

# TITLE XIX: ZONING

Chapter

## 190. ZONING

### CHAPTER 190: ZONING

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## GENERAL PROVISIONS

### § 190.001 SHORT TITLE.

This chapter shall be known as the "Zoning Ordinance of the City of Wyandotte", under the powers provided by Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq. and Public Act 285 of 1931, as amended, being M.C.L.A. §§ 125.31 through 125.45.

(Prior Code, App. A, § 100) (Ord. 1277, passed 4-2-2007)

### § 190.002 PURPOSE.

In interpretation and application, the provisions of this chapter shall be held to minimum requirements to provide adequate light, air, access, circulation, open yard spaces, off-street parking areas and protection to property values from incompatible 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 violations thereof.

(Prior Code, App. A, § 101) (Ord. 1277, passed 4-2-2007)

### § 190.003 INTENT.

Pursuant to the authority conferred by the public acts of the state in such case, made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the city by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land, preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation and other public requirements, and by other means, all in accordance with a comprehensive plan.

(Prior Code, App. A, § 102) (Ord. 1277, passed 4-2-2007)

### § 190.004 DEFINITIONS.

#### (A) General.

(1) For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows. All words used in the present tense shall include the future; all words in the singular number include the plural number and all words in the plural number include the singular number; and the word "building" includes the word "structure", and "dwelling" includes "residence"; the word "person" includes "corporation", "co-partnership", "association", as well as an "individual"; the word "shall" is mandatory and the word "may" is permissive; the word "lot" includes the words "plot" or "parcel"; the words "used" or "occupied" includes the words "intended", "designated" or "designed", or "arranged to be used or occupied".

(2) Terms not herein defined shall have the meaning customarily assigned to them.

(Prior Code, App. A, § 200)

(B) *Specific terms.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONMENT.** The cessation of activity in, or use of a dwelling, structure or lot, other than that which would normally occur on a seasonal basis, for a period of six months or longer.

**ABUTTING.** Having property or district line in common (e.g., two lots are abutting if they have property lines in common).

**ACCESSORY USE.** A use which is clearly incidental to, customarily found in connection with and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related. When **ACCESSORY** is used in this text, it has the same meaning as **ACCESSORY USE**. An **ACCESSORY USE** includes, but is not limited to, the following:

- (a) Residential accommodations for servants and/or caretakers;
- (b) Outdoor swimming pools, hot tubs and saunas for the use of occupants of a residence or their guests;
- (c) Domestic storage in a barn, shed, tool room or similar accessory building or other structure;
- (d) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays;
- (e) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;
- (f) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;
- (g) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located;
- (h) Uses clearly incidental to a main use, such as but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex;
- (i) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located;
- (j) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located;
- (k) Common household gardening in a residential district when located only in the rear yard and/or non-required side yard areas. For purposes of this chapter, common household gardening shall include the growing of fruits and vegetables for consumption, solely by members of the family residing in the dwelling unit located on the same zoning lot; and
- (l) Solar panels, wind generators, television reception antenna and air conditioning units.

**ADULT ENTERTAINMENT FACILITIES.** Facilities which exclude minors by virtue of age and further defined as follows.

(a) **ADULT BOOKSTORE.** An establishment having a substantial portion of its stock in trade for sale, barter or rental, books, magazines, other periodicals, films, posters, video tapes or other materials or means for the recording or reproduction of a visual display on a video screen or other display device which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.

(b) **ADULT MINI-MOTION PICTURE THEATER.** An enclosed building with a capacity for less than 50 persons, used for presenting on-premises viewing, by use of motion picture devices or any coin-operated means, material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein), for observation by patrons therein.

(c) **ADULT MOTION PICTURE THEATER.** An enclosed building, with a capacity of 50 or more persons, used for presenting on-premises viewing, by use of motion picture devices or any coin-operated means, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein), for observation by patrons therein.

(d) **ADULT MOTEL.** A motel which presents materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area (as defined below), for the entertainment of its patrons.

(e) **ADULT PERSONAL SERVICE BUSINESS.** A business whose activities include a person, while partially nude, providing personal service for another person on an individual bases in a closed room. It includes, but is not limited to, the following activities and services: modeling studios; photographic studios; wrestling studios; individual theatrical performances; body painting studios; and massage studios.

(f) **ADULT CABARET.** An establishment which features topless dancers and/or bottomless dancers, partially nude or seminude dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers, or topless and/or bottomless and/or partially nude or seminude waitpersons or employees or any other form of nude or partially nude or semi-nude service or entertainment.

(g) **PARTIALLY NUDE** or **SEMI-NUDE.** A person having any or all of the following body parts exposed: buttocks; genitals; anus; pubic area; or female breasts.

(h) **SPECIFIED SEXUAL ACTIVITIES.**

1. Human genitals in a state of sexual stimulation;
2. Acts of masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(i) **SPECIFIED ANATOMICAL AREAS.**

1. Less than completely and opaquely covered human genitals, public region, buttock, anus and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(j) **PERSON.** A person shall mean an individual, proprietorship, partnership, corporation, association or other legal entity.

**ADULT FOSTER CARE HOME.** A private home licensed by the state for care of sick, elderly or handicapped adults. A "family home" is defined as having one to six adults; a group home seven to 20 adults.

**ALLEY.** A public way that affords only secondary access to abutting property and not intended for general traffic circulation.

**ALTERATIONS.** Any change, addition or modification in construction or type of occupancy, or in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this chapter as "altered" or "reconstructed".

**APARTMENTS.** The dwelling units in a multiple dwelling, as defined herein.

(a) **EFFICIENCY APARTMENT.** A dwelling unit containing a minimum of at least 150 square feet of floor area consisting of not more than one room in addition to kitchen and sanitary facilities.

(b) **ONE-BEDROOM UNIT.** A dwelling unit containing a minimum floor area of at least 400 square feet consisting of not more than three rooms in addition to kitchen and necessary sanitary facilities.

(c) **TWO-BEDROOM UNIT.** A dwelling unit containing a minimum floor area of at least 500 square feet, consisting of not more than four rooms in addition to kitchen and necessary sanitary facilities.

(d) **THREE- OR MORE BEDROOM UNIT.** A dwelling unit wherein, for each room in addition to the four rooms permitted in a two-bedroom unit, there shall be provided an additional area of 100 square feet to the minimum floor area of 500 square feet in addition to kitchen and necessary sanitary facilities.

**APPEALS.** The process, as prescribed in the ordinance, for contesting a zoning interpretation made by the Engineering Department or Building Official.

**AUTOMOBILE SERVICE STATION (GAS STATION).** A building used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling, installing or adjusting tires, batteries, parts and accessories within a completely enclosed building; provided that, such repair and installation are of minor vehicle repair nature and may include convenience store merchandise primarily sold to patrons purchasing gasoline and/or services.

**AUTO WASH.** A building or portion thereof, where motor vehicles are washed as a commercial enterprise, or where facilities are available for the self-service cleaning of motor vehicles.

**BASEMENT.** A story of a building which is partly below grade but so located that the vertical distance from average grade to the floor is not greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over five feet, such **BASEMENT** shall be rated as a first story.

**BED AND BREAKFAST DWELLINGS.** A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and a breakfast in return for payment.

**BERM, OBSCURING.** An earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this chapter.

**BOARD OF APPEALS.** The Zoning Board of Appeals of the city.

**BUFFER.** A strip of land used to visibly separate one land use from another, or to shield or block noise, lights or other nuisances.

**BUILDABLE AREA.** The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

**BUILDING.** Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattel or property of any kind.

**BUILDING, ACCESSORY.** A subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land.

**BUILDING HEIGHT.** The vertical distance measured from the established grade of the center of the front of the building to the highest point of the roof surface for flat roofs; to the deck-line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs; and to the average height between the lowest point and the highest point on a shed roof. The **BUILDING HEIGHT** for accessory buildings is the vertical distance measured from the floor slab to the ridge line of the roof.

**BUILDING LINE.** A line formed by the face of the building, and for the purposes of this chapter, building line is the same as a front setback line.

**BUILDING, MAIN OR PRINCIPAL.** A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING OFFICIAL.** The City Engineer or his or her designee who is registered as a Building Official with the state.

**BUILDING PERMIT.** A permit signifying compliance with the provisions of this chapter as to use, activity, bulk and density, and with the requirements of all other codes and ordinances currently in effect in the city.

**CERTIFICATE OF OCCUPANCY.** A document which allows the occupancy or use provided such occupancy or use is in compliance with the provisions of this chapter.

**CHANGE OF USE GROUP.** Any use which substantially differs from the previous use of a building or land, or which imposes other special provisions of law governing building construction, equipment, egress or ingress, off-street parking and the like.

**CHILD CARE ORGANIZATION.** A facility for the care of children under 18 years of age, as licensed and regulated by the state under Public Act 116 of 1973 and the associated rules promulgated by the state's Department of Consumer and Industry Service. Such organizations shall be further defined as follows.

(a) **CHILD CARE CENTER or DAY CARE CENTER.** A facility, other than a private residence, receiving more than six preschool age or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. **CHILD CARE CENTER or DAY CARE CENTER** does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

(b) **FOSTER FAMILY HOME.** A private home in which one, but not more than four, minor children, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision 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.

(c) **FOSTER FAMILY GROUP HOME.** A private home in which more than four, but less than seven 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.

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

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

**CHURCH, TEMPLE and MOSQUE.** A building or structure, or groups of building or structures, which by design and construction are primarily intended for organized religious services and accessory uses associated therewith.

**CLEAR VISION.** An area along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist.

**CLINIC, DENTAL OR MEDICAL.** A building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying out their profession. The **CLINIC** may include a medical or dental laboratory.

**CLUB.** A club, group or organization created for recreational, artistic, athletic, academic, political, charitable or other social purpose, and whose activities are not conducted for profit or material gain and do not involve merchandising, vending or other commercial activities, except as required incidentally for the membership and purpose of the social club.

**COMMERCIAL.** A term relating to the use of property in connection with the purchase, sale or trading of goods or service.

**COMMERCIAL OUTDOOR RECREATION.** Children's amusement parks, carnivals, miniature golf and similar outdoor recreation facilities requiring payment for their utilization.

**CONDOMINIUM.** The following definitions are related to condominiums:

(a) **CONDOMINIUM ACT.** Public Act 59 of 1978, as amended, being M.C.L.A. § 559.101.

(b) **CONDOMINIUM DOCUMENTS.** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(c) **CONDOMINIUM SUBDIVISION (SITE CONDOMINIUM).** A method of subdivision where land ownership of sites is regulated by the Condominium Act (Public Act 59 of 1978, as amended, being M.C.L.A. § 559.101), as opposed to the Subdivision Control Act of 1967 (M.C.L.A. § 560.101). **CONDOMINIUM SUBDIVISION** shall be equivalent to the term **SUBDIVISION**, as used in this chapter and the city's Subdivision Regulations Ordinance.

(d) **CONDOMINIUM SUBDIVISION PLAN.** The drawings and information prepared in accordance with § 66 of the Condominium Act. Such drawings and information typically include the site, survey and utility plans, floor plans and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.

(e) **CONDOMINIUM UNIT.** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential office, industrial, business, recreational, use as a time-share unit or any other type of use.

(f) **CONSOLIDATING MASTER DEED.** The final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium projects as completed.

(g) **CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or building may be withdrawn in accordance with this title and the Condominium Act.

(h) **CONVERSION CONDOMINIUM.** A condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under § 71 of the Condominium Act.

(i) **EXPANDABLE CONDOMINIUM.** A condominium project to which additional land may be added in accordance with this chapter and the Condominium Act.

(j) **MASTER DEED.** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by § 8 of the Condominium Act.

(k) **NOTICE OF PROPOSED ACTION.** The notice required by § 71 of the Condominium Act, to be filed with the city and other agencies.

(l) **SITE CONDOMINIUM.** A development concept for a condominium development containing residential, commercial, office, industrial or other structure for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights in a condominium unit as described in the master deed.

(m) **LOT.** The same as home-site and condominium unit in site condominium developments.

**CONVALESCENT OR NURSING HOME.** A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

**DECK.** A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building.

**DENSITY.** The intensity of development in any given area, measured in this chapter by the number of dwelling units per square foot.

**DESIGN REVIEW.** Building and site review required within a design review district. See §190.320 of this chapter for definitions related to design review.

**DEVELOPMENT.** The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot or the use of open land for a new use.

**DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS.** Also referred to as "earth stations" or "ground stations" shall mean one, or a combination of two or more, of the following:

(a) A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extra-terrestrial sources;

(b) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals; and/or

(c) A coaxial cable the purpose of which is to carry or transmit said signals to a receiver.

**DISH.** The part of satellite signal receiving antenna characteristically shaped like a saucer or dish.

**DISTRICT (ZONING).** A portion of the city in which certain building and activities are permitted and in which certain regulations, in accordance with this chapter, are applicable.

