant and adequate evidence showing that the proposed special land use will conform to the standards set forth in this section. The application shall also be accompanied by a fee to cover the expense of a public hearing.

(3) *Receipt of application.*

(a) Upon receipt of an application for a special land use which requires a decision on discretionary ground, one notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet.

(b) The notice shall be given not less than five and not more than 15 days before the application will be considered.

1. If the name of the occupant is not known, the term "occupant" may be used in making notification.

2. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organization, one occupant of each unit or spatial area shall receive notice.

3. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(c) The notice shall:

1. Describe the nature of the special land use request;

2. Indicate the property which is the subject of the special land use request;

3. State when and where the special land use request will be considered;

4. Indicate when and where written comments will be received concerning the request; and

5. Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

(4) *Public hearing.*

(a) At the initiative of the Planning Commission upon the request of the applicant for special land use authorization, or a property owner or the occupant of a structure located within 300 feet of the boundary of property being considered for special land use approval as provided in division (B)(3) above, a public hearing with notification as required for a notice of a request for special land use approval, as provided in division (B)(3) above, shall be held before a decision on the special land use request which is based on discretionary grounds shall be made.

(b) A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use request is given as required by this section.

(5) *Authorization.* For each application for a special land use, the Zoning Official shall review the application and make a recommendation to the Planning Commission. The Planning Commission may deny, approve or approve with conditions any application for a special land use.

(6) *Basis for decision.* The Planning Commission shall incorporate their decision in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

(7) *Standards.* No special land use shall be recommended by the Zoning Official or approved by the Planning Commission unless it shall find:

(a) That the establishment, maintenance or operation of the special land use will not be detrimental to or endanger the public health, safety or general welfare or the natural environment;

(b) That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood;

(c) That the establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(d) That adequate utilities, access roads, drainage and necessary facilities have been or are being provided;

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

(f) That the special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in division (C) below.

(8) *Conditions and guarantees.*

(a) Prior to granting of any special land use, the Planning Commission shall stipulate the conditions and restrictions upon the establishment, location, construction, maintenance and operations of the special land use as deemed necessary for the protection of the public interests and to secure compliance with the standards and requirements specified in this section.

(b) In all cases in which special land uses are granted, the Planning Commission shall require the evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Any conditions imposed shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

(9) *Effect of denial of a special land use.* No application for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change or conditions found to be valid by the Zoning Official and the Planning Commission.

(10) *Revocation.* In any case where a special land use has not been established within one year after the date of granting authorization for the use, or if terms and conditions of permit are not met, or plans submitted are deviated from, the special land use authorization shall automatically be null and void without further action by the Planning Commission.

(C) *Special land uses designated.* The following are those uses identified as special land uses and the provisions - conditions that must be met so as to be approved in whole or conditionally.

(1) *Home occupations.* Home occupations may be permitted in the R-1, R-2 and R-3 Residential Districts as a special land use under the following procedures and conditions.

(a) The exterior appearance of the structure shall not be altered or the occupations within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises or vibrations.

(b) No more than one person other than members of the immediate family occupying the dwelling shall be employed.

(c) No more than 50% of the gross area of one floor of the residences shall be used for such purposes any portion of a garage used in connection of a home occupation shall be included in the calculation of a maximum area allowed for the home occupation.

(d) There shall be no outside storage of any kind related to any home occupation.

(e) The use may not increase vehicular traffic flow and parking by more than one additional vehicle at a time, unless off-street parking regulations is provided.

(f) Mechanical or electrical equipment employed by the home occupation shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocation.

(g) Only one nameplate shall be allowed in accordance with the sign regulations of this chapter. It may display name of the home occupation (e.g., John Doe, realtor).

(h) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

(2) *Low density apartments.* Low density apartments are permitted as a special land use in the R-2 and R-3 Residential Districts under the following provisions and conditions:

(a) The density (lot area per dwelling unit) of the zone shall be complied with;

(b) All apartment regulations and requirements of this chapter shall be complied with;

(c) At least eight dwelling units shall be constructed;

(d) All yard requirements of the zone district shall be increased 50% except in a zone permitting apartments as a principal use;

(e) All dwelling units shall be supplied with public sewer and water; and

(f) No building shall exceed 120 feet in width or depth and all buildings shall be of substantially similar appearance as other conforming uses in the neighborhood.

(3) *High density apartments.* High density apartments are permitted in the R-3 Residential District as a special land use according to the following provisions and conditions:

(a) The site location must be within 700 feet of a B Business District;

(b) The project can have a maximum height of 52 feet;

(c) There shall be at least eight dwelling units therein and all yard provisions of the zones shall be complied with;

(d) No minimum lot area per dwelling unit is required, provided that off-street parking requirements shall be complied with upon the same lot; and

(e) All buildings shall comply with the fire prevention code of the city.

(4) *Office buildings.* Office buildings and uses customarily carried on in an office are permitted as a special land use on any lot facing upon a marked state or federal highway in any R-3 Zone.

(5) *Rooming houses, boarding houses and motels for transient guests.* Rooming houses, boarding houses and motels for transient guests are permitted as a special land use on any lot in a R-2 District facing upon a marked state or federal highway, provided that the total lot coverage shall not exceed 75%.

(6) *Mortuaries and professional buildings.* Mortuary establishments and their customary accessory buildings, offices for realty, professional, insurance or similar occupations customarily carried on in an office, beauty salons and barber shops are permitted as a special land use on any lot located upon a major street as designated on the master plan of the city if located in an R-2 District within 700 feet of the B-2 District, provided that the use does not involve the sale or repair of products or equipment upon the premises.

(7) *Apartment buildings.* Groups of apartment buildings in the same ownership may be permitted as a special land use in the R-3 Residential District on the same lot if the following requirements are complied with:

(a) No type of building shall be located in front of the main entrance wall of an apartment building unless separated by a common yard of at least 50 feet;

(b) No apartment building shall be located in back of the rear entrance wall of another apartment building unless separated by a common yard of at least 80 feet;

(c) There shall be at least 40 feet of yard space behind the rear wall of any apartment dwelling unobstructed by any accessory building or parking area. However, for good cause the yard space may be located beyond a parking area, drive or attached garage;

(d) No building shall be located closer to another building than a distance equal to its height; and

(e) No more than two such buildings may be attached by a common unpermed fire wall. Garages may be attached to an apartment dwelling provided there is a fire wall where so attached.

(8) *Neighborhood renewal.* Any other provision of this section notwithstanding, a lot which has a deteriorated principal building located thereon may be renewed and used for a high density apartment building as a special land use in an R-3 Residential District provided that:

(a) The deteriorated building is demolished;

(b) All zone requirements are complied with except as reduced herein;

(c) There shall be at least 1,700 square feet of lot area for each dwelling unit, provided that where additional vacant land has been acquired and added to the renewed lot the additional dwelling units permitted thereby shall be calculated according to the zone regulations; and

(d) The renewal is completed within two years of the demolition of the prior use.

(9) *Convenience store w/fuel dispensing, vehicle repair shop (engine repair) and collision repair.* No land or building shall be used as a service station or an automobile repair shop unless located in the B-2, B-3 or I Districts as a special land use and then only if the site plan shows that:

(a) The lot is at least 100 feet in width and depth;

(b) All above ground or underground structures other than permitted signs or drives are at least 20 feet from any lot line, and at least 25 feet from any residential zone line;

(c) The area for outdoor parking, servicing or storage of vehicles is paved and conforms to § 154.08;

(d) Driveways will be at least 24 feet from any intersecting street rights-of-way or residential zone lines; and

(e) A paved or enclosed area for the storage of inoperable or damaged vehicles awaiting repair is provided which is screened from any public street or residential zone.

(10) *Vehicle sales area.* Vehicle sales areas may only be permitted as a special land use in the B-3 and I (Industrial) Districts. No vehicle sales area may be accessory to a convenience store with fuel dispensing. The plot plan for proposed vehicle sales area shall show that:

(a) Provisions of (C)(9)(a) through (e) are complied with provided that no vehicles or equipment shall be located closer than ten feet to any side or rear property line nor closer than 25 feet to any front street right-of-way;

(b) All areas used for the parking or storage of vehicles shall be paved in accordance with § 154.08; and

(c) The direct source of display lighting shall be screened from any public street or residential zone.

(11) *Salvage yards.* Salvage yards may be permitted as a special land use only in the I District, and only providing that the following requirements are complied with.

(a) Plans and specifications shall be submitted to the Planning Commission which shall include:

1. Specific location of the facility shown on a vicinity map;
2. Location of public roadways, habitable structures and places of public use on the site and other properties influenced by the project;
3. Legal description and site boundaries;
4. Means of limiting access including fencing, gates, natural barriers or other methods;
5. Details of the method of treating or disposing of liquid waste resulting from operation of the facility as it related to the city's wastewater treatment facility;
6. Location of all structures and equipment;
7. Detailed description and statement appurtenances and procedures intended to handle heavy or bulky items, store refuse beyond the end of the working day and control dust, odors and fire as they comply with state and federal regulations;
8. Location of existing proposed utilities available to the site;
9. Method of final reduction such as compacting, grinding, shredding, compression or tamping equipment;
10. Daily clean-up procedures;
11. A certified manifest which discloses the type and nature of a material stored on site (for any amount of time) shall be maintained with the city for purposes of identifying any potential threat to public health or safety. The city reserves the right to prohibit particular stored items, materials or substances which would jeopardize public health or safety; and

12. Other details necessary as required by the Planning Commission.

(b) A facility shall be located not less than 500 feet from the nearest residential zone and must be screened by a fence of not less than eight feet in height and not less than 75% solid. It must also be screened by fences from streets, roads or highways open to public vehicle travel.

(c) The site must be located on major arterial roads and not on residential or collector type roads. Roadways on the property shall be all weather roads and maintain a condition to prevent a dust nuisance.

(d) Dust and odor resulting from unloading and operation of the facility shall be reasonably controlled at all times. Operation of the facility shall be carried on in a manner to prevent noise and vibration, nuisance to an adjoining property.

(e) Storage of highly flammable or explosive materials shall only be allowed on the premises if storage methods, approved by the office of State Fire Marshal, are utilized at all times.

(f) Salvage yard site shall not be less than five acres in size.

(g) Open burning shall not be carried on in a salvage area facility.

(h) The salvage yard area shall be maintained in a sanitary manner at all times so as not to create general unsightliness or health and safety hazards.

(i) Necessary operations of the salvage yard shall be carried out promptly in a systematic manner so that conditions are unfavorable for harborage and production of insects and rodents.

(j) Adequate provision shall be made for routine operational maintenance of the facility and all appurtenances.

(12) *Medical marijuana manufacturing and distribution facilities.*

(a) Medical marijuana manufacturing and distribution facilities as otherwise contemplated by the city code may be permitted provided the conditions below are met.

1. No medical marijuana manufacturing and distribution facility shall be permitted within 1,000 feet of a church.

2. No medical marijuana manufacturing and distribution facility shall be permitted within 1,000 feet of a drug-free school zone.

3. No medical marijuana manufacturing and distribution facility shall be permitted within 1,000 feet of a child care facility.

4. No medical marijuana manufacturing and distribution facility shall be permitted within 1,000 feet of a residence or a district zoned for residential use.

(b) The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property line upon which the proposed use is to be located, and the zoning district boundary, property or residence from which the proposed land use is to be separated.