**DOMESTICATED COMPANION ANIMAL.** An animal that has traditionally, through a long association with humans, lived in a state of dependence upon humans or has been traditionally kept as a household pet, including but not limited to: dogs, cats, hamsters, gerbils, guinea pigs, ferrets, mice, rabbits, parakeets, parrots, cockatiels, cockatoos, canaries, love birds, finches, and tropical fish.

**DOMESTICATED COMPANION ANIMAL LODGING FACILITY.** An establishment where domesticated companion animals are kept or confined for the purpose of providing training, boarding, sale or day care or extended sheltering and includes kennels.

**DRIVE-IN.** A business so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to service patrons while in the motor vehicle rather than within a building or structure or to permit patron self-service.

**DRIVE-THROUGH.** An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles rather than within a building or structure, for carry-out and consumption or use after the vehicle is removed from the premises.

**DROP-BOX.** Any self-service container or storage unit installed, used or maintained for the deposit of envelopes and packages.

**DUMPSTER.** An enclosed trash container capable of being moved by a vehicle.

**DWELLING UNIT.** A building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities, which may include studio apartments or condominiums.

**DWELLING, ONE-FAMILY.** A building designed exclusively for and occupied exclusively by one family.

**DWELLING, TWO-FAMILY.** A building designed exclusively for occupancy by two families living independently of each other.

**DWELLING, MULTIPLE-FAMILY.** A building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other. (Refer to "apartments" definitions for dwelling unit types.)

**DWELLING UNIT, MANUFACTURED.** A dwelling unit which is substantially built, constructed, assembled and finished off the premises upon which it is intended to be located.

**DWELLING, TOWNHOUSE.** A single-family attached dwelling designed as a part of a series of three or more dwellings, all of which are either attached to the adjacent dwelling or dwellings by common separating walls or located immediately adjacent thereto with no visible separation between walls or roofs. **TOWNHOUSE DWELLINGS** shall also:

(a) Have common or adjacent walls fully dividing each dwelling unit from any other and extending from the basement or foundation to roof;

(b) Not exceed eight units in any series or maximum of 180 feet in overall building length;

(c) Be designed and arranged so that any unit shall adjoin any other unit only along the longer dimension of the building (side) if an end unit or both sides if an interior unit; and

(d) Have two separate and private means of ingress and egress which shall be located at opposite ends of the dwelling unit.

**DWELLING UNIT, SITE BUILT.** A dwelling unit which is substantially built, constructed, assembled and finished on the premises which are intended to serve as its final location. **SITE BUILT DWELLING UNITS** shall include dwelling units constructed of pre-cut materials, and panelized wall, roof and floor sections when such sections require substantial assemble and finishing on the premises which are intended to serve as its final location.

**ELDERLY HOUSING, DEPENDENT.** A multiple-family housing form with central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit shall not contain cooking facilities, but must contain sanitary facilities.

**ELDERLY HOUSING, INDEPENDENT.** A multiple-family housing form with full facilities for self-sufficiency in each individual dwelling unit.

**ERECTED.** Includes built, constructed, altered, reconstructed, moved upon or any physical operation on the premises required for the construction. Excavation, fill, drainage, installation of utilities and the like shall be considered a part of **ERECTION**.

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

#### **FAMILY.**

(a) A domestic family; that is, one or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

(b) The functional equivalent of a domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent bonds which render the domestic family a cohesive unit. All persons of the

functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, non-profit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. For the purposes of enforcement, the Building Official shall presume that a functional equivalent of a domestic family is limited to six or fewer persons. A property owner may rebut this presumption to allow more than six persons by submitting an application for special land use approval subject to the standards set forth in this chapter.

**FENCE.** Any structure or partition of definite height and location to serve as an enclosure or as a barrier in carrying out the requirements of this chapter.

**FENCE, OBSCURING.** A structure of definite height and location to service as an obscuring screen in carrying out the requirements of this chapter.

**FENCE, ORNAMENTAL.** A manmade structure the surface area of which is partially open.

**FLOOR AREA.** For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls. The **FLOOR AREA** measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

**FLOOR AREA USEABLE (FOR THE PURPOSE OF COMPUTING PARKING).** The area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used for or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of **USEABLE FLOOR AREA**. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls. For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.

**GARAGE, PRIVATE.** An accessory building not over one story or 15 feet in height from the floor slab to the ridge line of the roof and used for parking or storage of motor vehicles, but not for commercial servicing or repair.

**GLARE.** The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

**GRADE.** The level of the earth at the front of the building which shall be assumed to be the mean established level of the sidewalk against which it abuts, plus a rise of not over one inch per foot of distance from the street line to the nearest part of the building. Where a building abuts on two or more streets, the **GRADE** shall be taken as a mean of grades calculated from the different streets.

**GRAFFITI.** Unauthorized inscribing, spraying of paint or making symbols using chalk, dye, ink, paint, spray paint or similar materials on public or private places, structures or other surfaces.

**GREENBELT.** A strip of land of definite width and location reserved for planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this chapter.

**HIGH-RISE CONDOMINIUM(S) OR APARTMENT(S).** A building consisting of over eight stories that are used exclusively as dwelling units.

**HOME OCCUPATION.** An occupation or profession customarily carried on for monetary gain exclusively by the occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

**HOTEL.** A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms and recreation facilities.

**IMPROVEMENTS.** Those features and actions associated with a project which are considered necessary by the municipality to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including parking areas, landscaping, roadways, lighting, utilities, sidewalks, fences, walls, screening and drainage. **IMPROVEMENTS** do not include the entire project which is the subject of zoning approval.

**INOPERABLE MOTOR VEHICLE.** An automobile, truck or other motor vehicle which has been damaged, dismantled or is deteriorated to such an extent that it cannot be operated under its own power and will require repairs before being made useable; or such a vehicle which does not comply with state or city laws or ordinances.

**INTERNET CAFÉ.** Also called **CYBERCAFÉ.** A retail establishment that rents computers by the hour or at a one-time fee where people can pay to use the internet, send e-mails and the like. It may provide computers only or also sell a variety of accessories as well as provide food and drink.

**JUNKYARD.** An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, used building materials, paper, rags, and bottles. A **JUNKYARD** includes automobile wrecking yards and includes any area of more than 100 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. An unlicensed vehicle which is rusted, wrecked, junked, partially dismantled, whether attended or not, and which is parked, stored or left on lands zoned for residential purposes, unless same is completely enclosed within a suitable building, shall be considered "junk" under this chapter.

**KENNEL.** An establishment wherein or whereon three or more dogs are confined and kept for sale, boarding, breeding, or training purposes.

**KENNEL, COMMERCIAL.** Any lot or premises on which three or more dogs or cats are either permanently or temporarily boarded.

**LEGISLATIVE BODY.** The City Council.

**LOADING SPACE.** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**LOT.** A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A **LOT** may or may not be specifically designated as such on public records. **LOT** means the same as "homesite" and "condominium" in site condominium developments.

**LOT AREA.** The total horizontal area included within lot lines.

**LOT, CORNER.** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a **CORNER LOT** for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

**LOT, DOUBLE FRONTAGE.** An interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of **DOUBLE FRONTAGE LOTS**, all sides of said lots adjacent to streets shall be considered frontage and front yards shall be provided as required.

**LOT, INTERIOR.** Any lot other than a corner lot.

**LOT LINES.** Any lines bounding a lot, including the following.

(a) **FRONT LOT LINE.** In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot, the **FRONT LOT LINE** is that line separating said lot from that street which is designated as the front street in the plat and in the application for the building permit or zoning compliance permit. In the case of a double frontage lot, both lot lines abutting on streets shall be treated as **FRONT LOT LINES**.

(b) **REAR LOT LINE.** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. On waterfront lots, a **REAR LOT LINE** shall be considered the water's edge.

(c) **SIDE LOT LINE.** Any lot line other than the front lot line or rear lot line. **ASIDE LOT LINE** separating a lot from a street is a side street lot line. **ASIDE LOT LINE** separating a lot from another lot or lots is an interior side lot line. On waterfront lots, a **SIDE LOT LINE** shall be considered the water's edge.

**LOT COVERAGE.** The part or percent of the lot occupied by buildings, including accessory building or structures.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

**LOT OF RECORD.** A parcel of land, the dimensions of which are shown on a document or map on file with the county's Register of Deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

**LOT WIDTH.** The horizontal distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

**LOT, ZONING.** A single tract of land, located within a single block which at the time of filing for a building permit is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A **ZONING LOT** may not coincide with a lot of record, but may include one or more lots of record.

**MASTER PLAN (COMPREHENSIVE PLAN).** A comprehensive long-range plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations, and proposals for the community's population, economy, housing, transportation, community facilities and land use. Such plan may or may not be adopted by the Planning Commission or City Council.

**MECHANICAL AMUSEMENT DEVICE.** Any machine which, upon the insertion of a coin, slug, token, plate or disc, or the payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score and whether operated by hand, electricity or any other form of power. It shall include such devices as video and electronic machines, marble machines, pinball machines, skill ball machines, mechanical grab machines, coin-operated bowling alleys, shuffleboard game machines or devices, whether played with disks, weights, pucks, balls, mechanical guns, coin-operated motion picture machines, any so-called claw, crane or digger machine, or any other games, devices, operations or transactions similar thereto, under whatever name they may be indicated, which, when operated do not deliver as a result of the application of an element of chance, any money or property, or by the operation of which a person may not be entitled to receive as a result of the application of an element of chance, any money or property.

**MECHANICAL MUSIC DEVICE.** A piano, phonograph, jukebox or any similar machine or contrivance which emits recitations, songs, speeches or music upon the insertion of a coin.

**MID-RISE CONDOMINIUM(S) OR APARTMENT(S).** A building consisting of four to eight stories that are used exclusively as dwelling units.

**MIXED USE.** The development of a tract of land with two or more different uses such as residential, office and business in a coordinated urban form.

**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 a 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.

**MODULAR AND SECTIONAL HOME.** A dwelling unit consisting of two or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for conventional residences.

**MOTOR VEHICLE.** A self-propelled device used for transportation of people or goods and licensed as a motor vehicle.

**MOTOR VEHICLE REPAIR, MAJOR.** The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collisions service, such as body, frame or fender straightening and overall painting of vehicles.

**MOTOR VEHICLE REPAIR, MINOR.** Repairs other than major repair, including engine tune-up, muffler shops, shock absorber replacement shops, undercoating shops, tire stores, cleaning, waxing and buffing.

**MOTOR VEHICLE SALES AREA.** An area used for the display, sales and rental of new and used motor vehicles, boats, trailers, farm equipment, construction equipment, mobile homes and recreational equipment all in operable condition.

**MOTEL.** A series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicles.

**MUNICIPALITY.** The City of Wyandotte.

**MURALS.** A painting or graphic art or combination thereof which is professionally applied to a building wall that does not contain any brand name, product name or abbreviation of the name of any product, company, profession or business, or any logo, trademark, trade name or other commercial message.

**NEWSPAPER RACK.** Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals.

**NON-CONFORMING BUILDING OR STRUCTURE.** A building, structure or portion thereof, which was lawful prior to the adoption of this chapter, or amendments thereto, that does not conform to the provisions of this chapter, nor to the use regulations of the district in which it is located.

**NON-CONFORMING LOT.** A lot the area dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails, by reason of such adoption, revisions or amendment, to conform to current requirements of this chapter.

**NON-CONFORMING SIGN.** A sign which was lawful prior to the adoption, revision, or amendment of this chapter, which renders the sign non-conforming, because it does not conform to all the standards and regulations of the adopted or amended ordinance.

**NON-CONFORMING USE.** A use which occupied a building or land which was lawful prior to the adoption of this chapter, or amendments thereto, that does not conform to the use regulations of the district in which it is located.

**NUISANCE.** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; shock waves; heat electronic or atomic radiation; objectionable effluent; noise or congregation of people; and animals particularly at night; passenger traffic; invasion of non-abutting street frontage by traffic; a burned-out structure; a condemned structure; and is further defined in Ch. 94 of this code of ordinances.

**NURSERY, PLANT MATERIALS.** Any lot or structure used for the growing, harvesting, processing, storing and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit, vegetable and Christmas tree sales.

**NURSERY SCHOOL.** A daytime facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the state.

**NURSING OR CONVALESCENT HOME.** A structure with sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care for hire.

**OCCUPIED.** Includes the meaning of intent, design or arranged for occupancy.

**OFF-STREET PARKING LOT.** A facility providing vehicular parking spaces along with adequate drives or aisles for maneuvering so as to provide access for entrance and exit for the parking of automobiles.

**OPEN STORAGE.** The storage of any materials or objects outside the confines of a building, including trailers or vehicles used for storage.

**OUTDOOR CAFÉ.** An area set up adjacent to a restaurant or private club for the purpose of selling or service of food and/or drink.