(13) *Discretionary authority.* The Planning Commission shall have discretionary authority to grant special land use permits for uses not specifically listed above as long as the standards for granting special land uses found in division (B)(7)(a) through (f) above are satisfied.

(Ord. 161, passed 12-10-2001; Ord. 176, passed 5-9-2011)

§ 154.10 SITE PLAN REVIEW.

(A) *Purpose.*

(1) Before a zoning permit is issued for any use identified as such, a site plan shall be submitted to the Planning Commission for review and approval.

(2) Before granting approval, the Planning Commission shall ascertain that all provisions of this chapter are complied with and that the proposed location and arrangement of buildings, accesses, parking areas, walkways, yards, open areas and other improvements are such as to produce no potential health, safety or protection hazards and that the arrangement of buildings and structures will provide convenience for the intended occupants or utilization by the public and will be harmonious with development of adjacent properties.

(B) *Scope.*

(1) Except as set forth below, the Zoning Official shall not issue a zoning permit for construction of any buildings, structures or uses until a site plan, submitted in accordance with this chapter, shall have been reviewed and approved and signed by the Planning Commission.

(2) The following buildings, structures or uses shall be exempt from the site plan review and procedure:

(a) Single or two-family homes under separate ownership on an individual and separate lot for each home; and

(b) Uses such as on-premises advertising signs, and essential service structures or buildings.

(C) *Optional sketch plan review.*

(1) Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final approval.

(2) The purpose of the procedure is to allow discussion between an owner and the Planning Commission to better inform the owner of the acceptability of his or her proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

(3) The sketch plans shall include the following:

(a) The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership;

(b) A legal description of the property; and

(c) Sketch drawings showing tentative site and development plans. The Planning Commission shall not be bound by a tentative approval given at this time.

(D) *Application procedure.* Requests for final site plan review shall be made by filing with the Zoning Official the following:

(1) A review fee as determined by resolution of the City Council based upon the cost of processing the review. The resolution shall be on file with the City Clerk/Treasurer for public information;

(2) Three copies of the completed application form for site plan review which shall contain, as a minimum, the following:

(a) The name and address of the applicant;

(b) The legal description of the subject parcel of land;

(c) The area of the subject parcel of land stated in acres, or if less than one acre, in square feet;

(d) The present zoning classification of the subject parcel; and

(e) A general description of the proposed development.

(3) Three copies of the proposed site plan which shall include, as a minimum, the following:

(a) The plan shall be drawn to a scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres;

(b) The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation and the name and address of the individual or firm preparing the same;

(c) The property shall be identified by lot lines and general location together with dimensions, angles and size correlation with the legal description of the property;

(d) The topography of the site with at least two-foot contour intervals and all natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils or similar features shall be shown;

(e) Existing human-made features upon the site and within 100 feet of the same shall be disclosed;

(f) The location, proposed finished floor and grade line elevations, and size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple-family residential development shall also include a density schedule showing the number of dwelling units per net acres, including a dwelling schedule showing the unit type and number of each such units;

(g) All proposed and existing streets, driveways, sidewalks and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size and number of parking spaces in off-street parking areas, service lanes thereto and service parking and delivery or loading areas;

(h) The location, use and size of open spaces, together with landscaping, screening, fences, walls and proposed alterations of topography or other natural features shall be indicated;

(i) The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants, together with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community services will also be described, together with any special features which will assist in satisfying the demands;

(j) Any earth-change plans required by state law shall also be submitted with the application;

(k) On-site lighting, surface water drainage for the site and proposed sanitary sewage disposal and water supply shall be included in the plans; and

(l) The site plan shall include other information as may be determined to be necessary by the City Planning Commission because of any peculiar features of the proposed development.

(E) *Action on application and plans.*

(1) The Zoning Official shall record the date of the receipt of the application and plans, and applicant shall provide 15 copies (one for each Planning Commissioner, one for the Zoning Official and two office use or for distribution to an outside reviewer (planning consultant, engineer, lawyer and the like).

(2) A hearing shall be scheduled for a review of the application and plans as well as reviewing the recommendations of the Zoning Official. Members of the Planning Commission shall be delivered

copies of the application prior to the hearing for their preliminary information and study. Plans should be available at the city office for seven calendar days prior to the meeting. The hearing shall be scheduled within not more than 30 days following the date of the receipt of the plans and application by the Zoning Official.

(3) The applicant shall be notified of the date, time and place of the hearing on his or her application not less than three days prior to that date.

(4) Following the hearing, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of this chapter and the criteria contained herein.

(a) Any required modification or alteration shall be stated in writing, together with the reasons for the modification, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans for the applicant.

(b) The decision of the Planning Commission shall be made by the Board within 30 days of receipt of the application by the Zoning Official.

(5) One copy of the approved final site plan, including any required modifications or alterations, shall be maintained as part of the city records for future review and enforcement.

(a) One copy shall be returned to the applicant. Each copy shall be signed by the Chairperson of the Planning Commission for identification of the finally approved plans.

(b) If any variances from the zoning ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances duly signed shall also be filed with the city records as a part of the site plan and delivered to the applicant for his or her information and direction.

(c) The site plan shall be come part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this chapter receives the mutual agreement of the landowner and the Planning Commission.

(F) *Criteria for review.* In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

(1) That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian and vehicular traffic;

(2) That the buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects upon owners and occupants of adjacent properties;

(3) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood;

(4) That any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryways;

(5) That the layout of buildings and improvements will minimize any harmful or adverse effect which the development might otherwise have upon the surrounding neighborhood;

(6) That all provisions of the zoning ordinance are complied with. This would not preclude the applicant from applying for an appropriate variance with the Zoning Board of Appeals. The Planning Commission may conditionally approve a site plan subject to the granting of any appropriate variance; and

(7) Plans and design of facilities to properly contain, or dispose of, storm water shall be approved by the Planning Commission based on review and recommendation by a licensed engineer, the cost of which will be paid by the applicant.

(G) *Conformity to approved site plan.*

(1) *Revocation of site plan approval.*

(a) Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the Planning Commission. If construction and development does not conform with the approved plan, the approval of the site plan shall be revoked by the Zoning Official by written notice of the revocation posted upon the premises involved and mailed to the owner at his or her last known address.

(b) Upon revocation of the approval all construction activities shall cease upon the site until such time as the violation has been corrected or the Planning Commission has, upon proper application of the owner and after hearing, approved a modification in the site plan to coincide with the owner's construction or altered plans for construction as being in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of this chapter.

(2) *Criteria for commencing construction.*

(a) Approval of the site plan shall be valid for a period of one year.

(b) If a building permit has not been obtained and on-site development actually commenced within one year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.

(c) The one-year period may be extended for extenuating circumstances.

(d) The circumstances must be made known to the Planning Commission and the extension approved by same.

(H) *Amendment to site plan.* A proposed amendment, modification or alteration to a previously approved site plan may be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

(I) *Performance bond.*

(1) The Planning Commission shall have the right and authority to require the developer to file with the city Zoning Official at the time of application for a zoning permit, a performance agreement in a form approved by the Zoning Official to ensure the development of the site in accordance with the approved site plan, conditioned upon the proper construction and development.

(2) The agreement shall continue for the duration of the construction and development of the site.

(Ord. 161, passed 12-10-2001)

DISTRICTS; DESCRIPTION AND PROVISIONS

§ 154.20 R-1 ONE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent.* This district is established to create and preserve single-family neighborhoods free from other uses except those which are both compatible with and convenient to the residents of such a district. These districts will be developed as lower density single-family neighborhoods. Dwellings in this district are required to be on permanent load bearing perimeter walls.

(B) *Permitted uses.*

- (1) One single-family dwelling on each lot;
- (2) Farming or horticulture;
- (3) Institutional or public uses;
- (4) Essential services; and
- (5) Customary accessory uses to above.

(C) *Special land uses.* Home occupations as provided in § 154.09(C), a subject to the further limitation of a maximum of 25% of one floor devoted to the use and no use of accessory buildings.

(D) *Required conditions.*

- (1) Parking: refer to § 154.08.
- (2) Signs: refer to Chapter 152.
- (3) Lot width, lot area and yard shall meet or exceed the requirement in § 154.06 and shall meet the provisions in the general provisions §§ 154.29 through 154.58.
- (4) The floor area of all dwellings shall meet or exceed the requirements of § 154.06.
- (5) Lot coverage: refer to § 154.06.
- (6) Height: refer to § 154.06.
- (7) Site plan review and approval shall be obtained in accordance with § 154.10 for the following uses: institutional and public uses.
- (8) Conformance with smoke detector provisions in § 150.02.

(E) *Prohibited uses.* Any use other than specified in divisions (B) and (C) above. The following uses are expressly prohibited:

- (1) Motels;
- (2) Garage apartments. (This does not prohibit living space above an attached garage to be inhabited by owner);
- (3) Rooming houses; and
- (4) Livestock or fowl raising.

(Ord. 161, passed 12-10-2001)

§ 154.21 R-2 RESIDENTIAL DISTRICT.

(A) *Intent.*

(1) This district is composed of low and medium density single-family residential areas where medium density development has occurred, or appears likely to occur.

(2) The regulations for this section are designed to protect and stabilize the essential characteristics of these areas, and to promote and encourage a suitable and safe environment for family life.

- (3) Dwellings in this district are required to be on permanent load bearing perimeter walls.

(B) *Permitted uses.*

- (1) All uses permitted in the R-1 Zoning District;

- (2) Private museums;
- (3) Bed and breakfast;
- (4) Institutions of philanthropic and charitable nature;

(5) Building and uses customarily incident to the above, permitted uses shall include not more than one private garage or community garage which shall provide parking space for not more than three motor vehicles per living unit, not more than one of which may be a commercial vehicle which shall not exceed one and one-half tons capacity, provided the commercial vehicle is owned and operated by a member of the family who resides in the living unit;

(6) Off-street parking on a lot or a group of lots when the lots are located in the rear of a business district or adjacent to a business district;

(7) Nursing homes and convalescent homes; and

(8) Storage of unoccupied, property owner or renter owned, licensed, recreational equipment.

(C) *Special land uses.* Refer to § 154.09.

(1) Home appliance repair shops;

(2) Two-family dwellings;

(3) Boarding, rooming and lodging houses; and

(4) Uses listed as special uses in § 154.09(C).

(D) *Required conditions.*

(1) Parking: refer to § 154.08.

(2) Lot width, lot area and yards shall meet or exceed the requirements in § 154.06 and shall meet the provisions in the general provisions §§ 154.29 through 154.58.

(3) The floor area of all dwellings shall meet or exceed the requirements of § 154.06.

(4) Lot coverage: refer to § 154.06.

(5) Height: refer to § 154.06.

(6) Site plan review and approval shall be obtained in accordance with § 154.10 for the following uses:

(a) Institutional and public uses;

(b) Home appliance repair shop; and

(c) Uses listed as special uses in § 154.09(C).

(7) Conformance with smoke detector provisions in § 150.02.

(E) *Prohibited uses.* Any use other than specified in divisions (B) and (C) above. The following uses are expressly prohibited:

(1) Motels;

(2) Garage apartments; and

(3) Storage, parking or use of moving vans, automobile carriers and bus bodies shall not be allowed or considered a legal accessory use in R-2 Districts.

(Ord. 161, passed 12-10-2001)

§ 154.22 R-3 RESIDENTIAL DISTRICT.