**PARKING SPACE.** An area of definite length and width. Such area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for the parking of permitted vehicles.

**PERSONAL SERVICE.** Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

**PLANNING COMMISSION.** The Planning Commission of the city.

**PRELIMINARY PLAN.** A preliminary site plan indicating the proposed layout of a subdivision, or planned development, which is submitted to the proper review authority for consideration and preliminary approval.

**PRINCIPAL BUILDING.** A building in which is conducted the principal use allowed on the premises or lot in the district in which it is situated.

**PRINCIPAL USE.** The primary or predominate use of the premises or lot.

**PROFESSIONAL SERVICES.** Services offered to the general public by the traditional professions, such as law, medicine, engineering, accounting, architecture and landscape architecture.

**PUBLIC ART.** Works of art in any media that have been planned and executed with the specific intention of being sited or staged in the physical public domain, usually outside and accessible to all.

**PUBLIC UTILITY.** Any person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water. **PUBLIC UTILITY** shall not include wireless communications or towers.

**QUASI-PUBLIC AGENCY.** A service owned and operated by a non-profit, religious or missionary institution and providing educational cultural, recreational or similar types of public programs.

**REASONABLE ACCOMMODATION USE.** Housing accommodation for handicapped persons in residential districts.

**RECREATIONAL EQUIPMENT.** Includes travel trailers, pickup campers, motor homes, tent trailers, tents, boats and boat trailers and similar equipment and cases or boxes used for transporting recreational equipment whether occupied by the equipment or not and as further defined in this code of ordinances.

**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.

**RESIDENTIAL, RESIDENTIAL USE or RESIDENTIAL DISTRICT.** The use of land parcels for human habitation under the terms of this chapter. **RESIDENTIAL** shall not be construed or interpreted to mean the storage, sale (wholesale or retail), trade, transfer, fabrication, production, manufacture or development of goods and services.

**RESIDENTIAL BOUTIQUE.** A residential dwelling permitted to be occupied for business use without occupancy for residential purposes in designated areas of the city.

**RESTAURANT.** A place where food and drink is prepared and served.

**RESTAURANT, FAST FOOD.** Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with the consumption off the premises, and whose design or principal method of operation includes one or both of the following:

- (a) Food, frozen desserts or beverages usually served in edible containers or in paper, plastic or other disposable containers; and/or
- (b) More than 45% of the available floor space is devoted to food preparation, related activities and other floor space not available to the public.

**RESTAURANT, FULL SERVICE.** An establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption on the premises and whose design or principal method of operation includes the following:

- (a) Customers are normally provided with an individual menu; are served their foods, frozen desserts or beverages by a restaurant employee at the same table or counter at which the items are consumed within the restaurant building; or
- (b) Cafeteria-type operation where foods, frozen desserts or beverages are consumed within the restaurant building.

**RIDGE LINE.** The intersection of roof surfaces forming the highest horizontal line of the roof.

**ROOF.** The top outside covering of a building.

**SALVAGE YARD, JUNKYARD.** A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, 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. **SALVAGE YARD** or

**JUNKYARD** shall not include uses conducted entirely within a completely-enclosed building; pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

**SATELLITE DISH ANTENNAS.** A satellite dish antennas is any apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**SEASONAL RECREATION UNIT.** A cottage, boat, kiosk or similar structure which may be used during one or more seasons of the year but not occupied as a year-round dwelling unit and not serving as a permanent place of residence.

**SETBACK.** The distance required to obtain front, side or rear yard open space provisions of this chapter.

**SIGN.** See § 190.329 of this chapter for sign definitions.

**SINGLE HOUSEKEEPING UNIT.** An arrangement whereby all of the associated rooms in a dwelling unit available to and occupied by all of the occupants with a single set of cooking facilities also available to and utilized by all of the occupants of the dwelling unit.

**SITE CONDOMINIUM (CONDOMINIUM SUBDIVISION).** A method of subdivision where land ownership of sites is regulated by the Condominium Act (Public Act 59 of 1978, as amended, being M.C.L.A. § 559.101) as opposed to the Subdivision Control Act of 1967 (M.C.L.A. § 560.101). **CONDOMINIUM SUBDIVISION** shall be equivalent to the term **SUBDIVISION**, as used in this chapter.

**SITE PLAN.** The development plan for one or more lots, on which is shown the existing and proposed conditions of the lot under the terms of §90.377 of this chapter.

**SKETCH PLAN.** A map of a subdivision or site plan, of sufficient accuracy to be used for the purpose of discussion and classification.

**SPECIAL LAND USE.** A use permitted in a given zone when the use is specified in §§190.305 through 190.307 of this chapter and has been reviewed by the Engineering Department, Building Official and/or Planning Commission, after application, to assure that all specified conditions are met.

**STATE LICENSED RESIDENTIAL FACILITY.** A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Licensing Act, Public Act 218 of 1979 or Public Act 116 of 1973, and provides residential services for six or fewer persons under 24-hour supervision or care.

**SPOT ZONING.** Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the objectives of the city's Master Plan.

**STORY.** The part of a building (except a mezzanine as defined herein) included between the surface of one floor and the surface of the next floor or, if there is no floor, then the ceiling next above.

**STORY, HALF.** An uppermost story lying under a sloping roof, the floor area of which at a height of four feet above the floor does not exceed one-half of the floor area in the story directly below, and the ceiling height above at least 200 square feet of floor-space is seven feet six inches.

**STREET.** A public thoroughfare which affords the principal means of access to abutting properties.

**STRUCTURE.** Any thing constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, except driveways and pavement.

**TEMPORARY BUILDING OR USE.** A structure or use permitted by the Board of Appeals to exist during periods of construction of the main building or use or for special events.

#### **THOROUGHFARES.**

(a) **MAJOR THOROUGHFARE.** An arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan. For purposes of this chapter, **MAJOR THOROUGHFARES** shall be considered to be:

1. Streets of 120 feet right-of-way or more;
2. High volume traffic arteries serving local and through traffic; and
3. Including the following streets: Fort Street; Biddle Avenue; Pennsylvania Avenue; Eureka Avenue; Ford Avenue; and Oak Street.

(b) **SECONDARY THOROUGHFARE.** An arterial street which is intended to serve as a trafficway serving primarily the immediate city area and serving to connect with major thoroughfares.

**TRANSITION.** For the purposes of this chapter, one or more of the following:

- (a) A zoning district which may serve as a district of transition (i.e., a buffer zone between various land use districts or land use types);
- (b) A residential rear or side yard, lot or land parcel arrangement abutting a land use of more intense development character; and/or
- (c) A device such as an earth berm, wall, screening fence, heavy shrub and tree planting or a combination of such devices providing a buffer between land use types.

**USE.** The purpose for which land or a building is designed, arranged or intended to be used, for which land or a building is or may be occupied.

**USE, ACCESSORY.** A use subordinate to the main use of a lot, and used for purposes clearly incidental to those of the main use.

**USE, MAIN.** The principal use to which the premises are devoted and the principal purpose for which the premises exist.

**USED CAR LOT.** A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. **USED CAR LOT** shall not be used for the storage of wrecked automobiles, the dismantling of automobiles, the repair of automobiles or the storage of automobile parts.

**VARIANCE.** See §§ 190.390 through 190.396 of this chapter.

**WALL.** A completely obscuring masonry structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

**WHOLESALE TRADE.** Establishments or places of business primarily engaged in selling merchandise to retailers to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to such individuals or companies.

**WIND ENERGY SYSTEM.** A wind conversion system which converts wind energy into electricity through use of a wind turbine generator and includes the turbine, blades and tower as well as related electrical equipment.

**WIRELESS COMMUNICATION FACILITIES.** Structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals.

**WIRELESS COMMUNICATION FACILITIES** include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings and private and commercial mobile radio services facilities. **WIRELESS COMMUNICATION FACILITIES** do not include citizen band radio facilities, short wave reviewing facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes or governmental facilities that are subject to state or federal law or regulations which pre-empt municipal regulatory authority.

**YARDS.** The open space on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter and as defined in this section.

(a) **FRONT YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

(b) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

(c) **SIDE YARD.** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

(Prior Code, App. A, § 201) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010; Ord. 1373, passed 10-8-2012; Ord. 1381, passed 3-11-2013; Ord. 1467, passed 11-12-2018; Ord. 1498, passed 9-28-2020)

#### **§ 190.005 INTERPRETATION.**

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance other than the above described zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that, where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(Prior Code, App. A, Art. XXX) (Ord. 1277, passed 4-2-2007)

#### **§ 190.006 VESTED RIGHT.**

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

(Prior Code, App. A, Art. XXXI) (Ord. 1277, passed 4-2-2007)

## **ZONING DISTRICTS AND MAP**

#### **§ 190.020 DISTRICTS.**



For the purposes of this chapter, the city is hereby divided into the following districts:

B-1	Neighborhood Business Districts
B-2	General Business Districts
CBD	Central Business Districts
I-1	Industrial Districts
I-2	Industrial Districts
I-3	Industrial Districts
IRO	Industrial/Research/Office Districts
O-S	Office Service Districts
P-1	Vehicular Parking Districts
PD	Planned Development Districts
RA	One-Family Residential Districts
RM-1	Multiple-Family Residential Districts
RM-1A	Multiple-Family Residential Districts
RM-2	Townhouse Residential Districts
RM-3	Multiple-Family Residential Districts
RT	One- and Two-Family Residential Districts
RU	Recreation Unit Districts

(Prior Code, App. A, § 300) (Ord. 1277, passed 4-2-2007)

#### § 190.021 BOUNDARIES.

The boundaries of these districts are hereby established as shown on the city's Zoning Map, which accompanies this chapter, and which map with all notations, references and other information shown thereon shall be as much a part of this chapter as if fully described herein.

(A) The boundaries of the districts are lot lines, the centerlines of streets, alleys, roads or such lines extended, centerlines of streams or creeks or the corporate limits of the city.

(B) Where unzoned property may exist, or where, due to the scale, lack of detail or illegibility of the zoning map accompanying this chapter, there is any uncertainty, contradiction or confliction as to the intended location of any district boundaries shown thereon, interpretation concerning where the exact location of district boundary lines shall be determined, upon written application or upon its own motion, by the Board of Appeals.

(Prior Code, App. A, § 301) (Ord. 1277, passed 4-2-2007)

#### § 190.022 ZONING OF VACATED AREAS.

Whenever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches.

(Prior Code, App. A, § 302) (Ord. 1277, passed 4-2-2007)

#### § 190.023 DISTRICT REQUIREMENTS.

All buildings and uses in any district shall be subject to the provisions of §§190.290, 190.320, 190.321 through 190.331 and 190.332 of this chapter. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited.

(Prior Code, App. A, § 303) (Ord. 1324, passed 4-12-2010)

### RA ONE-FAMILY RESIDENTIAL DISTRICTS

#### Editor's note:

*These residential districts are designed to provide for one-family dwelling sites and residentially related uses in keeping with the density character of the city.*

#### § 190.035 PRINCIPAL USES PERMITTED.

In a RA One-Family Residential District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) One-family detached dwellings;
- (B) Churches, mosques and synagogues;
- (C) Publicly-owned and operated libraries;
- (D) Municipal buildings and uses, without storage yards;
- (E) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education, and not operated for profit;
- (F) Cemeteries;
- (G) Essential services;
- (H) Childcare facilities limited to foster family homes, foster family group homes and family day care homes and state licensed residential facilities;
- (I) Home occupations subject to the following:
  - (1) Home occupations that create the following conditions shall not be permitted:
    - (a) Changes the outside appearance of the dwelling or is visible from the street;
    - (b) Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
    - (c) Creates noise, vibration, glare, fumes, odors or results in electrical interference or becomes a nuisance;
    - (d) Results in outside storage or display of any thing other than a sign in accordance with §190.329 of this chapter;
    - (e) Requires the employment of anyone other than the occupant of the dwelling;
    - (f) Requires exterior building alterations to accommodate the occupation;
    - (g) Occupies more than 25% of the floor area of the dwelling or 50% of a detached garage;
    - (h) Requires parking for customers that cannot be accommodated on the site;
    - (i) Requires the delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.; and
    - (j) Requires the parking outside an accessory building of any vehicle connected with a commercial business.
  - (2) The following are permitted home occupations; provided, they do not violate any of the provisions of division (I)(1) above:
    - (a) Dressmaking, sewing and tailoring;
    - (b) Painting, sculpting or writing;
    - (c) Telephone answering;
    - (d) Home crafts, such as model making, rug weaving and lapidary work;
    - (e) Tutoring limited to four students at a time;
    - (f) Computer application including software, but not including sale of computers, software or accessories;
    - (g) Salespersons office or home office of a professional person;
    - (h) Laundering and ironing;

- (i) Repair of clocks, instruments or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors or results in electrical interference;
- (j) Barber shops and beauty parlors and nail salons, limited to one operator;
- (k) Dance studios, limited to four students; and
- (l) Instruction in crafts or fine arts.