(A) *Intent.* This district is composed of certain areas within the municipality where multi-family residential development has occurred or appears desirable to occur. To these ends development is restricted to multi-family residential use and uses which are determined compatible by the Planning Commission with this type of development. Dwellings in this district are required to be on permanent load bearing perimeter walls.

(B) *Permitted uses.*

- (1) Conversion of a dwelling to up to four dwelling units;
- (2) An apartment building of two to 12 dwelling units;
- (3) Two attached apartment buildings divided by a fire wall;
- (4) Institutional or public uses;
- (5) Essential services; and
- (6) Customary accessory uses to the above.

(C) *Special land uses.* Refer to § 154.09.

- (1) High density apartments (more than 12 dwelling units);
- (2) Group dwellings;
- (3) Low density apartments;
- (4) Planned unit developments; and
- (5) Home occupations.

(D) *Required conditions.*

- (1) Parking: refer to § 154.08.
- (2) Signs: refer to Chapter 152.

(3) Lot width, lot area and yards shall meet or exceed the requirements of § 154.06 and shall meet the provisions in the general provisions §§ 154.29 through 154.58.

(4) For purposes of these sections, the floor area of all dwellings or dwelling units in a building shall average 600 square feet per dwelling unit, exclusive of the floor area for commercial hallways, stairs, laundries, utilities or other commercial uses.

(5) Lot coverage: refer to § 154.06.

(6) Height: refer to § 154.06.

(7) Site plan review and approval shall be obtained in accordance with § 154.10 for the following uses:

- (a) An apartment building of two to 12 dwelling units;
- (b) Two attached apartment buildings divided by a fire wall;
- (c) Professional offices, one story only;
- (d) Institutional or public uses; and

(e) All uses which are specified as special land uses in § 154.09.

(8) Conformance with smoke detector provisions in § 150.02.

(E) *Prohibited uses.* Any use other than specified in division (B) above is prohibited, unless allowed as a special land use in division (C) above:

(1) Garage apartments;

(2) Sale of products or equipment on any lot and the use of a dwelling for more than one dwelling unit when located on a lot of less than 50 feet in width; and

(3) Storage, parking or use of moving vans, automobile carriers and bus bodies shall not be allowed or considered a legal accessory use in R-2 Districts.

(Ord. 161, passed 12-10-2001)

§ 154.23 MH MANUFACTURED HOUSING COMMUNITY.

(A) *Intent.*

(1) This district is designed to accommodate modern manufactured housing communities or mobile home parks in a manner consistent with the general rules of the State Manufactured Housing (Mobile Home) Commission.

(2) The regulations of this district are intended to provide adequate space and facilities for healthful living conditions for the occupants of those areas.

(3) Mobile home parks should be serviced by municipal services or by systems approved by the appropriate state, county and city agencies.

(4) All mobile home districts should have direct access to a public thoroughfare which provides safe and adequate access.

(B) *Permitted uses.*

(1) Manufactured housing communities; and

(2) Mobile home parks.

(C) *Special land uses.* No special land uses are permitted in the MH Residential District.

(D) *Required conditions.*

(1) Manufactured housing communities and mobile home parks shall comply with all regulations promulgated under the Mobile Home Commission Act (Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350) as may be amended.

(2) All permitted uses shall undergo review and approval of a site plan in accordance with § 154.10(A). All new buildings shall undergo review and approval of a site plan in accordance with § 154.10(A).

(Ord. 161, passed 12-10-2001)

§ 154.24 B-1 BUSINESS RESIDENTIAL DISTRICT.

(A) *Intent.* This district is established to create and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of the uses on the neighborhoods which they service.

(B) *Permitted uses.*

- (1) Store for convenience and retail sales and services;
- (2) Office buildings, studio;
- (3) Schools and places of worship; and
- (4) Bed and breakfast and tourist homes.

(C) *Special land uses.* Refer to § 154.09.

- (1) Mortuary and bank;
- (2) Institutional or public services;
- (3) Essential services; and
- (4) Repairs, processing and uses accessory to the above uses on the premises.

(D) *Required conditions.*

(1) All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted automotive sales areas, convenience store, fuel dispensing site, vehicle repair shop the sale of produce and plants in semi-open structures or drive-in retail establishments serving the customer from his or her vehicle. A chain link or decorative fence of sufficient density to keep discarded debris within the confines of a site shall be provided for the outdoor eating establishments or uses which are likely to have the debris.

(2) Parking: refer to § 154.08.

(3) Signs: refer to Chapter 152.

(4) Existing dwellings, existing transient rooming housing and existing apartments shall meet the provisions of the R-3 District and special land uses within the R-3 District.

(5) Lot width, lot area, and yards shall meet or exceed the requirements of § 154.06 and shall meet the provisions in the general provisions of §§ 154.29 through 154.58.

(6) Height: refer to § 154.06.

(7) Site plan review and approval must be obtained for all uses requiring new parking areas or additions to parking areas. Site plan review must be done in accordance with § 154.10. All new buildings shall undergo review and approval of a site plan in accordance with § 154.10(A).

(E) *Prohibited uses.* Any use other than specified in divisions (B) and (C) above is prohibited. The following uses are expressly prohibited:

(1) Manufacturing or industrial uses or processes which are not clearly incidental and subordinate to a wholesale or retail business use on the premises;

(2) Outdoor storage of motor vehicles in need of repair or in inoperable condition;

(3) Any use which emits odors, fumes, smoke, dust, vibration or noise in excess of normal traffic noise;

(4) Any use which is prohibited in the I District; and

(5) Transient rooming houses, motels, hotels and trailers in trailer courts.

(Ord. 161, passed 12-10-2001)

§ 154.25 B-2 CENTRAL BUSINESS DISTRICT.

(A) *Intent.* This district is established to create and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for a high volume of pedestrian traffic with limited residential use.

(B) *Permitted uses.*

- (1) Convenience and comparison retail sales and services;
- (2) Office buildings, mortuary, bank;
- (3) Laundry and dry cleaning;
- (4) Printing and publishing;
- (5) Drink and restaurant establishments;
- (6) Train, bus or taxi terminal or dispatching;
- (7) Institutional or public services;
- (8) Essential services;
- (9) Repairs, processing and uses accessory to the above uses on the premises; and
- (10) Hotels, motels.

(C) *Special land uses.* Refer to § 154.09.

- (1) Amusement, club, recreation; and
- (2) Apartments above stores.

(D) *Required conditions.*

(1) All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted automotive sales areas, convenience store, fuel dispensing site, vehicle repair shop, the sale of produce and plants in semi-open structures or drive-in retail establishments serving the customer from his or her vehicle. A chain link or decorative fence of sufficient density to keep discarded debris within the confines of a site shall be provided for outdoor eating establishments or uses which are likely to have the debris.

(2) Parking: refer to § 154.08.

(3) Signs: refer to Chapter 152.

(4) Existing dwellings, existing transient rooming housing and existing apartments shall meet the provisions of the R-3 District and special land uses within the R-3 District.

(5) Lot width, lot area and yards shall meet or exceed the requirements of § 154.06 and meet the provisions in the general provisions §§ 154.29 through 154.58.

(6) Height: refer to § 154.06.

(7) Site plan review and approval must be obtained for all uses requiring new parking areas or additions to parking areas. Site plan review must be done in accordance with § 154.10. All new buildings shall undergo review and approval of a site plan in accordance with § 154.10(A).

(E) *Prohibited uses.* Any use other than specified in divisions (B) and (C) above is prohibited. The following uses are expressly prohibited:

- (1) Manufacturing or industrial uses or processes which are not clearly incidental and subordinate to a wholesale or retail business use on the premises;
- (2) Outdoor storage of motor vehicles in need of repair or in inoperable condition;
- (3) Any use which emits odors, fumes, smoke, dust, vibration or noise in excess of normal traffic noise;
- (4) Any use which is prohibited in the I District; and
- (5) Transient rooming houses and mobile home parks.

(Ord. 161, passed 12-10-2001)

§ 154.26 B-3 COMMUNITY COMMERCIAL DISTRICT.

(A) *Intent.* This district is composed of certain land along highways, major thoroughfares or parcels near major thoroughfares with adequate isolation from adjoining residential uses, intended for uses necessary or convenient to service the residents of the community and those commercial establishments which are of a similar nature in their service to the public.

(B) *Permitted uses.*

- (1) Convenience and comparison retail sales and services;
- (2) Office buildings, mortuary, bank;
- (3) Produce stand, greenhouse;
- (4) Laundry and dry cleaning;
- (5) Plumbing, electrical, welding, repair shop;
- (6) Printing or publishing;
- (7) Drink and restaurant establishments;
- (8) Train, bus or taxi terminal or dispatching;
- (9) Lumber, or building supply yards screened;
- (10) Hotel, motel, tourist or boarding house;
- (11) Institutional or public uses or essential service; and
- (12) Repairs, processing and uses accessory to the above uses on the premises.

(C) *Special land uses.* Refer to § 154.09.

- (1) Amusement, club, recreation;
- (2) Warehouse, distribution or storage of goods; and
- (3) Dispensing of vehicle propellants and/or heating fuels.

(D) *Required conditions.*

(1) All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted automotive sales areas, convenience store, fuel dispensing site, vehicle repair shop, the sale of produce and plants in semi-open structures or drive-in retail establishments serving the customer from his or her vehicle. A chain link or decorative fence of

sufficient density to keep discarded debris within the confines of a site shall be provided for outdoor eating establishments or uses which are likely to have the debris.

(2) Parking: refer to § 154.08.

(3) Signs: refer to Chapter 152.

(4) Existing dwellings, existing transient rooming houses and existing apartments shall meet the provisions of the R-3 District and special land uses within the R-3 District.

(5) Lot width, lot area, and yards shall meet or exceed the requirements of § 154.06 and meet the provisions in the general provisions §§ 154.29 through 154.58. In the B-3 District, a building erected upon a lot existing at the date of adoption of this chapter shall set back 60 feet or a distance equal to one-fourth of the existing lot depth, whichever is the lesser, provided that no such front yard shall be less than 25 feet nor include any part of the lot excluded in the general provisions.

(6) Height: refer to § 154.06.

(7) Site plan review and approval must be obtained for all uses requiring new parking areas or additions to parking areas. The site plan review must be done in accordance with § 154.10. All new buildings shall undergo review and approval of a site plan in accordance with § 154.10(A).

(E) *Prohibited uses.* Any use other than specified in divisions (B) and (C) above is prohibited. The following uses are expressly prohibited:

(1) Manufacturing or industrial uses or processes which are not clearly incidental and subordinate to a wholesale or retail business use on the premises;

(2) Outdoor storage of motor vehicles in need of repair or in inoperable condition;

(3) Any use which emits odors, fumes, smoke, dust, vibration or noise in excess of normal traffic noise; and

(4) Any use which is prohibited in the I District.

(Ord. 161, passed 12-10-2001)

§ 154.27 B-4 OFFICE DISTRICT.

(A) *Intent.*

(1) The office district is intended to permit those office and personal services which will provide office buildings in properly landscaped settings, incorporating appropriate screening, adjacent to residential areas, establishing an appropriate district for uses which do not generate large volumes of traffic, traffic congestion and parking problems and which will promote the most desirable use of land in accordance with city land use development policies.

(2) The district is intended to encourage clustering of office buildings and discourage linear strip development. Furthermore, the district is intended to provide for a transition area between residential uses and uses less compatible with residential areas.

(B) *Permitted uses.*

(1) Professional offices (but not including medical/dental offices); and

(2) Office buildings and offices such as architectural, engineering, real estate and insurance offices where goods and wares are not created, sold, distributed or warehoused.

(C) *Special land uses.*

(1) Child day care centers (with care being given to a maximum of 16 children);

(2) Medical/dental clinics; and

(3) Funeral homes.

(D) *Required conditions.*

(1) The location of all buildings in this district shall meet all requirements of § 154.06 for the B-1 Business Residential District.

(2) All permitted uses shall undergo review and approval of a site plan in accordance with § 154.10(A).

(3) All off-street parking and loading requirements of § 154.08(A) shall be met.

(Ord. 161, passed 12-10-2001)

§ 154.28 I INDUSTRIAL DISTRICT.

(A) *Intent.* This section establishes and preserves areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and is intended to make provisions for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of the people in these areas.

(B) *Permitted uses.*

(1) Industrial uses and processes manufacturing;

(2) Fabrication;

(3) Assembly;

(4) Packaging;

(5) Printing;

(6) Reproduction;

(7) Equipment service;

(8) Transportation;

(9) Storage and warehousing;

(10) Accessory retail sales connected with a principal use;

(11) Farming;

(12) Institutional and public uses;

(13) Essential services; and

(14) Billboards.

(C) *Special land uses.* Refer to § 154.09.

(1) Vehicle repair shops;

(2) Salvage yard and/or resource recovery facilities;

(3) Adult entertainment;

(4) Dispensing of vehicle propellant and/or heating fuels;

- (5) Fuel supply;
- (6) Vehicle sales; and
- (7) Medical marijuana manufacturing.

(D) *Required conditions.*

- (1) Parking: refer to § 154.08.
- (2) Signs: refer to Chapter 152.

(3) Enclosures: all operations shall be conducted wholly within the confines of a building, provided that necessary accessory outdoor processes or the outdoor storage of coal, equipment and material may utilize required side yard or rear yard space if screened from any public street or residential zone by either a six foot uniformly painted or preserved fence or wall at least 50% solid, kept in good condition or by planting of evergreen trees or hedges. The storage shall not exceed a height equal to the distance from the lot line.

(4) Before the issuance of any building or occupancy permit the applicant shall sign an agreement stating that the use of the property will meet the applicable city ordinances, county codes and state and federal regulations, and that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts to determine compliance to be borne by the applicant.

- (5) Lots: refer to § 154.06 and general provisions §§ 154.29 through 154.58.
- (6) Height: refer to § 154.06.

(7) Site plan review and approval shall be obtained in accordance with § 154.10 for all new parking areas or additions to parking areas, or for uses requiring either of the foregoing. All new buildings shall undergo review and approval of a site plan in accordance with § 154.10(A).

(E) *Prohibited uses.* No building, structure or premises shall be used in whole or in part for any of the following types of uses:

(1) Residential construction, conversion or use of any kind, including hotels, motels or the use of trailers as dwelling units;

(2) Schools, hospitals and other institutions for educational purposes or for human care, except when incidental to a permitted or principal use;

(3) Retail business or service establishments except as accessory uses permitted in division (B) (10) above;

(4) Junk yards; or

(5) The following uses are specifically prohibited:

(a) The manufacturing of glue or gelatin, acids, acetylene gas, celluloid or cellulose, pyroxilin plastics, chlorine or bleaching powder, creosote, explosives, fireworks or matches or fertilizer;

(b) The processing of fish or animal offal, or pulp into paper or cardboard, or the refining of potash; and

(c) Primary metal reduction or smelting, steel furnace, blooming or rolling mill or uses creating a public nuisance.

(Ord. 161, passed 12-10-2001; Ord. 176, passed 5-9-2011)

§ 154.29 APPLICATION OF ZONING CODE.

Except as hereinafter specified, no structure, land or premises shall hereafter be used or occupied and no structure or part thereof shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, except subject to and in conformity with the regulations herein set forth for the district in which it is located.

(Ord. 161, passed 12-10-2001)

§ 154.30 CONTINUING EXISTING USES.

Upon the effective date of this chapter any building, structure or use lawfully existing by the prior zoning ordinance, may be continued, except as provided in § 154.07(I).

(Ord. 161, passed 12-10-2001)

§ 154.31 REAR DWELLING PROHIBITED.

No building to be used as a dwelling shall be constructed, maintained, altered or moved in the rear yard of a building situated on the same lot, nor shall any building be constructed or moved in front of a principal building situated on the same lot.

(Ord. 161, passed 12-10-2001) Penalty, see § 154.99

§ 154.32 ACCESSIBILITY OF RESIDENTIAL LOT.

Any lot used for residential purposes except those of record at the time of enactment of this chapter, (and those lots located in a licensed mobile home manufactured housing park) shall have a minimum lot width at the front setback (minimum building setback) line of 60 feet.

(Ord. 161, passed 12-10-2001)

§ 154.33 ACCESSORY BUILDINGS IN ANY DISTRICT (EXCEPT THE B-2 DISTRICT).

(A) No accessory building may be built upon any lot in single ownership on which there is no principal building.

(B) No accessory building shall be placed in any required front or side yard nor closer than ten feet to any other building without an approved firewall.

(C) An accessory building located in a rear yard shall not be closer than five feet to any lot line.

(Ord. 161, passed 12-10-2001) Penalty, see § 154.99

§ 154.34 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICT.

(A) When the rear line of a corner lot abuts the side line of an adjoining lot in a residential district, no accessory building shall be within five feet of the abutting lot line nor closer to the side street lot line than the front yard setback of the principal building on the adjoining lot, but in no case shall the setback be less than 25 feet.

(B) When the rear line of a corner lot abuts the rear line of any other lot or is directly across an alley therefrom, no accessory building shall be closer to the side street lot line of a corner lot than the side street yard setback of the principal building on the corner lot, but in no case shall the setback be less than 25 feet.

(C) A private garage or a portion thereof may be rented or leased for not more than two motor vehicles (non-commercial type only) to persons not a resident of the dwelling on the lot.

(Ord. 161, passed 12-10-2001)

§ 154.35 FENCES OR WALLS.

(A) Except where in conflict with § 154.37, retaining walls and fences not more than four feet in height are permitted in the required yards of all zones, provided that the fences are not more than 25% solid. Solid walls not to exceed six feet in height and fences between three and six feet in height are permitted, in back of required front yards and in side or rear yards in a zone, provided that the walls or fences on corner lots must meet the side street side yard setback requirement and the requirements of §§ 154.36 and 154.37, and further providing that fences or walls exceeding three feet in height or more than 25% solid may not be constructed within a side street yard in residential districts. Wire fences not more than 20% solid may be placed in any yard in an I or B District(s).

(B) A hedge, row of bushes or closely planted trees, may also be construed as a fence. The “living fences” will not be subject to the six-foot maximum height conditions set for back and side yards, they will, however, be subject to all front yard restrictions and similar restrictions concerning corner lots and safety limitations as far as street travel is concerned.

(C) Pools: every person owning land on which there is situated a swimming pool or pool of water which contains 24 inches (610 mm) or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make the body of water inaccessible to small children. The enclosure, including gates therein, must be not less than four feet (1,219 mm) above the underlying ground. All gates must be self latching with latches placed four feet (1,219 mm) above the underlying ground and otherwise made inaccessible from the outside to small children.

(D) A natural barrier, hedge, pool cover or other protective device approved by the Zoning Official may be used so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described herein.

(Ord. 161, passed 12-10-2001)

§ 154.36 CORNER LOTS.

(A) Where a lot is bounded by two intersecting streets the front yard requirements shall be met on one abutting street and one-half the front yard requirement shall be met on the other abutting street.

(B) The owner shall have the discretion to decide upon which abutting street the full front yard requirement shall be met.

(C) No portion of the lot within 25 feet of the side lot line of any adjoining property may be utilized for a building or solid fence or wall over four feet in height unless the front yard requirement for the adjoining property is met within the area.

(D) Where the rear yard abuts the side yard of an adjoining property, the side yard requirement of the adjoining lot shall be provided between any structure over three feet in height and the rear lot line.

(Ord. 161, passed 12-10-2001)

§ 154.37 VISION CLEARANCE ON CORNER LOTS.

(A) On any corner lot in any zone other than the central business district no sign, structure, fence or planting higher than 30 inches above the established curb grade, except trees with a minimum clearance of eight feet from the ground to the lowest branch, shall be erected or maintained within a line connecting points on street lot lines 20 feet distance from the corner.

(B) No structure or planting which is deemed a traffic hazard by the Chief of Police shall be permitted in any zone.

(Ord. 161, passed 12-10-2001)

§ 154.38 AREA OR SPACE REQUIRED.

No lot, yard, court, parking area or other space shall be divided, altered or reduced so as to make the area or dimensions less than the minimum required under this chapter. If already less than the minimum required under this chapter, the area or dimension shall not be further divided or reduced.

(Ord. 161, passed 12-10-2001)

§ 154.39 YARD REQUIREMENTS ALONG ZONING BOUNDARY.

A lot having a side yard line adjacent to any zoning boundary line of a more restricted district shall have a side yard not less than the minimum width required for the adjoining side yard for the more restricted district.

(Ord. 161, passed 12-10-2001)

§ 154.40 FRONT YARDS ON LOTS RUNNING THROUGH THE BLOCK.

In any district where a lot runs through a block front street to street and where a front yard is required, the front yard shall be provided along each street lot lines, which is not a side street lot line.

(Ord. 161, passed 12-10-2001)

§ 154.41 EXCEPTION TO LOT WIDTH.

A single-family dwelling may be constructed on any officially platted and recorded lot which is less than the width required by this chapter, provided that all other requirements of this chapter are complied with.

(Ord. 161, passed 12-10-2001)

§ 154.42 RESTRICTIONS FOR LOT WIDTHS ADJACENT TO PLATTED LOTS.

In a block where there exists some platted and unplatted land, and where 50% or more of the total frontage on both sides of a street in the same block is platted, the balance of the unplatted land must be divided into lots each having an average width not less than the average of the 50% of the platted lots, but in no case shall the width of any lot so determined be less than 60 feet; and if less than 50% of the frontage has been platted into lots, then the balance of the unplatted land shall meet the width requirements for the district in which it is located.

(Ord. 161, passed 12-10-2001)

§ 154.43 EXCEPTION TO HEIGHT LIMITS.

(A) Governmentally owned structures, churches, parapet walls not exceeding four feet in height, belfries, cupolas, domes, chimneys, flagpoles, radio towers, masts and aerials, television antennas, ornamental towers, monuments, transmission towers and necessary mechanical appurtenances are excepted from required height limitations unless otherwise specified in this chapter. In industrial zones, stack chimneys, cooling and fire towers, elevator buildings and bulkheads, storage tanks and other necessary appurtenances of any height are permitted, provided they are located the same distance as their height from any adjoining property line.

(B) All of the foregoing structures and structures determined to be similar by the Planning Commission shall be subject to prior approval by the Planning Commission.

(Ord. 161, passed 12-10-2001)

§ 154.44 FRONT YARDS.

(A) *Exception for existing alignment.* In any residential district the front yard requirements of a lot may be modified so as to equal the average depth of existing developed front yards on lots within 100 feet of the lot and within the same block front; provided the front depth shall not be less than ten feet.

(B) *Structures or projections permitted.*

(1) Terraces, steps, uncovered porches and other similar features are permitted in any front yard, provided they shall not be higher than 18 inches above the lowest above-grade floor level and shall not be located closer than five feet from any lot line.