(3) The following are prohibited as home occupations:

- (a) Private clubs;
- (b) Repair shops which may create a nuisance due to noise, vibration, glare, fumes, odors or electrical interference;
- (c) Restaurants;
- (d) Animal boarding, stables and kennels;
- (e) Tourist homes;
- (f) Motor vehicle repair or paint shops; and
- (g) Retail sales that require visits of customers to the home.

(4) Any proposed home occupation that is neither specifically permitted by division (1)(2) above, nor specifically prohibited by division (1)(3) above shall be considered a special use and be granted or denied upon consideration of those standards contained in §§ 190.306 and 190.307 of this chapter; and

(5) A permit shall be required and shall not be transferable.

(J) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use; and

(K) Recreational vehicle storage shall be in accord with §190.324 of this chapter.

(Prior Code, App. A, § 400) (Ord. 1277, passed 4-2-2007)

#### § 190.036 SPECIAL LAND USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§ 190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission.

- (A) Public utility facilities;
- (B) Private outdoor recreation areas and institutional recreation centers;
- (C) Parks and recreational facilities;
- (D) Functional equivalent family;
- (E) Reasonable accommodation use;
- (F) Satellite dish antennas over 39 inches in diameter;
- (G) Bed and breakfast dwellings; and
- (H) Residential boutiques.

(Prior Code, App. A, § 401) (Ord. 1277, passed 4-2-2007)

#### § 190.037 REQUIRED CONDITIONS.

The following conditions shall be required in all RA Districts.

(A) *Site plan review.* Site plan review and approval must be obtained for all new construction, other than single- and two-family dwellings, for uses requiring six or more parking spaces in accord with § 190.377 of this chapter.

(B) *Dwelling unit review.* All dwelling units shall be reviewed by the Building Official subject to the following conditions.

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall should also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance that is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing material similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed three to one, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(7) Any such home shall be anchored by an anchoring system approved by the city.

(8) (a) The Building Official may request a review by the Planning Commission of any dwelling unit with respect to this section. The Building Official or Planning Commission shall not seek to discourage architectural variation, but seek to promote the reasonable compatibility of the character of dwelling units and accessory buildings and including garages, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large.

(b) In reviewing any such proposed dwelling unit, the Building Official may require the applicant to furnish such plans, elevations and similar documentation as he or she deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling units consideration shall be given to comparable types of homes within 300 feet.

(c) If the area within 300 feet does not contain any such homes, then the nearest 25 dwellings shall be considered.

(9) The Planning Commission in reviewing any such proposed dwelling unit with respect to divisions (B)(3), (B)(4) and (B)(5) above shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property of surrounding residential uses.

(C) *Design review.* Design review for properties within the design review district in accord with §190.320 of this chapter unless otherwise exempt.

(Prior Code, App. A, § 402) (Ord. 1277, passed 4-2-2007)

### RT ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

#### **Editor's note:**

*These districts are designed to provide for predominantly single-family home development with provisions for two-family homes already existing and to accommodate a limited number of new two-family dwelling on lots of suitable size so as not to increase dwelling unit density in an otherwise single-family neighborhood.*

#### § 190.050 PRINCIPAL USES PERMITTED.

In a RT District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) All principal uses permitted in the One-Family Residential District and subject to all regulation and requirements of the RA District, except as hereinafter modified;
- (B) Two-family dwellings;
- (C) Group day care homes;
- (D) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use; and
- (E) Recreational vehicle storage shall be in accord with §190.324 of this chapter.

(Prior Code, App. A, § 500) (Ord. 1277, passed 4-2-2007)

#### § 190.051 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission: uses permitted as special uses and as regulated in the RA Districts.

(Prior Code, App. A, § 501) (Ord. 1277, passed 4-2-2007)

#### § 190.052 REQUIRED CONDITIONS.

The following conditions shall be required in all RT Districts: all required conditions of the RA District shall apply in all RT Districts.

(Prior Code, App. A, § 502) (Ord. 1277, passed 4-2-2007)

### RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

#### Editor's note:

*The RM-1 Multiple-family Residential District are designed to provide sites for low to moderate density one- and two-story planned attached multiple dwelling structures. The multiple dwelling is further provided to serve the limited needs for the apartment type of unit and as a transition use of property between single-family and non-residential districts.*

#### § 190.065 PRINCIPAL USES PERMITTED.

In a RM-1 Multiple-Family District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(A) All principal uses permitted and all special uses permitted in the RT One- and Two-Family Residential Districts and subject to all regulations and requirements of the RT Districts, except as hereinafter modified;

(B) Multiple dwellings; and

(C) Accessory buildings and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 600) (Ord. 1277, passed 4-2-2007)

#### § 190.066 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

(A) Uses permitted as special uses and as regulated in the RA District;

(B) General hospitals;

(C) Convalescent homes;

(D) Funeral homes; and

(E) Child care center or day care center.

(Prior Code, App. A, § 601) (Ord. 1277, passed 4-2-2007)

#### § 190.067 REQUIRED CONDITIONS.

The following conditions shall be required in all RM-1 Districts:

(A) All required conditions of the RM-1A Districts shall apply in all RM-1 Districts; and

(B) An outdoor patio or an outdoor deck of not less than 40 square feet in area shall be provided for each dwelling unit. Such patio or deck shall have direct access from the dwelling unit.

(Prior Code, App. A, § 602) (Ord. 1277, passed 4-2-2007)

### RM-1A MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

#### Editor's note:

*The RM-1A Multiple-Family Residential Districts are designed to provide sites for medium density one-, two- and three-story multiple dwelling structures. This multiple dwelling district is further provided to serve the limited needs for the apartment type of unit as a transition use of property between single-family and non-residential districts.*

#### § 190.080 PRINCIPAL USES PERMITTED.

In a RM-1A Multiple-Family District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(A) All principal uses permitted in the RM-1 District and subject to all regulations and requirements of the RM-1 District, except as hereinafter modified; and

(B) Accessory building and uses customarily incidental to any of the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 700) (Ord. 1277, passed 4-2-2007)

#### § 190.081 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan and in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission: uses permitted as special uses and as regulated in the RA and RM-1 Districts.

(Prior Code, App. A, § 701) (Ord. 1277, passed 4-2-2007)

#### § 190.082 REQUIRED CONDITIONS.

The following conditions shall be required in all RM-1A Districts:

(A) All required conditions of the RM-1 District shall apply to the RM-1A District; and

(B) Multiple-family dwellings shall be permitted after review and approval of the site plans for such dwellings by the Planning Commission. Subsequent development of the site shall comply with the approved site plan. Such review of the site plan is required in order to minimize the possibility of adverse effects upon adjacent property; and furthermore to develop relationships between development features as they relate to traffic, safety, driveways and parking areas, and also to properly relate principal buildings, accessory buildings and uses, and open spaces to one another, and to the traffic pattern within and surrounding such development. Site plan review shall be conducted in accord with all requirements of this district and § 190.377 of this chapter.

(Prior Code, App. A, § 702) (Ord. 1277, passed 4-2-2007)

### RM-2 TOWNHOUSE RESIDENTIAL DISTRICTS

#### Editor's note:

*The RM-2 Townhouse Residential Districts is designed as an intermediate density zoning district that allows a variety of housing types, including the single-family attached dwelling commonly termed the "townhouse". It is intended that this district be used primarily on collector thoroughfares on smaller land parcels and in situations where the close proximity of single-family detached housing developments would be adversely influenced by the higher density traditional multiple-family complex.*

#### § 190.095 PRINCIPAL USES PERMITTED.

In a RM-2 Townhouse Residential District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(A) Townhouse residential dwellings; and

(B) Accessory buildings and uses customarily incidental to any of the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 800) (Ord. 1277, passed 4-2-2007)

#### § 190.096 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan and in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

(A) Uses permitted as special uses and as regulated in the RM-1A Districts; and

(B) Churches, mosques and synagogues.

(Prior Code, App. A, § 801) (Ord. 1277, passed 4-2-2007; Ord. 1414, passed 8-10-2015; Ord. 1479, passed 9-23-2019)

**§ 190.097 REQUIRED CONDITIONS.**

The following conditions shall be required in all RM-2 Districts: all required conditions of the RM-1A District shall apply to the RM-2 District.

(Prior Code, App. A, § 802) (Ord. 1277, passed 4-2-2007; Ord. 1414, passed 8-10-2015)

**RM-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

**Editor's note:**

*The RM-3 Multiple-family Residential Districts are designed to provide for multiple dwellings for those areas with existing multi-family units which have established the character of these districts and for areas on the border of the central business area and in keeping with the objectives of the master plan.*

**§ 190.110 PRINCIPAL USES PERMITTED.**

In RM-3 Multiple-Family Residential Districts, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) All principal uses permitted in the RM-2 Multiple-Family Residential Districts;
- (B) All principal uses permitted in the RM-1 Multiple-Family Residential District and subject to all regulations and requirements of the RM-1 District; and
- (C) Accessory buildings and uses customarily incidental to any of the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 900) (Ord. 1277, passed 4-2-2007; Ord. 1483, passed 11-18-2019)

**§ 190.111 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission: uses permitted as special uses and as regulated in the RM-2 Districts.

(Prior Code, App. A, § 901) (Ord. 1277, passed 4-2-2007)

**§ 190.112 REQUIRED CONDITIONS.**

The following conditions shall be required in all RM-3 Districts: all required conditions of the RA Districts shall apply in all RM-3 Districts.

(Prior Code, App. A, § 902) (Ord. 1277, passed 4-2-2007)

**RU RECREATION UNIT DISTRICTS**

**Editor's note:**

*These districts are designed to provide for recreational structures, recreational uses and accessory uses thereto in areas of the city which are suited for recreational amenities. It being the intent of this district to provide for the development of new areas and to upgrade existing areas of the city which have potential for recreational development.*

**§ 190.125 PRINCIPAL USES PERMITTED.**

In a RU Recreation District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) Seasonal recreation units;
- (B) Parks, parkways and recreational facilities, open to the general public; provided that, fees may be charged for the use of such facilities;
- (C) Municipal uses;
- (D) Utility and public service facilities (without storage yards) when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity; and
- (E) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1000) (Ord. 1277, passed 4-2-2007)

**§ 190.126 SPECIAL USES.**

Outdoor cafés.

(Prior Code, App. A, § 1001) (Ord. 1277, passed 4-2-2007)

**§ 190.127 REQUIRED CONDITIONS.**

The following conditions shall be required in all RU Districts:

- (A) Exterior design and improvement of units shall be in accord with a unified plan for the area and exterior materials shall be kept in a permanent state of repair and shall be kept painted or provided with siding of a maintenance free material; and
- (B) All required conditions of the RA District shall apply to all RU Districts.

(Prior Code, App. A, § 1002) (Ord. 1277, passed 4-2-2007)

**O-S OFFICE SERVICE DISTRICTS**

**Editor's note:**

*The O-S Office Service Districts are designed to accommodate office buildings and uses necessary to the servicing of the office district.*

**§ 190.140 PRINCIPAL USES PERMITTED.**

In an Office Service District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) Office buildings for any of the following occupations: executive, administrative, professional and sales offices;
- (B) Medical and dental offices, including clinics;
- (C) Banks;
- (D) Funeral homes (mortuaries);
- (E) Churches;
- (F) Municipal buildings and public utility offices without storage yards;
- (G) Other uses similar to the above uses; and
- (H) Accessory buildings and uses customarily incidental to any of the above permitted uses; provided, such uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1100) (Ord. 1277, passed 4-2-2007)

**§ 190.141 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

- (A) Business services;
- (B) Limited dwellings;
- (C) Bed and breakfast dwellings;
- (D) Satellite dish antennas; and
- (E) Utility and public service facilities.

(Prior Code, App. A, § 1101) (Ord. 1277, passed 4-2-2007)

#### § 190.142 REQUIRED CONDITIONS.

The following conditions shall apply in all O-S Districts:

- (A) Design review for properties within the design review district in accord with §190.320 of this chapter; and
- (B) Site plan review and approval shall be obtained for all new construction, other than single- and two-family dwellings, for uses requiring six or more parking spaces in accord with §90.377 of this chapter.

(Prior Code, App. A, § 1102) (Ord. 1277, passed 4-2-2007)

### B-1 NEIGHBORHOOD BUSINESS DISTRICTS

#### **Editor's note:**

*The B-1 Neighborhood Business Districts are designed for the convenience shopping of persons residing in adjacent residential areas to permit only such uses as are necessary to satisfy basic day to day shopping and/or service needs.*

#### § 190.155 PRINCIPAL USES PERMITTED.

In a B-1 Neighborhood Business District, no building shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) All principal uses permitted in the O-S Office Service District and subject to all regulations and requirements of the O-S District, except as hereinafter modified;
- (B) Any generally recognized retail business which supplies commodities on the premises, for persons residing in adjacent residential areas, such as: groceries; meats; dairy products; baked goods or other foods; drugs; dry goods and notions; or hardware;
- (C) Full service restaurants, but not including bars or drive-in or drive-through restaurants;
- (D) Any personal service establishment which performs services, on the premises, for persons residing in adjacent residential areas, such as: shoe repair, tailor shops, beauty parlors or barber shops;
- (E) Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance studios; music and voice schools; and art studios;
- (F) Other uses which are similar to the above uses; and
- (G) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1200) (Ord. 1277, passed 4-2-2007; Ord. 1415, passed 8-10-2015)

#### § 190.156 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

- (A) Uses permitted as special uses and as regulated in the O-S Office Service District;
- (B) Private clubs and lodge halls; and
- (C) Stores that sell alcoholic beverages.

(Prior Code, App. A, § 1201) (Ord. 1277, passed 4-2-2007; Ord. 1341, passed 3-14-2011)

#### § 190.157 REQUIRED CONDITIONS.

The following conditions shall apply to all B-1 Districts: all required conditions of the O-S District shall apply.

(Prior Code, App. A, § 1202) (Ord. 1277, passed 4-2-2007)

### CBD CENTRAL BUSINESS DISTRICT

#### **Editor's note:**

*The CBD Central Business District is designed to provide for office buildings and the great variety of retail stores and related activities which occupy the prime retail frontage by serving the comparison, convenience and service needs of the entire city area as well as a substantial area of the adjacent and surrounding residential developments beyond the city limits. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage all within a building design context which reflects the historic character of the city's early history.*

#### § 190.170 PRINCIPAL USES PERMITTED.

In a CBD Central Business District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) Multiple dwellings as permitted and controlled in §§190.110 through 190.112 of this chapter, except as hereinafter modified and further excepting the uses of the RA and RT Districts;
- (B) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods; drugs; furniture; clothing; dry goods; notions; or hardware;
- (C) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe and the like); tailor shops; beauty parlors; barber shops; interior decorators; photographers; and dry cleaners;
- (D) Hotels;
- (E) Restaurants and taverns where the patrons are served within the building occupied by such establishment, and wherein said establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in restaurant and subject further to the requirements of § 190.172 of this chapter and § 190.320 of this chapter;
- (F) Theaters when completely enclosed;
- (G) Offices and office buildings of an executive, administrative, professional or medical nature;
- (H) Banks, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function;
- (I) Municipal, state and federal buildings;
- (J) Offices and showrooms of plumbers, electricians, decorating or similar trades, in connection with which not more than 25% of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise; and, provided that, the ground floor premises facing upon, and visible from any abutting street shall be used only for entrances, offices or display. All storage materials shall be within the confines of a building or part thereof occupied by said establishment;
- (K) Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance studios; music and voice schools; and art studios;
- (L) Newspaper offices;
- (M) Storage space when accessory to any principal use permitted; provided that, such space is within the confines of the building or part thereof occupied by said establishment;
- (N) Parking lots and parking structures;
- (O) Other uses which are similar to the above uses;
- (P) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use; and
- (Q) Churches, mosques and synagogues.

(Prior Code, App. A, § 1300) (Ord. 1277, passed 4-2-2007; Ord. 1479, passed 9-23-2019)

#### § 190.171 SPECIAL USES.

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

- (A) Outdoor café;

- (B) Bed and breakfast dwellings;
- (C) Satellite dish antennas;
- (D) Second floor dwellings and above;
- (E) Murals; and
- (F) Public art.

(Prior Code, App. A, § 1301) (Ord. 1277, passed 4-2-2007; Ord. 1373, passed 10-8-2012; Ord. 1393, passed 2-10-2014)

**§ 190.172 REQUIRED CONDITIONS.**

The following conditions shall be required in all CBD Districts:

- (A) All required conditions of the O-S District shall apply;
- (B) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced;
- (C) All business activities, except for off-street parking or loading, shall be conducted within completely enclosed buildings;
- (D) Outdoor storage of commodities shall be expressly prohibited;
- (E) Design review shall be required in accord with §190.320 of this chapter; and
- (F) Location of establishments that sell alcoholic beverages.

(1) Except as provided in division (B) above, a new application for a license to sell alcoholic beverages for consumption on the premises, or a request to transfer the location of such license between the east side of Third Street to the Detroit River and the south side of Chestnut to the north side of Pine Street within the city, shall be denied if the contemplated location of the premises to be licensed is within 1,500 feet of any other premises licensed to sell alcoholic beverages for consumption on the premises. The distance between the licensed premises and the contemplated location shall be measured along the centerline of the street or streets of address between two fixed points on the center line determined by projecting straight lines at right angles to the center line from the part of the licensed premises nearest to the contemplated location and from the part of the contemplated location nearest to licensed premises.

(2) Division (F)(1) above shall not apply if it can be established that the total gross receipts of the contemplated location for which the application is being made will or does derive over 50% of its total gross receipts from the sale of food or other goods and services.

(Prior Code, App. A, § 1302) (Ord. 1277, passed 4-2-2007)

**B-2 GENERAL BUSINESS DISTRICTS**

**Editor's note:**

*The B-2 General Business Districts are designed to furnish areas served typically by the Central Business District with a variety of automotive services and goods incompatible with the uses and with the pedestrian movement in such Central Business District. The General Business Districts are characterized by more diversified business types and are often located to serve passerby traffic.*

**§ 190.185 PRINCIPAL USES PERMITTED.**

In a General Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) All principal uses permitted in the Central Business District subject to all requirements of the district; provided, the maximum height controls of the B-2 District are complied with and provided dwellings above stores constructed after the adoption date of this chapter shall meet minimum lot area requirements of the RM-1 District;
- (B) Wholesale and retail activities;
- (C) Indoor sales for new automobiles, boats and recreation vehicles;
- (D) Minor automobile repair;
- (E) Automobile car wash, when completely enclosed in building;
- (F) Bus passenger stations;
- (G) Governmental offices or other governmental uses;
- (H) Clinics;
- (I) Tattoo and body piercing;
- (J) Self-service laundry and dry cleaning establishments;
- (K) Bowling alleys;
- (L) Other uses which are similar to the above uses;
- (M) Parking lots and parking structures;
- (N) Utility and public service facilities;
- (O) Stores that sell alcoholic beverages; and
- (P) Accessory structures and uses customarily incidental to any of the above permitted uses; provided, such structures and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1400) (Ord. 1277, passed 4-2-2007)

**§ 190.186 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

- (A) Outdoor café zoned B-2 and abutting Eureka, Biddle Avenue or east of Biddle Avenue only;
- (B) Satellite antennas;
- (C) Pool halls and amusement arcades;
- (D) Bed and breakfast dwelling;
- (E) Automobile service station with major vehicle repair;
- (F) Motels;
- (G) Commercial outdoor recreation;
- (H) Outdoor sales spaced for new or used automobiles, trucks, recreational vehicles, mobile homes and boats shall only be allowed on Fort Street (M-85) and no used car lot shall be permitted within 750 feet of another used car lot;
- (I) Private clubs and lodges;
- (J) Funeral homes;
- (K) Drive-in and drive-through restaurants;
- (L) Auto wash;
- (M) Marina and boat livery facilities; and
- (N) Uses authorized by special license including the following:
  - (1) Adult bookstore;
  - (2) Adult mini-motion picture theater;
  - (3) Adult motion picture theater;
  - (4) Adult motel;

- (5) Adult personal service business;
- (6) Cabaret; and
- (7) Similar type of uses.

(Prior Code, App. A, § 1401) (Ord. 1277, passed 4-2-2007; Ord. 1423, passed 3-14-2016; Ord. 1479, passed 9-23-2019)

**§ 190.187 REQUIRED CONDITIONS.**

The following conditions shall be required in all B-2 Districts: all required conditions of the O-S District shall apply.

(Prior Code, App. A, § 1402) (Ord. 1277, passed 4-2-2007)

**I-1 INDUSTRIAL DISTRICTS**

**Editor's note:**

*The I-1 Industrial District is designed so as to accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts.*

**§ 190.200 PRINCIPAL USES PERMITTED.**

(A) Uses permitted in B-2 General Business District (except dwellings other than a dwelling for a manager or security personnel) when such uses are for the convenience of persons in the I-1 Industrial District, subject to the regulations applicable to such uses.

(B) Any of the following uses when conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides with an eight-foot fence. Said fence shall be obscuring on those sides which abut upon or are adjacent to districts zoned for residential use. However, provisions of this division (B) notwithstanding, the City Council may, by resolution, declare an area a "proposed industrial park" within which the requirement of an obscuring fence may be waived on a year-to-year basis by the City Engineer until such time as abutting residential property no longer exists:

- (1) Warehousing and wholesale establishments and trucking facilities;
- (2) The manufacture, compounding, processing, packaging or treatment of such products as: Bakery goods, candy, cosmetics, chemicals (excluding heavy chemical manufacturing such as, but not limited to, soda ash manufacturing, cement manufacturing and the like), pharmaceuticals, toiletries, food products; hardware and cutlery; tool, die, gauge and machine shops, grinding, welding, reprocessing or reconditioning of manufacturing equipment;
- (3) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone; canvas; cellophane; chemicals; cloth; cork; feathers; felt; fiber; fur; glass; hair; horn; leather; paper; plastics; precious or semi-precious metals or stones; shell; textiles; tobacco; wax; wood (excluding rough saw and rough planning mills); and yarns;
- (4) The manufacture of articles or merchandise from sheet metal (including stampings of seven gauge or lighter), hot or cold forging of products made from wire or no greater diameter than five-sixteenths inch;
- (5) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas;
- (6) Manufacture of musical instruments, toys, novelties and metal or rubber stamps or other small molded rubber products;
- (7) Manufacture or assembly of electrical appliances, electronic instruments and devices, radio and phonographs;
- (8) Laboratories (experimental, film or testing);
- (9) Manufacture and repair of electronic or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like;
- (10) Outdoor storage upon issuance of a permit by the Department of Engineering as follows: on a permanent basis if annually renewed for contained scrap materials generated from on-site operations; on a temporary basis for obsolete machinery if stored for more than 30 days and inventory which is part of the principal activity if stored for more than 30 days;
- (11) Building material sales;
- (12) Bottling and canning of beverages and bottling works, which may include the processing of used beverage containers as an accessory use thereto, provided such processing meets all requirements as provided for in § 190.307 of this chapter;
- (13) Major vehicle repair;
- (14) Painting and varnishing shops when set back at least 75 feet from any adjacent residential district; and, provided further that, such operation be conducted within a completely enclosed building;
- (15) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances;
- (16) Other uses of a similar and no more objectionable character, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare; and
- (17) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same lot as a permitted use.

(Prior Code, App. A, § 1500) (Ord. 1277, passed 4-2-2007)

**§ 190.201 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with §190.378 of this chapter by the Planning Commission:

- (A) Auto assembly and machinery assembly plants;
- (B) Towers and antennas for wireless communication facilities;
- (C) Wind turbines;
- (D) Domesticated companion animal lodging facility; and
- (E) Kennel.

(Prior Code, App. A, § 1501) (Ord. 1277, passed 4-2-2007; Ord. 1498, passed 9-28-2020)

**§ 190.202 REQUIRED CONDITIONS.**

The following conditions shall be required in all I-1 Districts:

- (A) Any use established shall be operated so as to comply with the performance standards set forth hereinafter in §190.326 of this chapter; and
- (B) Site plan review and approval shall be obtained for all new construction, other than single- and two-family dwellings, for uses requiring six or more parking spaces in accord with §190.377 of this chapter.

(Prior Code, App. A, § 1502) (Ord. 1277, passed 4-2-2007)

**I-2 INDUSTRIAL DISTRICTS**

**Editor's note:**

*The I-2 Industrial District is designed primarily for manufacturing, assembling and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts.*

**§ 190.215 PRINCIPAL USES PERMITTED.**

- (A) Any principal or special use first permitted in an I-1 District;
- (B) Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which shall conform with the performance standards set forth in §190.320 of this chapter and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards, or glare or heat;
- (C) Warehouse, storage and transfer and electric and gas service buildings and yards; water supply, water and gas tank holders; railroad transfer and storage tracks; heating and electric power generating plants and all necessary uses; railroad rights-of-way;
- (D) Storage facilities for building materials, sand, lumber and similar materials, open storage of contractor's equipment and supplies; provided, such is enclosed within an obscuring wall or fence on those sides abutting all residential, business or office district, and on any yard abutting a public thoroughfare. In any I-2 District the extent of such fence or wall shall be eight feet in height. A chain link type fence, with heavy shrubbery, in a continuous greenbelt five-foot-wide inside of said fence, shall be considered to be an obscuring fence. However, provisions of this

division (D) notwithstanding, the City Council may, by resolution, declare an area a "proposed industrial park" within which the requirement of an obscuring fence may be waived on a year-to-year basis by the City Engineer until such time as abutting residential property no longer exists;

(E) Other uses of a similar or no more objectionable character but not including uses allowed in the I-3 District; and

(F) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1600) (Ord. 1277, passed 4-2-2007)

#### **§ 190.216 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed or each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and in §§ 190.305 through 190.307 of this chapter after a public hearing in accord with § 190.378 of this chapter by the Planning Commission: beverage container processing.