(2) Normal chimneys, flues and structural overhangs into a required front yard are limited to 18 inches.

(C) *Basis for determination of building setbacks on certain streets.* The line from which building setbacks are required by this chapter shall be measured from the established right-of-way lines.

(Ord. 161, passed 12-10-2001)

§ 154.45 SIDE YARDS.

When side yards can be reduced:

(A) On lots with a width of less than 60 feet and recorded as such prior to the date of adoption of this chapter, the minimum width of each of the side yards shall be five feet, except side street yards shall be a minimum width of 15 feet;

(B) Terraces, steps, uncovered porches and other similar features are permitted in any yard, provided they shall not be higher than 18 inches above the lowest above-grade floor level and shall not be closer than five feet from any lot line; and

(C) Normal chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters and other similar features, may project into a required side yard.

(Ord. 161, passed 12-10-2001)

§ 154.46 REAR YARDS.

(A) *When rear yards can be reduced.*

(1) In all residential districts any platted and recorded lot less than 120 feet deep may have three inches deducted from the required rear yard depth for every foot the lot is less than 120 feet deep, provided no rear yard shall be less than ten feet.

(2) The required rear yard depth may be measured to the centerline of any adjoining alley, but no building shall be erected within five feet of the alley line.

(B) *Structures or projections permitted.*

(1) Terraces, steps, uncovered porches or other similar features are permitted in any rear yard and shall not be located less than ten feet from the rear lot line or less than six feet from an accessory building.

(2) Bays, including their cornices and eaves, balconies and fireplaces shall not project more than three feet into a required rear yard.

(3) Normal chimneys, flues, elevator shafts, connecting hallways, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and other similar features may project into a required rear yard.

(Ord. 161, passed 12-10-2001)

§ 154.47 REQUIREMENTS FOR YARDS AND AREA ABUTTING STREETS.

Any other provision of this chapter notwithstanding, the required front yard or side street side yard setback and lot area in each zone shall not include any part of a lot which lies closer than 40 feet to the centerline of any minor street nor closer than 50 feet to the centerline of any major street shown on the adopted master plan of the city, nor closer than 60 feet to the centerline of any highway shown on the master plan.

(Ord. 161, passed 12-10-2001)

§ 154.48 ALL YARDS.

When determining yard types for setback purposes, any wall or any building can be the front, rear or sides so long as the rear is opposite the front and sides are opposite to each other. Doors or entrances or exits have nothing to do with determining the front, rear or side yards so long as all yard setbacks are adhered to in accordance with this chapter.

(Ord. 161, passed 12-10-2001)

§ 154.49 ESSENTIAL SERVICES.

Essential services are permitted in any zone as regulated by state law and by city ordinances, provided that any essential service use which is an above ground substation, a building housing equipment, a building occupied by persons or any tower structure shall be deemed an institutional use as regulated herein.

(Ord. 161, passed 12-10-2001)

§ 154.50 INSTITUTIONAL AND PUBLIC USES.

(A) Institutional and public uses may be located in any business or industrial zone.

(B) The uses are also permitted in any residential or apartment zone, provided the following requirements are complied with:

(1) Application and site plan shall be submitted to the Planning Commission;

(2) The required site plan shall show the property lines and dimensions of the tract and the proposed development, including all existing and proposed buildings and uses, as well as the location, dimensions and capacities of all areas to be used for motor vehicle parking;

(3) Sufficient additional data shall be provided as needed to enable the City Planning Commission to determine compliance with the requirements of this chapter and to determine the best possible physical layout for the proposed use from the standpoint of its relationship to the general health, safety and welfare of the city and adjoining property values;

(4) Before approving the plan or plans, the Planning Commission shall require proper guarantees that the proposed use shall not constitute a public hazard and is reasonably necessary for the convenience of the community; and

(5) Where an institutional or public use is to be occupied as a residence, nursing home, convalescent home, hospital or similar use where humans will be living or cared for, the minimum lot size required for a family in a zone shall be provided for each four humans to be accommodated.

(Ord. 161, passed 12-10-2001)

§ 154.51 SEWAGE AND WATER REQUIREMENTS.

See city's water/sewer provisions in Title V.

(Ord. 161, passed 12-10-2001)

§ 154.52 SURFACE RUNOFF.

No premises shall be filled or graded so as to discharge surface runoff to abutting premises in such a manner to cause ponding or surface accumulation of the runoff on those premises. This would include water runoff from building via eaves or similar apparatus.

(Ord. 161, passed 12-10-2001)

§ 154.53 TEMPORARY USE PERMITS.

(A) The Zoning Official may issue temporary use permits for the following uses after determining that those uses will not be detrimental to adjacent conforming uses during the permitted period of use.

(B) A second temporary use permit may be issued by the Zoning Official at the end of the time limit for good cause shown.

(C) The Zoning Official may attach conditions and requirements deemed necessary to meet the intent of the provisions of this chapter.

(D) A third temporary use permit may only be authorized by the Zoning Board of Appeals.

(1) *Mobile homes.* An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to 90 days while a dwelling or structure is constructed or reconstructed on the same premises. A temporary permit shall be issued by the Zoning Official prior to the use.

(2) *Supplies.* The storage of building supplies and machinery, temporary storage buildings, the assembly of materials and customary trade, contractor, architect and identification signs in connection with a construction project may be authorized by the zoning official for a period of up to 12 months.

(3) *Seasonal uses.* The zoning official may authorize a temporary permit for up to 30 days for seasonal or unusual non-recurrent temporary uses.

(Ord. 161, passed 12-10-2001)

§ 154.54 SWIMMING POOLS.

Swimming pools accessory to a principal permitted use are allowed in all districts provided the pools are constructed, operated and maintained in accordance with BOCA regulations pertaining thereto and further provided that no pool shall be closer than six feet to any side or rear lot line nor located in any required side street yard or required front yard. Swimming pools shall be enclosed in accordance with § 154.35 above.

(Ord. 161, passed 12-10-2001)

§ 154.55 OCCUPANCY PERMIT REQUIRED.

No new building, new portion of a building or portion of a building vacated to permit alterations shall be occupied or re-occupied until an occupancy permit is issued. No building declared unsafe or unfit for human habitation shall be occupied or used.

(Ord. 161, passed 12-10-2001)

§ 154.56 BASEMENT DWELLINGS.

The use of a basement or basement of a partial building or planned building as a residence or dwelling unit is prohibited in all zones. This shall not prohibit a dwelling unit located partially below ground which has access to two remote means of egress to ground level.

(Ord. 161, passed 12-10-2001)

§ 154.57 TRANSITION ZONING.

The following transitional zoning uses are permitted with respect to residentially zoned premises, the side yard of which adjoins a "B" or "I" District, or which is situated across the street from and within lot line extensions of premises situated within a "B" or "I" District:

(A) The first residentially adjoining lot, or the first 150 feet thereof, whichever is the lesser, may be occupied by a use permitted in the adjoining "B" or "I" District provided:

(1) Off-street parking is adequate to meet the needs of the specific use in accordance with the provisions of this chapter is provided.

(2) Side yard meets the requirements for the district in which the lot is located.

(3) Any building then or hereafter located therein shall conform to a residential character.

(4) Sign requirements of the district in which it is located shall be complied with.

(B) The first 150 feet thereof may be utilized for off-street parking in accordance with the provisions of this chapter.

(Ord. 161, passed 12-10-2001)

§ 154.58 STANDARDS FOR SINGLE-FAMILY DWELLING.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DWELLING. Any building or portion thereof usable exclusively for residential purposes.

DWELLING, MULTIPLE-FAMILY. A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in this section.

DWELLING, SINGLE-FAMILY. A building containing not more than one dwelling unit designed for residential use, complying with the following standards.

(a) It complies with the minimum square footage requirements of this chapter for the zone in which it is located.

(b) It has a minimum width across any section of 20 feet and complies in all respects with the BOCA Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where the standards of construction are less stringent than those imposed by the BOCA Building Code then and in that event the less stringent federal or state standard or regulations shall apply.

(c) It is firmly attached to a permanent foundation, constructed on the site in accordance with the BOCA Building Code and co-extensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other state and federal regulations.

(d) It does not have exposed wheels, towing mechanism, undercarriage or chassis.

(e) The dwelling is connected to a public sewer and water supply or to the private facilities approved by the local health department.

(f) The dwelling contains an area for the storage of seasonal apparel, keepsakes, seldom used appliances and the like, either in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure being of standard construction similar to or of better quality than the principle dwelling.

(g) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two exterior doors, with one being in the front of the dwelling and the other being either at the rear or side of the dwelling; and with permanently attached steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same.

1. The compatibility of design and appearance shall be determined in the first instance by the City Zoning Administrator upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of the Zoning Administrator's decision.

2. Any determination of compatibility shall be based upon the standards set forth within the definition of **DWELLING**, as well as the character of residential development outside of mobile home parks within 2,000 feet of the subject dwelling where the area is developed with dwellings to the extent of not less than 20% of the area; or, where the area is not so developed, by the character of residential development outside of mobile home parks throughout the city.

3. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(h) The dwelling contains no additions or rooms or other areas except those which are constructed with similar materials and which are similar in appearance and which have similar quality of workmanship as the original structure, including the above-described foundation and permanent attachment to the principle structures.

(i) The dwelling complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled mobile home construction and safety standards, effective June 15, 1976, as amended.

(j) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by the state or federal law or otherwise specifically required in the ordinance of the city pertaining to the parks.

DWELLING, TWO-FAMILY. A building containing not more than two separate dwelling units designed for residential use and conforming in all other respect to the standards set forth in this section.

(B) All dwellings are required to have permanent load bearing foundations beneath perimeter walls.
(Ord. 161, passed 12-10-2001)

§ 154.59 SOLAR ENERGY FACILITIES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The landowner, developer, facility owner, and/or operator with legal control of the project, including heirs, successors and assigns, who has filed an application for development of a solar energy facility under this section.

LANDOWNER. The persons or entities possessing legal title to the parcel(s) upon which a SEF is located.

PARCEL. All land within a legally established parcel.

PRACTICABLE. It is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

PROTECTED LANDS. For the purpose of this chapter only, lands containing resources that are protected or regulated by established regulatory standards of local, state, and federal agencies, conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.

RENEWABLE ENERGY COMBINING ZONE. A zoning district that may be combined with other base zoning and applied to specific geographic areas within the county, where the county has determined the land is suitable for a specified variety of solar energy facilities and where permitting for such facilities may be expedited if specified conditions are met

REVIEW AUTHORITY. Applicable land use decision- making body as determined by local ordinance and appeal procedures.

SOLAR ELECTRIC SYSTEM (SES). The components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.

SOLAR ENERGY FACILITY (SEF). An energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems.

USES ALLOWED. One of the following:

(a) Accessory use - a SEF designed primarily for serving on-site needs or a use that is related to the primary use of the property.

(b) Direct use - a SEF designed and installed to provide on-site energy demand for any legally established use of the property.

(c) Primary use - a SEF that uses over 50% of the parcel(s) and is devoted to solar electric power generation primarily for use off-site.

(d) Secondary use - a SEF that is not the primary use of the property and uses less than 50% of the parcel(s) land area.