(Prior Code, App. A, § 1601) (Ord. 1277, passed 4-2-2007)

#### **§ 190.217 REQUIRED CONDITIONS.**

The following conditions shall be required for all I-2 Districts: all required conditions of the I-1 District shall apply.

(Prior Code, App. A, § 1602) (Ord. 1277, passed 4-2-2007)

### **I-3 INDUSTRIAL DISTRICTS**

#### **Editor's note:**

*The I-3 Industrial District is designed to provide for locations for industrial uses which due to the nature of activities conducted is not well suited to location within I-1 or I-2 Districts and whose effects to abutting industrial property as well as beyond the district may impair proper use of such abutting property.*

#### **§ 190.230 PRINCIPAL USES PERMITTED.**

(A) Any principal use and special use first permitted in an I-2 District;

(B) Activities involving storage, utilization or manufacturing of materials or products which decompose by detonation shall not be permitted within the city, except such as are approved by the Fire Chief and the Board of Appeals and subject further to all other laws and ordinances of the state and the city;

(C) Incinerators for the disposal or burning of garbage and/or refuse; provided, all requirements of § 190.326 of this chapter are complied with and, provided, all other ordinances of the city are complied with. No incinerator shall be located closer than 200 feet to a residential district;

(D) Any of the following uses provided they are located not less than 500 feet distant from any residential district:

- (1) Blast furnace, steel furnace, blooming or rolling mill;
- (2) Petroleum or other flammable liquids, production or refining; and
- (3) Smelting or refining of metals or ores.

(E) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use.

(Prior Code, App. A, § 1700) (Ord. 1277, passed 4-2-2007)

#### **§ 190.231 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§ 190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with § 190.278 of this chapter by the Planning Commission:

(A) Junk yards; and

(B) Sewage disposal plants.

(Prior Code, App. A, § 1701) (Ord. 1277, passed 4-2-2007)

#### **§ 190.232 REQUIRED CONDITIONS.**

The following conditions shall be required in all I-3 Districts: all required conditions of the I-1 District shall apply.

(Prior Code, App. A, § 1702) (Ord. 1277, passed 4-2-2007)

### **IRO INDUSTRIAL RESEARCH OFFICE DISTRICTS**

#### **Editor's note:**

*The IRO Industrial Research Office districts are designed to provide for uses which are office or research type or industrial uses which have limited impact outside of the industrial building.*

*The district is intended to encourage uses which have a high value per acre of land that will supplement the city's tax base. Certain businesses are permitted within office buildings as secondary uses.*

#### **§ 190.245 PRINCIPAL USES PERMITTED.**

In an IRO Industrial Research Office district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses unless otherwise provided in this chapter:

(A) Any use charged with the principal function of basic research, design and pilot or experimental product development;

(B) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales;

(C) Data processing and computer centers, including service and maintenance of electronic data processing equipment;

(D) Banks, credit unions, savings and loan associations;

(E) Hospitals, clinics and medical offices; medical laboratories;

(F) Other uses similar to the above uses;

(G) Municipal buildings and uses;

(H) Accessory structures and uses customarily incidental to the above permitted uses; provided, such buildings and uses are located on the same zoning lot with a permitted use; and

(I) Churches, mosques and synagogues.

(Prior Code, App. A, § 1800) (Ord. 1277, passed 4-2-2007; Ord. 1479, passed 9-23-2019)

#### **§ 190.246 SPECIAL USES.**

The following uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed in §§ 190.305 through 190.307 of this chapter for each use and subject to the review and approval of a site plan in accord with § 190.377 of this chapter and after a public hearing in accord with § 190.378 of this chapter by the Planning Commission:

(A) Light industrial and retail uses; and

(B) All principal and special uses permitted in the RU Recreation Unit District and subject to all regulations and requirements of the RU District, except as hereinafter modified.

(Prior Code, App. A, § 1801) (Ord. 1277, passed 4-2-2007)

#### **§ 190.247 REQUIRED CONDITIONS.**

The following conditions shall be required in all IRO Districts:

(A) All required conditions of the I-1 District shall apply;

(B) The outdoor storage of goods or materials is prohibited. The outdoor loading and unloading of trucks or vehicles at truck bays is allowed for businesses occupying a site; however, such loading and unloading shall not allow the outdoor parking of such truck or vehicle for periods of longer than 24 hours and shall not include truck terminals. Outdoor parking of trucks for longer than 24 hours shall be considered storage;

(C) Any use established in the IRO District shall be operated so as to comply with the performance standards set forth in § 90.326 of this chapter, where applicable;



- (D) All uses shall receive site plan review and approval by the Planning Commission prior to the issuance of any building permit;
  - (E) Off-street loading shall be provided in accordance with the following schedule:
    - (1) For office building of less than 100,000 square feet in gross floor area, at least one loading space, with a dimension of at least ten by 50 feet, separate from off-street parking shall be provided in the rear or side yard only;
    - (2) For office buildings greater than 100,000 square feet in gross floor area, at least one loading space with a dimension of at least ten by 50 feet with clearance of at least 14 feet in height, in the rear or side yard only;
    - (3) For special uses, one separate space, in addition to space required for offices, shall be provided for each serviced entrance to the use in the rear or side yard only; and
    - (4) All loading and unloading shall be provided off-street in the rear yard or in interior side yard, and in no instance shall be permitted in a front yard. All loading and unloading areas shall be screened from public view.
  - (F) All buildings shall be provided with finished materials on all sides exposed to public view. Pole barn types of structures shall not be permitted; and
  - (G) See §§ 190.324 through 190.329 and 190.377 of this chapter regarding off-street parking requirements, off-street parking layout, standards, construction and maintenance, signs, landscaping and site plan review, as related to uses permitted in the district.
- (Prior Code, App. A, § 1802) (Ord. 1277, passed 4-2-2007)

## P-1 VEHICULAR PARKING DISTRICTS

### Editor's note:

*The P-1 Vehicular Parking Districts are designed to accommodate the off-street parking of those uses which are not able to provide adequate space within their own district boundaries.*

### § 190.260 PRINCIPAL USES PERMITTED.

Premises in such district shall be used only for an off-street parking area and shall be developed and maintained subject to such regulations as are hereinafter provided.

(Prior Code, App. A, § 1900) (Ord. 1277, passed 4-2-2007)

### § 190.261 REQUIRED CONDITIONS.

The following conditions shall be required in all P-1 Districts:

- (A) The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions;
- (B) The parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day;
- (C) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited in parking areas;
- (D) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area;
- (E) No building other than those for shelter of attendants shall be erected upon the premises and they shall not exceed 15 feet in height to peak of the roof;
- (F) Applications for P-1 District rezoning shall be made by submitting a scaled and dimensional layout of the proposed parking lot showing the intended parking plan in accordance with §§ 190.324 and 190.325 of this chapter. Approval of the application shall be subject to the review and approval of a site plan by the Planning Commission in accordance with §190.377 of this chapter and after a public hearing in accordance with § 190.378 of this chapter; and
- (G) P-1 Vehicular Parking Districts shall be developed and maintained in accordance with the requirements of §190.324 of this chapter.

(Prior Code, App. A, § 1901) (Ord. 1277, passed 4-2-2007)

### § 190.262 MINIMUM DISTANCES AND SETBACKS.

- (A) *Side and rear yards.* Where the P-1 District is contiguous to side or rear lot lines of premises within a residentially zoned district, a wall or obscuring fence shall be constructed on said lot lines in accordance with § 190.320 of this chapter.
- (B) *Front yards.* Where the P-1 District is contiguous to a residentially zoned district and has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, or is across the street from a residential district, there shall be a minimum setback of 15 feet from the front property line. A required wall or obscuring fence shall be located on this minimum setback line unless the Planning Commission finds that no good purpose would be served. The land between said setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees or lawn and shall be maintained in a healthy growing condition, neat and orderly in appearance. Planting shall be in accordance with § 190.328 of this chapter.

(Prior Code, App. A, § 1902) (Ord. 1277, passed 4-2-2007)

## PD PLANNED DEVELOPMENT

### Editor's note:

*The PD Planned Development District is intended to permit the private or public development or redevelopment of areas throughout the city which shall be substantially in accord with the goals and objectives of the city's Master Plan in providing for a balanced land use pattern for homes, business, industry, community facilities and services. Homes shall be single-family or condominium projects with the obligation of being developed for owner occupants. The land use patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while ensuring adequate safeguards and standards for public health, safety, convenience and general welfare.*

*It is further the intent of this district to provide for development which will be carried out in such manner as to preserve natural features such as waterfront areas and their accessibility to the public and to promote energy efficient development. Such Planned Development District may embrace a mixture of one or more uses or zoning categories all in accord with the city's Master Plan for Future Land Use.*

### § 190.275 PROCEDURE FOR APPLICATION.

- (A) Application shall be made to the City Council under this district.
- (B) The person applying shall be required to make a submittal of the following material for review and recommendation by the Planning Commission:
  - (1) A proof of ownership of land where land is being requested for rezoning;
  - (2) A property area survey of the exact area being requested (scale: one inch equals 100 feet);
  - (3) A topography map of the entire area at a contour interval showing one foot changes in elevation. This map shall indicate all natural and human-made features (scale: one inch equals 100 feet);
  - (4) A preliminary plan of the entire area carried out in such detail as to show the land use being requested, the business area, industrial buildings and uses, the housing densities being proposed where applicable, the system of collector streets and off-street parking system;
  - (5) Building elevation drawing and proposed building materials;
  - (6) A written statement explaining in detail the full intent of the sponsor indicating the specifics of the development plan as it relates to the type of dwelling units contemplated and resultant population; the extent of non-residential development and the resultant traffic generated and parking demands created; and
  - (7) Supporting documentation such as, but not limited to: market studies; supporting land use request; and the intended scheduling of development.

(Prior Code, App. A, § 2000) (Ord. 1277, passed 4-2-2007)

### § 190.276 STAGE I PRELIMINARY SITE PLAN.

- (A) The preliminary site plan shall be referred to the City Engineer, or his or her designee, to other city agencies or consultants to the city as may be deemed necessary to provide guidance to the Planning Commission and the City Council in their review of the project.
- (B) In reviewing and approving the preliminary site plan, the following procedures and conditions shall be followed.
  - (1) The proposed development in a PD District shall be of such area as to represent a sound carrying out of the master plan of land use, it not being the intention of this district that an unrelated parcel-by-parcel development be effectuated.
  - (2) The preliminary site plan shall be reviewed and a report with recommendation shall be made by the Planning Commission to the City Council relative to the plans meeting the intent and the requirements of the Master Plan of Future Land Use and the requirements of this chapter.
  - (3) Recommendation by the Planning Commission shall be given only after public hearing. Such hearing shall be carried out in accord with requirements of Public Act 110 of 2006, as amended.
  - (4) Approval of the preliminary plan by the City Council shall not constitute approval of the final site plan. It shall be deemed as approval of the land use plan submitted and shall serve as a

guide in the preparation of the final plan.

(5) Acceptance of the preliminary site plan by the City Council shall be effective for a period of two years.

(6) In an area zoned PD District, no development shall take place therein nor use made of any part thereof, except in accordance with the site plan as originally approved, or in accordance with an approved amendment thereto.

(Prior Code, App. A, § 2001) (Ord. 1277, passed 4-2-2007)

**§ 190.277 STAGE II FINAL SITE PLAN.**

(A) The final site plan shall be submitted to the City Council and referred to the City Engineer or his or her designee, and to other city agencies or consultants to the city as may be deemed necessary to provide guidance to the Planning Commission and the City Council in their review of the project.

(B) In reviewing the final site plan, the following conditions shall be followed.

(1) A final overall site plan for the entire area being requested under this PD District shall be submitted. This plan shall be worked out in detail showing specific uses, building location, off-street parking, street alignment changes, open spaces and other physical plan details being proposed. Supporting documentation in the form of building floor plans, building elevation drawings, type of building material and schedule of construction shall be submitted.

(2) The final plan shall reflect and adhere to those use patterns as approved in the preliminary plan. Standards for building, density, height, bulk, setbacks from public streets and the riverfront, and off-street parking shall be equal to at least the minimum standards set forth for like uses in the schedule of regulations and off-street parking requirements of this chapter; provided however, the Planning Commission and City Council may modify these standards where the objectives of the district can be proved to be better served by such modifications. Density standards for multiple-family dwellings shall generally follow the requirements of the RM-1 districts for one-, two- and three-story buildings and the RM-2 District requirements for buildings above three stories subject to modification where it can be shown that such modification will provide a more desirable planned development. In no instance shall buildings be located closer than 100 feet to the waterfront unless good cause can be shown that buildings located closer than 100 feet will provide site amenities which will be beneficial to the overall development and to the city as a whole. In those instances where mixed uses utilize a PD District, the Planning Commission may vary setback and height requirements to accomplish a desirable planned development.

(3) A presentation of the final site plan shall be made to the City Council. Prior to action by the City Council, the final site plan shall be forwarded to the Planning Commission for review and recommendation.

(Prior Code, App. A, § 2002) (Ord. 1277, passed 4-2-2007)

**§ 190.278 STAGE III FINAL SITE PLAN APPROVAL.**

In approving the final plan, the following conditions shall be set forth.

(A) Approval of the final site plan (Stage II) may be granted by the City Council after review and recommendation is made by the Planning Commission. A public hearing shall not be required on the Stage II site plan, however, a resolution of the City Council is required determining that such Stage II site plan is in compliance with the planned development representations made at the time of approval of the Stage I site plan, and also meets the requirements set forth in § 190.279 of this chapter, which follows. Final approvals may be granted in stages; provided, such stages are in keeping with previously approved preliminary site plans.

(B) All dedications of public rights-of-way or planned public open spaces shall be made prior to any construction taking place on the site.

(C) Upon issuance of a certificate of site plan approval the site plan, building elevations and other development proposals including the proposed uses, shall become an integral part of the PD District and for purposes of recordation, shall be referred to as "Planned Development No. \_\_\_\_\_", which number shall be recorded on the appropriate properties of the city zoning map. All approved plans shall be filed with the City Clerk.

(D) Approval of the final site plan shall be effective for a period of three years; providing that, development is commenced within one year, as evidenced, at a minimum, by issuance of a building permit. If development is not commenced within one year or not completed within three years, the Planning Commission shall review progress to date and make a recommendation to the City Council as to action relative to permitting continuation under original approval.

(Prior Code, App. A, § 2003) (Ord. 1277, passed 4-2-2007)

**§ 190.279 REQUIRED CONDITIONS.**

The following are the required conditions of the PD District:

(A) Provisions satisfactory to the City Council have been made to provide for the financing of any improvements shown on the plan for open spaces and common use areas which are to be provided by the applicant, and that maintenance of such improvements is assured by a means satisfactory to the City Council. Such assurance may include bonding or other suitable guarantee of performance;

(B) The cost of installing all streets, necessary utilities and site amenities has been assured by a means satisfactory to the City Council;

(C) The final plan of each project area of the approved plan is in conformity with the overall approved plan. Any changes or amendments requested shall suspend approval of the overall plan until such changes or amendments have been reviewed and approved as in the instance of the first submittal, it being the intent of this section that no other administrative or board of appeals action shall constitute official approval of such changes or amendments to the overall plan. Denial by City Council of any requested changes or amendments shall not void the originally approved plan;

(D) A change of occupancy, a change in type of use, or the alteration of a building or the site in a previously approved PD District shall require the review of the Building Official. The Building Official may request a review by the Planning Commission where a question arises relative to whether such change falls within the intent of the previously approved PD District;

(E) Fees for review of plans and for services required to supplement city staff as may be required to provide background for decisions of the Planning Commission and the City Council shall be established by resolution of the City Council; and

(F) Design review shall be required for all properties within the Design Review District in accord with §190.320 of this chapter.

(Prior Code, App. A, § 2004) (Ord. 1277, passed 4-2-2007)

**SCHEDULE OF REGULATIONS**

**§ 190.290 LIMITING HEIGHT, BULK, DENSITY AND AREA BY LAND USE.**

Use Districts	Minimum Size Lot Per Dwelling		Maximum Height of Structure		Minimum Yard Setback (Per Lot in Feet)				Maximum Percent of Lot Coverage  (Area of all Structures)
	Area in Sq. Ft.	Width in Ft.	In Stories	In Feet	Front	Sides		Rear	
						Least 1	Total of 2		
B-1, Neighborhood Business	—	—	2	30	5(m,w)	5(n)	10(n)	10(o)	—
B-2, General Business	—	—	4	40	5(m,w,z)	5(n)	10(n)	10	—
CBD, Central Business	—	—	8(p) (ad)	80(p) (ad)	(v,w)	5(n)	10(n)	10	—
I-1, Industrial	—	—	8	85	20(d,t),(u,x)	5(n,t,x,u)	10(n,u,t,x)	10(o,u,x)	—
I-2, Industrial	—	—	—	—	20(d,t,u,x,y)	5(n,t,u,x)	10(n,t,u,x)	10(o,u,x)	—
I-3, Industrial	—	—	—	—	20(d,t,u,x,y)	5(n,t,u,x)	10(n,t,u,x)	10(o,u,x)	—

IRO, Industrial/Research/Office	—	—	—	—	20(t,d,u)	5(n,t,u)	10(n,t,u)	10(o,u)	—
OS, Office Services	—	—	2	30	5(m,w)	5(n)	10(n)	10(o)	—
RA, One-Family Residential	5,000	50	2	30	20(d)	4(b,c)(aa)	12(b,c)	25	35%
RM-1A, Multiple-Family Residential	(f,q)	(f,q,s-1)	3	35	20(d)	5(b,i,r-1)	15(b,i,r-1)	20(h,i)	40%
RM-1, Multiple-Family Residential	(e,f)	(e,f)	2	30	20(h,d)	10(h,i)	20(h,i)	25(h,i)	35%
RM-2, Townhouse Residential	(e,f)	(e,f)	3(ab)	35(ab)	10(d,ac)	7(h)	14(h)	20(h)	38%
RM-3, Multiple-Family Residential	(j)	(j)	8(k)	80(k)	20(d)	3(i,b)	10(i,b)	20(i,l)	40%
RT, One- and Two-Family Residential	5,000	35	2	30	20(d)	4(b,c)(aa)	12(b,c)	25	35%
RU, Recreation Unit Districts	1,000	20	—	30(r-2)	—	2(s-2)	4(s-2)	10	—

**NOTES TO TABLE:**

(a) [Reserved.]

(b) Where a side yard abuts a street, the minimum width of such yard shall be not less than 5 feet, except in the instance of a multiple dwelling such side yard shall not be less than 10 feet. A distance of not less than 8 feet shall be provided between the dwelling and a dwelling on an abutting lot.

(c) Any side yard for a principal use or a special use allowed in this district, other than 1- and 2-family dwellings, shall not be less than 1/2 the height of the building at the side yard.

(d) In a block on 1 side of the street, 50% or more occupied, the depth of the front yard need not be more than the average depth of front yards of existing buildings and, in no instance, more than 20 feet.

(e) The following minimum lot area per dwelling unit shall be provided:

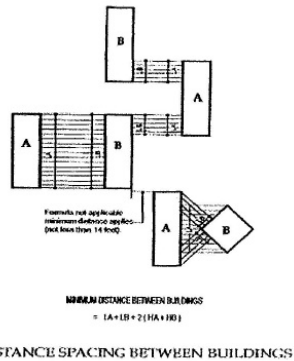
- (1) Efficiency unit: 1,100 square feet per unit;
- (2) One-bedroom unit: 1,600 square feet per unit;
- (3) Two-bedroom unit: 2,200 square feet per unit;
- (4) Three-bedroom unit: 2,800 square feet per unit; and
- (5) Four-bedroom unit: 3,400 square feet per unit.

(f) A den or extra room shall count the same as a bedroom. Examples of an "extra room" include, but are not limited to, the following: space in a basement, attic or other area that is planned or may be finished at a later date as a loft area, office, library, study, bonus room, an additional family or living room, or other additional room.

(g) The following minimum lot area per dwelling unit shall be provided:

- (1) Efficiency unit: 600 square feet per unit;
- (2) One-bedroom unit: 900 square feet per unit;
- (3) Two-bedroom unit: 1,200 square feet per unit;
- (4) Three-bedroom unit: 1,500 square feet per unit; and
- (5) Four-bedroom unit: 1,800 square feet per unit.

(h) In all RM-1 and RM-2 Multiple-Residence Districts, the minimum distance between any 2 buildings, excluding buildings where the side yards of each building are directly opposite one another, shall be regulated according to the length and height of such buildings. The formula regulating the required minimum distance between 2 buildings is as follows:



$$S = \frac{LA + LB + 2(HA + HB)}{6}$$

where:

S = Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

LA = Total length of building A. The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

LB = The total length of building B. The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, lines drawn perpendicular to building B will intersect any wall of building A.

HA = Height of building A. The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

HB = Height of building B. The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

(i) Any side or rear yard for a principal use or a use permissible on special approval allowed in this district, other than RA, RT and multiple-family dwellings shall not be less than the height of the structure at the side or rear lot line.

(j) No principal use shall be built upon a lot having less than 2,000 square feet for the first 2 families, plus 500 square feet for each additional family.

(k) Buildings or parts of buildings, not exceeding 2% of the lot area may be erected to a height of 100 feet if the side yard is increased to 1/3 of the height of such part at the 80-foot level.
(l) For each story in excess of 2, 1 additional foot of rear yard in excess of the minimum 20 feet shall be provided.
(m) A front yard of 5 feet, however, and a minimum of 10 feet for buildings adjacent to a street right-of-way.
(n) Side yards may be omitted if walls abutting a side yard are of fire-proof construction and the building is not adjacent to a street right-of-way.
(o) Floors of buildings used in whole or in part as a dwelling shall provide a minimum rear yard of 25 feet. Not less than 15 feet of depth of such yard shall be useable as outdoor yard space for the occupants of such dwelling. If a rear yard abuts an alley, such yard may be measured from the center of the alley.
(p) Buildings or structures may be constructed to a height not to exceed 150 feet where adequate fire protection of such building or structure is provided to supplement the protection available from municipal sources in the judgment of the Fire Chief.
(q) The following minimum lot area per dwelling unit shall be provided: (1) Efficiency unit: 900 square feet per unit; (2) One-bedroom unit: 1,200 square feet per unit; (3) Two-bedroom unit: 1,500 square feet per unit; (4) Three-bedroom unit: 1,800 square feet per unit; and (5) Four-bedroom unit: 2,100 square feet per unit.
(r-1) Every lot on which a multiple dwelling is erected shall be provided with a side yard on each side of such lot. Each side yard shall be increased by one-half-foot for each 10 feet or part thereof by which the length of the multiple dwelling exceeds 40 feet in overall dimension along the adjoining lot line. In no instance shall a side yard of less than 10 feet be provided on those sides which provide front entrances to buildings. (r-2) Above established grade level as determined by the city.
(s-1) No multiple-family dwelling shall be built on a parcel of less width or depth than 45 feet. (s-2) Side yards may be eliminated where fire-proof common walls are provided.
(t) A front and side yard setback of not less than 50 feet shall be provided for industrial sites on major thoroughfares where the use is warehousing, wholesale, manufacturing, major vehicle repair, metal plating, storage, incinerators, smelting, processes utilizing furnaces or other similar uses. Such yard shall be landscaped with plant materials (trees, shrubs and lawn area). All outdoor storage areas shall be screened from public streets by means of walls and/or landscape planting and shall not be visible from public streets. Buildings fronting on public streets shall be constructed of finished materials.
(u) A setback of not less than 100 feet shall be provided for all buildings on those sites abutting the Detroit River.
(v) Buildings in the central business districts shall be setback no further than 5 feet; provided, when buildings exist abutting both sides of a site that exceed this setback, an average setback of buildings abutting the site may be provided. No curb cuts are permitted on a street which is adjacent to a front yard.
(w) Fencing in any front yard shall be prohibited provided this shall not preclude provision for pedestrian safety barricades for outdoor cafés.
(x) Building setbacks abutting a residential district shall not be less than 20 feet for a front yard, 5 feet for each side yard and 10 feet for a rear yard; provided, an additional 1 foot of front yard setback and an additional 2 feet of side and rear yard setback for each foot of building height over a building height of 20 feet shall be provided. This provision for added yard requirements shall not apply to none industrial buildings.
(y) In I-2 and I-3 Industrial Districts not on a major thoroughfare, there shall be a minimum of 20 feet of front yard setback from the property line, except where the 1 side of the street is 50% or more developed, the depth of the front yard need not be more than the average depth of front yards of existing buildings.
(z) Setbacks for drive-in and drive-through restaurants shall be not less than 20 feet.
(aa) For existing single-family homes in RA and RT Districts, additions to principal buildings may be equal to the side yard of the existing structure, but shall not reduce the side yard to less than 3 feet.
(ab) A minimum height of 2 stories is required.
(ac) If the building does not front on a public street (i.e., the building faces an interior lot line) and no other principal dwelling on the same property faces the structure, a minimum front yard setback of 25 feet is required. When 2 or more buildings face one another, either for its entire length or a portion thereof, the front yard setback shall be in accordance with the formula provided in division (h) above.
(ad) A minimum height of 2 stories and not less than 30 feet in height is required for all buildings fronting on Biddle Avenue.