(B) *Purpose.* The purpose of the section is to facilitate the construction, installation and operation of a solar energy facilities (SEFs) in City of Bronson in a manner that protects public health, safety and welfare and avoids significant impacts to protected resources such as important agricultural lands, endangered species, high value biological habitats and other protected resources. It is the intent of this section to encourage solar facilities that reduce reliance on foreign petroleum supplies, increase local economic development and job creation, reduce greenhouse gas emissions, and/or promote economic development diversification.

(C) *Applicability.*

(1) This section applies to the construction of any new SEF within the city.

(2) A SEF legally established or permitted prior to the effective date of this section shall not be required to meet the requirements of this section, however:

(a) Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this section. Only the modification or alteration is subject to this section;

(b) Substantial conformance review determinations are not major amendments to a project's existing permits; and

(c) Routine operation and maintenance or like-kind replacements do not require a permit.

(D) *Permit requirements.* The type of permit required for SEFs shall be as shown in Table 1 Permit Requirements:

Table 1. Permit Required				
Land Use	Accessory Use	Direct Use	Primary Use	Secondary Use
Agricultural/residential	P	P	SLU	SLU
Commercial/office	P	P	SLU	SLU
Industrial	P	P	SLU	P

(E) *Parcel line setbacks.* The following setbacks from the parcel line to the closest part of the SEF shall be established as shown in Table 2. Fencing, roads, and landscaping may occur within the setback.

Table 2. Setbacks				
Land Use	Accessory	Direct Use	Primary Use	Secondary Use
Setback from Property Line	Per zoning for that district		50 feet	75 feet

(F) *Height limits.* For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes.

Table 3. Height Limits			
Zoning District	Accessory/Direct Use	Secondary Use	Primary Use
Residential (R-1, R-2, R-3)	Roof- 2' above roof	Roof- 2' above roof surface and may project above the height limit	Roof- 2' above roof surface and may project above the height limit
	Ground- 15'	Ground 15'	Ground 25'
B-1, B-2, B-3, Industrial	Roof- 4' above roof surface and may project above the height limit	Roof- 4' above roof surface and may project above the height limit	Roof- 4' above roof surface and may project above the height limit

Ground- 25'

Ground-25'

Ground-25'

(G) *General requirements* (apply to all SEF Uses unless otherwise noted).

(1) *Building permits are required.*

(a) Nothing in this chapter modifies the minimum building standards required to construct a SEF, consistent with applicable building and fire codes. The SEF components and all accessory equipment shall comply with the most recently adopted Building Code as determined by the Building Official and Fire Code as determined by the Fire Official.

(b) A site plan shall be provided at the time of the building permit application demonstrating compliance with the setbacks in Tables 1 and 2.

(c) The building permit shall include review by local permitting departments including, but not limited to, the local fire authority, for health and safety requirements.

(2) *Supplemental information required.*

(a) The manufacturer's or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

(b) On site power lines between solar panels and inverters shall be placed underground.

(c) If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.

(d) An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.

(e) A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.

(f) An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.

(3) *Off-site facilities.* When the SEF is located on more than one parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.

(4) *Septic system avoidance.* The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Health;

(5) *Floodplain avoidance.* If located in a floodplain as designated by FEMA, or an area of known localized flooding, all panels, electrical wiring, automatic transfer switches, inverters, etc. shall be located above the base flood elevation; and, shall not otherwise create a fire or other safety hazard as determined by the Building Official.

(6) *Conform to development standards for underlying zone.* The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein.

(7) *Visibility.*

(a) All solar energy facilities located in a residential area shall have a minimum landscape buffer of 25 feet. The buffer shall contain evergreen trees or bushes planted no more than eight feet apart and at least four feet tall at time of planting. The buffer shall obtain a height of ten feet within

three growing seasons. The trees or bushes may be trimmed but no lower than a height of ten feet. A buffer area will not be required between a solar energy facility and an industrial or commercial use. A planted buffer will not be required if an opaque fence is installed.

(b) *All areas* - additionally, all ground mounted facilities shall:

1. If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent parcel or the night sky;
2. Not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the facility owner;
3. Be sited behind existing vegetation (which shall be supplemented with landscaping where not adequate to screen the project) or be sited using the natural topography to screen the project; and
4. Be enclosed by a fence, barrier, barb wire, razor wire or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the parcel(s). Fences or barriers shall incorporate wildlife friendly design. No barrier shall be required where projects employ full-time security guards or video surveillance.

(8) *Locations requiring discretionary review.* The following principles shall apply to the review of primary and secondary use locations: No portion of the SEF or their structures shall occupy protected lands. Protected lands that are potentially incompatible locations, requiring special land use permits, include:

- (a) Floodways.
- (b) Wetlands, wetland transition areas, riparian corridors, or open water.
- (c) Properties enrolled in the Michigan Farmland Preservation Program.
- (d) Habitat of special status, threatened, endangered, candidate, or fully protected species, species of special concern, or species protected local, State, and Federal agencies.
- (e) Lands within easements where SEF is a prohibited use.

(9) *Abandonment.*

(a) A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every six months after 12 months of no energy production) to the City Manager or his or her designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the SEF.

(b) Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SEF and restore the site to its condition prior to development of the SEF within 360 days of notice by the City Manager or his or her designee.

(c) If the responsible party (or parties) fails to comply, the City Manager or his or her designee may remove the SEF, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a nonhazardous pre-development condition.

(d) Facilities deemed by the city to be unsafe and facilities erected in violation of this section shall also be subject to this section. The code enforcement officer or any other employee of the city shall have the right to request documentation and/or affidavits from the applicant regarding the system's usage, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred.

(e) Upon a determination of abandonment or other violation(s), the city shall send a notice hereof to the applicant and/or landowner, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within 90 days of notice by the city, unless the city determines that the facilities must be removed in a shorter period of time to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the city may advise the applicant and/or landowner of such alternative means of resolving the violation(s).

(f) If the applicant and/or landowner do not comply, the city may remove the SEF and restore the site and may thereafter (a) draw funds from any bond, security or financial assurance that may have been provided or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard. In the event that the land owner/user, fails to properly remove the equipment installed for the collection of solar energy, the City of Bronson, may seek a court order allowing removal, and charging costs of removal back against the tax bill paid for the real estate.

(10) *Decommission plan.*

(a) A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of the development permit:

1. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment etc.)
2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.
3. Restoration of property to condition prior to development of the SEF.
4. The timeframe for completion of decommissioning activities.
5. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
6. The party currently responsible for decommissioning.
7. Plans for updating this decommissioning plan.

(b) In the event that the land owner/user, fails to properly remove the equipment installed for the collection of solar energy, the City of Bronson, may seek a court order allowing removal, and charging costs of removal back against the tax bill paid for the real estate.

(11) *Aviation notification.*

(a) For consideration of potential impacts to civilian flight paths for airport operations located within five nautical miles from an airport listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official and the Federal Aviation Administration's (FAA) Airport District office (ADO) with oversight of Michigan. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. five acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.

(b) For consideration of potential impacts to civilian flight paths for airport operations located within five nautical miles from an airport not listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system

(e.g. five acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.

(H) *Solar energy facilities - accessory use.*

(1) *General requirements.* Accessory use solar energy facilities are ground mounted SEFs that provide energy primarily for on-site use, or rooftop systems that provide energy for any use. Rooftops or ground mounted systems covering developed parking areas or other hardscape areas are encouraged as preferred locations for a SEF. In addition to the general requirements in division (G) of this section, the following standards shall apply to all accessory use SEFs, notwithstanding the development standards for the underlying zone:

(a) *Lot coverage* - rooftop systems can be any size, ground mounted systems may not exceed 1/2 an acre;

(b) *Setbacks* - ground mounted structures shall conform to the setbacks as shown in Table 2.

(c) *Height limits* - facilities shall conform to the height limits of Table 3, unless demonstrated by a structural engineer to meet public safety standards.

(d) *Floodplain* - an accessory use SEF shall not be located in a floodplain.

(I) *Solar energy facilities - direct use.*

(1) *General requirements.* Direct use SEFs provide energy for on-site use. In addition to the general requirements in division (G) of this section, the following standards shall apply to all direct use SEF, notwithstanding the development standards for the underlying zone:

(a) *Lot coverage* - allowable lot coverage varies by the underlying zoning district.

(b) *Setbacks* - ground mounted structures shall conform to the setbacks as shown in Table 2.

(c) *Height limits* - facilities shall conform to the height limits of Table 3.

(d) *Floodplain* - a direct use SEF shall not be located in a floodplain.

(2) *Biological resources* - the protection of high value biological resources is an important consideration. Direct use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, state, or federal agencies.

(J) *Solar energy facilities - primary and secondary uses.*

(1) *General requirements.* Primary or secondary uses that provide energy for on-site or off-site use as shown in Table 1 are subject to a special land use permit. In addition to the general requirements in division (G) of this section, the following standards shall apply to all primary and secondary SEF, notwithstanding the development standards for the underlying zone:

(a) *Lot coverage* - allowable lot coverage varies by underlying zoning district;

(b) *Setbacks* - ground mounted structures shall conform to the setbacks as shown in Table 2 and whenever an SEF abuts an agricultural operation or agricultural zone, an agricultural buffer on the SEF parcel shall be established at a minimum of 100 feet. The buffer may be reduced if the decision-making body determines that there is a substantial screen such as existing topography or landscaping vegetation and/or an operational management plan and/or an agricultural operation easement is provided;

(c) *Height limits* - facilities shall conform to the height limits of Table 3;

(d) *Michigan Farmland Preservation Program* - a primary or secondary SEF may not be located on a property enrolled in the Michigan Farmland Preservation Program. An applicant must successfully terminate their Farmland Development Rights Agreement with the Department of Agriculture and Rural Development to be eligible to apply for SEF approval.

(e) *Grading* - grading within the city shall be limited to only that necessary to construct access roads and install equipment, unless the areas are determined to be chemically or physically impaired.

(2) *Biological resources* - the protection of high value biological resources is an important consideration. Primary or secondary Use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, state, or federal agencies.

(3) *Soil stabilization, erosion control and Ground water management* - for primary and secondary use SEFs, the following requirements shall apply:

(a) To the extent feasible and compatible with the climate and pre- project landscaping of the property the site shall be restored with native vegetation. The re-vegetation plans shall be reviewed and approved by the city and Branch County Drain Commissioner. All areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the city.

(b) A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff shall be provided subject to approval by the review authority.

(c) A maintenance plan shall be submitted for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.

(d) Prior to issuing a final building permit, an as-built grading and drainage plan, prepared by a licensed professional surveyor or other approved qualified professional shall be submitted to the reviewing agency's engineer for review and approval. The plan shall show that the as-built conditions are substantially the same as those shown on the approved grading and drainage plan.

(Ord. 205, passed 6-11-2018)

ADMINISTRATION AND ENFORCEMENT

§ 154.70 ZONING COMPLIANCE PERMITS.

No parking area, fence, building or other structure regulated by this chapter shall be located, erected, razed, moved, extended, enlarged, altered or changed in use until a zoning compliance permit has been issued by the Zoning Official.

(A) Application.

(1) An application for a zoning compliance permit shall be filed with the Zoning Official by the owner of the land involved or by an authorized agent.

(2) The application shall contain a written statement of the intended use or change and shall be accompanied by a site plan showing the location of the proposed improvements upon the lot.

(3) Prints of all plans shall be submitted in triplicate showing pertinent dimensions to scale.

(4) The application and plans shall be signed by the property owner or his or her agent, and by the person preparing them.

(5) A fee established by the city shall accompany all applications to defray administrative and inspection costs.

(6) Where an application involves required site plan approval by the Planning Commission the Zoning Official shall refer the plan to the Planning Commission. Ref. § 154.10(D)(3)(a).

(B) *Issuance.*

(1) No zoning compliance permit shall be issued unless the application and plans conform in all respects to this chapter and to other applicable city regulations and have been approved by any required review board or person.

(2) The zoning compliance permit shall state any special conditions imposed by this chapter or by any review board or person and shall be signed by the Zoning Official and the owner.

(3) A copy of the signed zoning compliance permit shall be sent to the city assessor.

(Ord. 161, passed 12-10-2001)

§ 154.71 NONRESIDENTIAL OCCUPANCY PERMITS.

(A) Before any existing use of land or use of building is changed, and before any new parking area, building or other new structure or a new part thereof regulated by this chapter is occupied or used an occupancy permit shall be issued.

(B) The Zoning Official shall ascertain, by inspection, that the intended use, premises, building, structure or parts thereof comply with the provisions of this chapter, with any other pertinent city regulations, with any special conditions imposed on the zoning compliance permit and to all aspects of the approved site plan.

(C) Upon so finding the Zoning Official shall issue an occupancy permit which shall be acknowledged by the signature of the owner thereon. A copy of the occupancy permit shall be sent to the city assessor by the Zoning Official.

(Ord. 161, passed 12-10-2001)

§ 154.72 ENFORCEMENT.

(A) This chapter shall be enforced by the Zoning Official.

(B) The Zoning Official shall not issue any permit which would authorize a violation of any provision of this chapter or of any other applicable city regulation except upon the order of the Board of Appeals or a court.

(1) *Inspections.* The Zoning Official shall make periodic inspections of the city to ensure that the requirements of this chapter are being complied with.

(2) *Violations.* The Zoning Official shall investigate any alleged violation of this chapter coming to his or her attention, whether by complaint or from personal knowledge. If a violation is found to exist, the Zoning Official shall serve notice upon the owner by personal service or certified mail and order a termination of the violation. If the violation is found to still exist 30 days after the notification and order, the Zoning Official shall immediately prosecute a complaint to terminate the violation before the district court.

(3) *Records.* The Zoning Official shall keep records of all inspections, investigations, applications, fees and permits issued, with notations of all special conditions involved. Copies of all site plans approved by the Planning Commission or Zoning Board of Appeals shall also be kept unless the permit or authorization has expired. The records shall be available as a public record.

(Ord. 161, passed 12-10-2001)

§ 154.73 CITY PLANNING COMMISSION.

(A) *Powers and duties.* The City Planning Commission is hereby designated the Planning Commission as specified in the Planning Enabling Act, Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended, and in § 4, Public Act 207 of 1921, being M.C.L.A. §§ 125.581 through 125.590, as amended and shall perform the duties of the Planning Commission as provided in these acts together with other powers and duties as are given to the Planning Commission by the provisions of this chapter, including authority to act on all matters requiring the approval or recommendation of the Planning Commission and including the power to interpret this chapter.

(B) *Authority to approve uses.* Whenever in this chapter the lawful exercise or existence of a use requires the approval of the Planning Commission, the Planning Commission is hereby authorized and directed to investigate the matter requiring the approval, to conduct a hearing thereon where required, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of the investigation and determination, subject to the provisions of this chapter.

(C) *Hearing notice.* Prior to conducting a public hearing, as authorized in division (B) above, a public notice, stating the time and place of the hearing, shall be posted and served in accordance with the provisions established in § 154.74(G).

(D) *Rules of procedure.* The Planning Commission is hereby authorized to adopt rules of procedure consistent with the state statutes and the provisions of this chapter.

(E) *Surveys and plans.* Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this chapter, or in cases where the Planning Commission is required to make an investigation, the applicant shall furnish the surveys, plans or other information as may be reasonably required by the Planning Commission for the proper consideration of the matter in accordance with this chapter.

(F) *Hearings.* In making any recommendations or approval authorized by the provisions of the ordinance, the Planning Commission shall consider:

- (1) Whether there has been a compliance with the provisions of this chapter;
- (2) Whether there is proper yard space, parking facilities, loading space, percentage of lot coverage, green belts, size of buildings, lot area and other conditions required by this chapter;
- (3) Whether the use involved is in accord with the spirit and purposes of this chapter;
- (4) Whether the use involved would constitute a public or private nuisance;
- (5) Whether the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood; and
- (6) Whether the use involved would affect the natural or planned drainage system so as to deleteriously affect the surrounding neighborhood.

(Ord. 161, passed 12-10-2001; Ord. 182, § 2, passed 2-13-2012)

§ 154.74 ZONING BOARD OF APPEALS.

(A) *General grant of power.*

(1) The Zoning Board of Appeals shall adopt the rules of procedure, not inconsistent with the provisions of the state statutes and local ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

(2) Meetings of the Board of Appeals shall be held at the call of the Chairperson and at other times as the Board of Appeals may determine. The Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

(3) Hearings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings showing the action of the Board of Appeals and the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

(4) The Board of Appeals shall hear and decide appeals from and review any order, requirements, decisions or determination made by the Zoning Official or body charged with enforcement of this chapter. The Board of Appeals shall also hear and decide matters referred to them or upon which they are required to pass under an ordinance of the legislative body adopted pursuant to the Zoning Enabling Act.

(5) An appeal to the Board of Appeals in cases in which it has original jurisdiction under the provisions of this chapter may be taken by any property owner, including a tenant, or by a government office, department, board or bureau. An application for the appeal shall be filed with the Zoning Official who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application, to the Board of Appeals.

(B) Membership and appointment.

(1) Pursuant to state statutes, there is hereby created a Zoning Board of Appeals. City Council will act as the Zoning Board of Appeals pursuant to City Charter § 6.9.

(2) Voting: the concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of the Zoning Official, or to decide in favor of the applicant a matter upon which the Board of Appeals is required to pass under the terms of an ordinance, except that a concurring vote of two-thirds of the members of the Board of Appeals shall be necessary to grant a variance from uses of land permitted in an ordinance.

(C) Appeal procedure.

(1) An appeal may be taken by a person aggrieved, or by an officer, department, board or bureau of the city. The appeal shall be taken within 30 days of the date of the decision appealed from, as prescribed by the rules of the Board of Appeals, by the filing with the officer or body from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed was taken.

(2) Stay of proceedings: an appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeals is taken certifies to the Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Board of Appeals or circuit court, on application of, or notice to the officer or body from whom the appeal is taken and on due cause shown.

(3) Decisions on appeals and applications: the Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within 60 days after the hearing thereon, and in any event, within 90 days after the date of filing of the appeal or application; upon failure to do so, the appeal or application shall thereupon be deemed to be decided adversely to the appellant or applicant in the same manner as though the Board had rendered its decision to that effect. All decisions of the Zoning Board of Appeals shall become final five days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.

(4) Appeals to circuit court:

(a) The decision of the Board of Appeals shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the circuit court. Upon appeal, the circuit court shall review the record and decision of the Board of Appeals to insure that the decision:

1. Complies with the constitution and laws of the state;
2. Is based upon proper procedure;
3. Is supported by competent, material and substantial evidence on the record; and
4. Represents the reasonable exercise of discretion granted by law to the Board of Appeals.

(b) As a result of the court's review, the court may affirm, reverse or modify the decision of the Board of Appeals.

(D) *Variance procedures.*

(1) *Grant of power for variances.* In addition to other duties and powers specified herein, the Zoning Board of Appeals, after public hearing, shall have the power to authorize a land use or structural variance from the provisions of this chapter where it is alleged by the applicant that either:

(a) By reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure or by reason of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or would cause undue hardship;

(b) There are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment or alterations of buildings or structures or the use of the land, buildings or structures; or

(c) The condition or situation of the specific property or the specific intended use of the property is not of a general or recurrent nature as to make the formulation of general regulations in this chapter practical.

(2) *Variances prohibited.* A variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence in the official record of the hearing that:

- (a) The alleged practical difficulties or unnecessary hardships are present;
- (b) The variance will not be detrimental to adjacent property and the surrounding neighborhood;
- (c) The variance will not impair the intent and purpose of this chapter; and
- (d) At least two of the following conditions are found to exist:

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district;

2. The conditions or situation of the specific piece of property or the intended use of the property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for the conditions or situation; and/or

3. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(E) *Temporary uses and public utility permits.*

(1) The temporary use of a building or premises in any district for purposes of use that do not conform to the regulations prescribed by this chapter for the district in which it is located is permitted upon permit granted by the Zoning Board of Appeals, provided that the use be of a true temporary nature and does not involve the erection of substantial buildings. The permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(2) The temporary use of a building or premises in undeveloped sections for a purpose that does not conform to the regulations prescribed by this chapter for the district in which it is to be located is permitted upon permit granted by the Zoning Board of Appeals, provided that the structure or use is of a true temporary nature, is promotive of or incidental to the development of the undeveloped sections, and does not involve the erection of substantial buildings. The permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to the conditions as will safeguard the public health, safety, convenience and general welfare.

(3) Public utilities: the Board of Appeals shall have the power to permit the erection and use of a building of a public service corporation or for public utility purposes in any permitted district to a greater height or larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board of Appeals shall find the use, height, area, building or structure reasonably necessary for the public convenience and service and provided the building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture of the district.

(F) *Interpretation of map.* Where a street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the zoning map, the Board of Appeals, after notice to the owners of the property and the immediate adjoining property and after public hearing, shall interpret the map in a way so as to carry out the intent and purposes of this chapter for the particular section or district in question.

(G) *Public hearing.*

(1) Upon the filing of any appeal or application as hereinafter provided, or upon any other application in any matter or proceeding over which the Zoning Board of Appeals shall have jurisdiction by law or ordinance, the Zoning Board of Appeals shall hold a public hearing on the appeal or application.

(2) The hearing shall be held at the next meeting of the Board to be held not less than 15 days after the date of the filing. The Zoning Board of Appeals shall cause notice of the time, and place of the hearing to be given to the appellant or applicant and shall also cause notice of the time, place and purpose of the hearing to be given to all owners of property within 300 feet of the property to be affected by the appeal or application, and to the occupants of all single and two-family dwellings within 300 feet of the property.

(3) The notice shall be given by certified mail or an affidavit of mailing maintained, sent to the respective address of the owners and occupants, as listed in the city tax rolls, or the notice may be delivered by handing a copy thereof to the property owners and occupants personally and obtaining their certifying signatures evidencing the delivery.

(a) If the name of any occupant is not known, the term "occupant" may be used in addressing any notices sent by certified mail.

(b) Where ownership is in more than one person, a partnership, a corporation, an infant or a trust, service upon any one of the owners or partners, an officer or registered agent of the corporation, the guardian or parent of the infant or trustee of the trust, as the case may be, shall be sufficient.

(c) At the hearing, any party may appear in person, or by an attorney or agent.

(H) *Fees.* Upon the filing of any appeal or application to the Zoning Board of Appeals by any person other than an officer, department, board or agency of the city, the appellant or applicant shall pay a fee set by the City Council, to defray the cost of hearing and recording the matter. In addition, if testimony is to be taken stenographically, the cost of doing so and of transcribing the same shall be borne and paid for by the appellant or applicant, and the Zoning Board of Appeals may require the deposit to be made for the purpose as shall be reasonable in the circumstances.

(I) *Time limit for construction.*

(1) If a variance is granted or the issuance of a permit is finally approved or other action by the appellant or applicant is authorized, any necessary permits shall be secured and the authorized action, construction or use begun within three months after the date when the variance is finally granted, or the issuance of the permit or permits is finally approved or the other action to be taken by the appellant or applicant is authorized; and the structure, building or alteration, as the case may be, shall be completed within 12 months of the date.

(2) For good cause shown, the Zoning Board of Appeals may, upon application in writing stating the reasons thereof, extend either the three-month or the 12-month period for further time as the Zoning Board of Appeals may, in its sole discretion, deem sufficient.

(3) Should the appellant or applicant fail to obtain any necessary permit or permits within the three-month period, or having obtained the same, should fail to commence work, or to take action or to exercise a use authorized thereunder within the three-month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn and abandoned his or her appeal or his or her application, and all permissions, permits and variances to him or her granted by reason of the appeal or application shall be deemed automatically rescinded by the Zoning Board of Appeals.

(4) Should the appellant or applicant commence any required construction or alteration within the three-month period, but should he or she fail to complete the construction or alteration within the 12-month period, the Zoning Board of Appeals may, upon ten days written notice, rescind or revoke the granted variance, or the issuance of the permit or permits, or the right to take other action as may have been authorized to the appellant or applicant, if the Board finds that no good cause appears for the failure.

(J) *Employees.* The Zoning Board of Appeals may employ clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.

(K) *Minutes and records.* The Secretary of the Zoning Board of Appeals shall keep minutes of the substance of all testimony and of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The Secretary shall keep records of the Zoning Board of Appeals examinations and official actions, all of which shall be immediately filed in the office of the Zoning Board of Appeals and shall be a public record.

(Ord. 161, passed 12-10-2001)

§ 154.75 DISTRICT CHANGES; ORDINANCE AMENDMENTS.

(A) In accordance with the provisions of the Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702, as amended, the City Council from time to time amend, or change by ordinance, the number, shape or area of districts established on the zoning map or the regulations set forth in the ordinance; but no amendment or change shall become effective unless the ordinance proposing the amendment or change shall first be submitted to the Planning Commission for approval, disapproval or suggestions and the Planning Commission shall have been allowed a reasonable time, not less than 30 days, for consideration and report.

(B) Any person or persons desiring a change in the zoning ordinance text or map shall make application to the City Council. In case of a zoning ordinance text amendment, a letter shall be submitted which shall contain the requested change and the reason for the change; in case of a desired zoning map change a petition shall be submitted which shall describe the property involved, the zone change desired and the reason for the change. With either type of request there shall be an accompanying fee to cover costs encountered in conducting a public hearing and an escrow account to cover any planning reviews.

(C) The City Council shall refer all applications for a change in the zoning ordinance text or map to the Planning Commission.

(1) Before submitting its recommendations and report to the City Council, the Planning Commission shall conduct a public hearing on the proposed amendment or change after publishing notice of hearing at least 15 days prior to the date of hearing, by publication in an official paper or a paper of general circulation in the municipality and by sending a copy of the notice by United States mail to each public utility company and railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the City Clerk/Treasurer for the purpose of receiving the notice.

(2) An affidavit of mailing shall be maintained.

(3) A hearing shall be granted a person interested at the time and place specified on the notice.

(4) In case of a proposed zoning map change, all property owners within 300 feet of the boundaries of the property proposed to be changed shall be likewise notified by mail.

(5) All public notices (including publication in the newspaper and letter) shall state the time and place of hearing, the proposed amendment, and the property to be affected in case of a proposed map change.

(6) The omission of the name of any owner or occupant of property who may, in the opinion of the Planning Commission be affected by the amendment or change shall not invalidate any ordinance passed hereunder; it being the intention of this section to provide reasonable notice to the persons substantially interested in the proposed change that an ordinance is pending before the City Council proposing to make a change in the zoning map or the regulations set forth in this chapter.

(D) After receiving the recommendations and report from the Planning Commission, the City Council may deny the request or enact an amendment to the zoning ordinance.

(1) However, upon presentation of a protest petition meeting the requirements of this division, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a two-thirds vote of the City Council.

(2) The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one of the following:

(a) The owners of at least 20% of the area of land included in the proposed change;

(b) The owners of a least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change; or

(c) Publicly owned land shall be excluded in calculating the 20% land area requirement.

(Ord. 161, passed 12-10-2001; Ord. 182, § 2, passed 2-13-2012)

§ 154.76 PUBLIC NUISANCE PER SE.

Any building or structure which is erected, altered or converted or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the

provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(Ord. 161, passed 12-10-2001)

§ 154.77 RIGHTS AND REMEDIES ARE CUMULATIVE.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. 161, passed 12-10-2001)

§ 154.78 PLANNED UNIT DEVELOPMENT.

(A) Intent.

(1) Planned unit development (PUD) as authorized by § 4b of the City Zoning Act (Public Act 207 of 1921, as amended) is intended for the following purposes:

- (a) Encouraging the use of land in the city in accordance with its character and adaptability;
- (b) Assuring the permanent preservation of open space, and natural resources;
- (c) Providing recreational facilities within a reasonable distance of all residential developments;
- (d) Allowing innovation and greater flexibility in the design of residential developments;
- (e) Ensuring compatibility of design and use between neighboring properties; and
- (f) Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

(2) The regulations of this section are further intended to preserve a traditional community character to the land use pattern in the city through the creation of small residential areas with open space and less intensive land uses.

(3) This section is not intended as a device for avoiding the zoning ordinance of the city, the standards set forth therein, nor the planning concepts upon which the zoning ordinance has been based.

(4) These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair and consistent decision making.

(5) The PUD District is an overlay district in all residential districts.

(B) *Definition.* For the purposes of this section, a **PLANNED UNIT DEVELOPMENT** is defined as a predominately single-family residential development in which dwelling units are placed together into one or more groupings within a defined project area.

(1) The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

(2) Commercial uses may be allowed within PUDs of ten acres or more.

(C) *Criteria for eligibility.* To be eligible for PUD consideration, the applicant must present a proposal for residential development that meets each of the following.

(1) *Substantial benefit.* A PUD shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the city. The benefits can be provided through site design elements in excess of the requirements of the ordinance, such as high quality

architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.

(2) *Project minimum acreage.* The minimum size of a PUD shall be five acres of contiguous land. The Planning Commission may consider development of a site less than five acres in area as a PUD, provided that the parallel plan shall be prepared at the existing zoning minimum lot size.

(3) *Benefit of open space.* The proposed development shall provide at least one of the following open space benefits:

(a) *Natural features.* The site contains significant natural assets such as woodlands, individual trees over 12-inch diameter, measured at breast height, rolling topography, significant views, natural drainage way, water bodies, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the city to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the Planning Commission after review of a site analysis plan, prepared by the applicant, that inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the PUD plan to preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas;

(b) *Facilities for recreation.* If the site lacks natural features, the site can qualify if the development will preserve an existing recreation facility or provide useable recreation areas to which all residents of the development shall have reasonable access. The recreational facilities may include a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development; and/or

(c) *Natural amenities.* If the site lacks existing natural features, the site can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate of twice what is required by this chapter.

(4) *Open space assurance.* The applicant shall guarantee to the satisfaction of the City Planning Commission that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitment made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of the transfer is provided to the city and the land uses continue as approved in the PUD plan.

(5) *Neighborhood concept.* The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the PUD.

(6) *Control.* The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

(7) *Density impact.*

(a) The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads and utilities in relation to the use or uses

otherwise permitted by this chapter, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment.

(b) The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socioeconomic impact resulting from the proposed open space community.

1. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and natural environment in comparison to the impacts associated with conventional development.

2. The Planning Commission may require that the applicant prepare quantitative comparison of the impacts of conventional development and the PUD plan to assist in making this determination (such as an overlay of conceptual development options to demonstrate the impacts have been minimized to the extent practical).

3. If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the PUD.

(8) *Master plan implementation.* The proposed development shall be consistent with and further the implementation of the city master plan.

(D) *Design standards.* A proposed PUD shall comply with the following project design standards:

(1) *Location.* A PUD may be approved within any residential zoning district;

(2) *Permitted uses.* A PUD is generally restricted to single-family detached or attached residential dwellings.

(a) Unless modified by the Planning Commission following the standards herein, all dwellings shall meet the yard, lot width, and bulk standards required by § 154.06, except that single-family attached dwellings may have zero side lot lines.

(b) If approved by the Planning Commission as a special use a commercial or a multiple family component may be allowed.

(3) *Dwelling density.* The number of dwelling units allowable within a PUD project shall be determined by preparation of a parallel plan.

(a) The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with state, county and city requirements and design criteria for a tentative preliminary plat.

1. The parallel plan shall meet all standards for lot size, lot width and setbacks as normally required under § 154.06, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention.

2. Lots in the parallel plan shall provide for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the State Department of Environmental Quality. This design shall include all information as required by the guidelines adopted by the Planning Commission.

(b) The parallel plan is only used to determine allowable density for a PUD project.

(c) The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable.

(4) *Base zoning regulations.* Unless specifically waived or modified by the Planning Commission, all requirements for the underlying zoning district, except for minimum lot area are applicable.

(5) *Regulatory flexibility.*

(a) To encourage flexibility and creativity consistent with the planned unit development concept, the Planning Commission may grant specific departures from the requirement of the zoning ordinance as a part of the process for the following:

1. Yard, lot width, and bulk standards may be modified, provided that the modifications results in enhanced buffering from adjacent land uses or public rights-of-way, or preservation of natural features.

2. Standards that apply to entryway features such as decorative gates (non-closing), walls and signs may be modified, provided that the overall entranceway design is reviewed by the Planning Commission and found to be consistent with the proposed planned unit development and the character of the surrounding area in terms of size, materials, color, lighting and landscaping.

(b) Any regulation modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals (ZBA).

(c) No part of a planned unit development plan may be appealed to the ZBA. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan.

(c) A table shall be provided on the site plan which specifically details deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions or subdivision regulation which would otherwise be applicable to the uses and development proposed in the absence of this PUD section. This specification should include ordinance provisions from which deviations are sought, and the reasons and mechanisms to be utilized for the purposes of this chapter (§ 154.02).

(6) *Road standards.* All roads shall be built to city requirements, including curb and gutter, and shall be turned over to city ownership upon completion to city satisfaction.

(Ord. 161, passed 12-10-2001)

§ 154.79 EFFECT ON NONCONFORMITIES.

Nonconforming uses and structures which were in noncompliance with the zoning ordinance, as set forth above, shall remain nonconforming unless determined by City Council, following a recommendation from the Planning Commission and public hearing as set forth in § 154.73(F), to be in full compliance with this chapter.

(Ord. 161, passed 12-10-2001)

§ 154.99 PENALTY.

(A) Any owner, agent, person or corporation who shall violate any provisions or requirements of this chapter or who shall fail to comply with any detailed statements or plan submitted hereunder, or who shall refuse reasonable opportunity to inspect any premises, shall be liable to a fine of not more than \$500 or to imprisonment of not more than 90 days, or to both the fines and imprisonment. Each and every day the violation continues after a termination notice is received shall be deemed a separate and distinct violation.

(B) The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of the violation and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of the violation shall be guilty of a separate offense and upon conviction thereof shall be subject to a fine or not more than \$500 and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the county jail for a period not to exceed 90 days for each offense, or by both the fine and imprisonment in the discretion of the court, together with the costs of the prosecution.

(Ord. 161, passed 12-10-2001)