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(Prior Code, App. A, § 2100) (Ord. 1277, passed 4-2-2007; Ord. 1364, passed 6-11-2012; Ord. 1380, passed 1-14-2013; Ord. 1390, passed 11-11-2013; Ord. 1498, passed 9-28-2020)

## SPECIAL LAND USES

### § 190.305 PURPOSE.

The development and execution of this subchapter 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. 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 neighboring land. These uses include uses publicly operated or traditionally affected with a public interest and 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.

(Prior Code, App. A, § 2200) (Ord. 1277, passed 4-2-2007)

### § 190.306 GENERAL PROVISIONS.

(A) *Initiation of special land use.* Any person having a freehold interest in land, a possessory 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 subchapter in the zoning district in which the land is located.

(B) *Application of special land use.* An application for special land use shall be filed with the Engineering Department on a form prescribed by the Department. The application shall be accompanied by any plans or data prescribed by the Department and shall include as a minimum the requirements for site plan review as noted in § 190.377 of this chapter. 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 with a fee to cover the expense of public hearing. The fee to be determined by resolution of the City Council shall be based upon the cost of processing the review.

(C) *Public hearing.* Upon receipt of an application for a special land use, a public hearing shall be held by the Planning Commission. Once notice that a request for special land use approval has been received, it 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. The notice shall be given not less than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. 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 organizations, one occupant of each unit or spatial area shall receive notice. 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. The notice shall contain the following information:

- (1) Description of the nature of the special land use request;
- (2) A site plan in accord with §190.377 of this chapter has been submitted;
- (3) Indication of the property, which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;
- (4) Statement of when and where the special land use hearing will be considered; and
- (5) Indication of when and where written comments will be received concerning the request.

(D) *Standards.* No special land use shall be recommended by the Engineering Department or approved by the Planning Commission unless it shall find the following:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Adequate utilities, access roads, drainage and necessary facilities have been or are being provided;
- (5) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets;
- (6) 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 §§ 190.305 through 190.307 of this chapter; and
- (7) A decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(E) *Conditions and guarantees.* Prior to the 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 interest and to secure compliance with the standards and requirements specified in this section. In all cases in which special land uses are granted, the Planning Commission shall require any 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 land owner. The Planning Commission shall maintain a record of changes granted in the conditions.

(F) *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 of conditions found to be valid by the engineering department and the Planning Commission.

(G) *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, the special land use authorization shall automatically be null and void without further action by the Planning Commission.

(H) *Revoke special land use.* A special land use may be revoked by the Planning Commission under the following procedures:

- (1) Mail notice of the proposed action to revoke the special land use to the owner/operator of the business and outdoor café at least ten calendar days prior to the hearing;
- (2) Provide with the notice the reasons for the proposed action;
- (3) Provide with the notice the date, time and place of the hearing for the proposed action;
- (4) Include in the notice a statement that the owner/operator may present evidence and testimony and question any witness at the hearing; and
- (5) At the hearing, the City Engineer's office or planner will present to the Planning Commission any witnesses, reports, documents and recommendations concerning the proposed revocation of the special land use.

(I) *Criteria for revocation.* The Planning Commission may revoke a special land use upon a determination by the Commission that, based upon a preponderance of evidence presented at the public hearing, any of the following exists:

- (1) Violation of any of the restrictions of the special land use set forth in the city ordinance or in any conditions set by the city when it approved the special land use.
- (2) Maintenance of a nuisance upon the premises, including, but not limited to, any of the following:
  - (a) Existing violations of building, zoning, health, fire or regulatory codes;
  - (b) A pattern of patron conduct upon or in the neighborhood of the licensed establishment including outdoor café which is in violation of the law or disturbs the peace, order and tranquility of the neighborhood;
  - (c) Failure to maintain the grounds and exterior of the licensed establishment (including outdoor café), including litter, debris, refuse blowing or being deposited on adjoining properties;
  - (d) Entertainment without a required permit or entertainment which disturbs the peace, order and tranquility of the neighborhood;

(e) Any advertising, promotion or activity which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed establishment (including outdoor café);

(f) Any condition of default in the payment of any tax, fee, charge, water bill, special assessment or other debt to the city or any unpaid judgment payable to the city; and

(g) Any misrepresentation of any information in any application or hearing for the grant or renewal of any special land use (including outdoor café).

(Prior Code, App. A, § 2201) (Ord. 1277, passed 4-2-2007; Ord. 1433, passed 10-10-2016)

#### § 190.307 SPECIAL LAND USE DESIGNATED.

The following are those uses identified as special land uses and the provisions or conditions that must be met so as to be approved in whole or conditionally.

(A) *Home occupations.* Home occupations not specifically permitted may be permitted in all residential districts as a special land use under the following procedures and conditions and subject further to all conditions specified in § 190.035 of this chapter.

(1) 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.

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

(3) The occupations shall occupy no more than 25% of the floor area of the dwelling or 50% of a detached garage.

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

(5) The use may not increase vehicular traffic flow and off-street parking as set forth in the off-street parking regulations in §90.320 of this chapter shall be provided.

(6) Mechanical or electric equipment employed by the home occupations shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocation.

(7) Only one nameplate shall be allowed, in accordance with the sign regulations at 144 square inches. It may display the name of the home occupations, for example, John Doe, Realtor, and must be attached to the principal building.

(8) 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.

(9) Use of any vehicle other than a passenger vehicle utilized in connection with a home occupation shall be parked within a garage.

(B) *Private outdoor recreation areas and institutional recreation centers.* Private outdoor recreation areas and institutional recreation centers, subject to the provisions of this chapter, and to the following conditions.

(1) Any use requiring a structure shall have such structures so located on the site as not to be closer than 50 feet from the lot line of any adjacent residential lot.

(2) All ingress and egress from said site shall be directly on to a major thoroughfare or secondary thoroughfare.

(3) The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the Planning Commission, who may impose any reasonable restrictions or requirements so as to ensure that contiguous residential areas will be adequately protected.

(C) *Parks, parkways and recreational facilities.* Parks, parkways and recreational facilities, subject to the following conditions.

(1) Any use so established shall be so located and developed so as not to create a nuisance to abutting property, and so as not to be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter.

(2) The development of parks or recreational facilities on waterfront sites shall be so developed as not to create visual barriers to other residential property on the waterfront or in any way restrict the use of residential property on the waterfront.

(3) Any use of land created by filling of water areas for parks and/or recreational use shall only be allowed upon the issuance of a permit by the City Engineer. Such permit shall be issued only if it can be shown that such filling of water areas will not in any way obstruct the view or hinder access to open water, or which could in any way create any hazard to health, or in any other way diminish the amenity enjoyed by land abutting the waterfront.

(D) *Functional equivalent family; additional persons.* The limit upon the number of persons who may reside as functional equivalent of the domestic family may be increased or enlarged upon demonstration by the applicant of all the following.

(1) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on premises.

(2) The extent of increase or enlargement of the limit upon the number of persons shall not, when considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.

(3) There shall be a minimum of 150 square feet of useable floor space per person on the premises.

(4) If the Planning Commission grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and minimum parking or storage requirements to be maintained.

(E) *Reasonable accommodation use.* This section is intended to authorize the grant of relief from the strict terms of the chapter in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state and federal law (e.g., the Federal Fair Housing Amendment Act of 1988) requires the city to make "reasonable accommodation" for a particular proposed uses of property, the following shall apply.

(1) As a condition to approval of a reasonable accommodation use, the applicant must comply with all the terms of this section, and must demonstrate all of the following:

(a) The ultimate residential uses or users of the property shall be persons for whom the state or federal law mandates the city shall make reasonable accommodations in connecting with proposed uses of land;

(b) Taking into consideration the needs, facts, and circumstances which exist throughout the community, and within the population to be served by the use, including financial and other conditions, making the proposed reasonable accommodation shall be necessary to afford such persons equal opportunity to the proposed use and enjoyment within the community;

(c) Approval of the proposed housing shall not require or will likely result in a fundamental alteration in the nature of the land use district and neighborhood in which the property is situated, considering cumulative impact of one or more other uses and activities in, or likely to be in the area, and shall not impose undue financial and administrative burden. The interests of the community shall be balanced against the need for accommodation on a case-by-case basis; and

(d) No other specific provision exists and is available to provide the relief sought.

(2) The application for a reasonable accommodation use shall include the following:

(a) A plan drawn to scale showing the proposed use and development;

(b) A separate document providing a summary of the basis on which the applicant asserts entitlement to approval of a reasonable accommodation use, covering each of the requirements of divisions (E)(1)(a) through (E)(1)(d) above;

(c) The information required for site plan review, provided, upon showing by the applicant that the inclusion of specified information generally required for site plan review would be irrelevant, the city may waive the requirement to include such material in the application; and

(d) All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.

(F) *Child care or day care center.*

(1) May be permitted as the principal use of the property or may be permitted as an accessory use to an approved use, such as a church, school, office or other place of employment upon review and approval as a special use.

(2) A valid registration or license as required by the state shall continually be on file with the city.

(3) The facility shall be brought into compliance with all building codes.

(4) One parking space per care giver and/or employee, plus drop off space, off the street right-of-way for delivery and pick up of children shall be provided.

(5) The site shall comply with the sign provisions of §190.329 of this chapter.

(6) The building shall have an appearance which is non-intrusive and consistent in color materials, roof-line and architecture with the district in which it is located, as determined by the Planning Commission.

(7) The lot shall be at least 800 feet from another child care center or day care center.

(G) *General hospital.*

(1) The proposed site shall have at least one property line abutting a major thoroughfare.

(2) The minimum distance of any main or accessory building from lot lines or streets shall be at least 50 feet for front, rear and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least ten feet. Required front yards shall not be utilized for parking.

(3) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence five feet in height. Ingress and egress to the site shall be directly from a major thoroughfare.

(4) All ingress and egress to the off-street parking area, for guests, employees, staff, as well as any other uses of the facilities, shall be from a major thoroughfare.

(H) *Convalescent homes.*

(1) Buildings shall not exceed a height of two stories.

(2) The maximum coverage shall not exceed 50% for all buildings including principal structures and those incidental to the principal structure.

(3) The maximum extent of development shall not exceed 30 patient units per acre.

(I) *Funeral homes.*

(1) Buildings shall not exceed two stories in height.

(2) The proposed site shall have at least one property line abutting a major thoroughfare or secondary thoroughfare.

(3) The service entrances to such facility shall be screened from view of abutting residential properties.

(4) All processional vehicles shall not be loaded and unloaded on a public street.

(J) *Residential service facilities within buildings located in Residential RM-2 Districts.*

(1) Facility may include: barber and beauty shops, drugstores, dry-cleaning and laundry pick-up stations, grocery shops, limited to a size not to exceed 2,000 square feet.

(2) Facilities shall provide services primarily to residents of the building or buildings within the RM-2 District.

(3) No display or products for sale or signage shall be visible from the exterior of the building.

(K) *Business services located in O-S Districts.*

(1) Businesses shall be clearly necessary as service uses to the office uses of the district or for the servicing of the workday needs of the personnel employed in the Office-Service District. These uses may include such businesses uses as drug stores, pharmacies, restaurant (not including drive-in restaurants), office supply stores, barber and beauty and other similar types of retail services.

(2) Businesses uses shall meet all requirements for off-street parking as provided in §190.216 of this chapter.

(3) A site plan shall be submitted in accord with §190.377 of this chapter for Planning Commission review.

(4) A landscape plan shall be submitted in accord with §190.328 of this chapter for Planning Commission review.

(L) *Limited dwelling construction in O-S Districts.*

(1) The provision of the RT District (§§190.050 through 190.052 of this chapter) shall apply for single- and two-family dwellings.

(2) The provisions of the RM-1 District (§§190.065 through 190.067 of this chapter) shall apply for multiple-family dwellings.

(3) Such use shall be suitably located with relation to abutting uses.

(4) Adequate site shall be provided for such buildings and proper screening shall be provided so that adverse effects due to noise, traffic or parking of adjacent uses will not result.

(5) A lot or group of lots to be used for new residential construction shall have one side of such lot or group of lots abutting a residential street or shall have one side of such lots abutting an already developing residential lot or lots, unless an adequate site layout can be arranged which will adequately protect the residential development from abutting non-residential uses in the opinion of the Planning Commission.

(M) *Private clubs and lodge halls.*

(1) Where such use abuts a side yard of a residence or a residential district a side yard of 20 feet shall be provided on the side yard abutting the residence or residential district. Such side yard shall not be utilized for parking and shall be planted to provide an effective buffer to abutting residences.

(2) All activities shall be conducted within an enclosed building.

(N) *Automobile service station.*

(1) The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

(2) The curb cuts for ingress and egress shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 20 feet from a street intersection or from adjacent residential districts.

(3) There shall be provided, on those sides abutting or adjacent to a residential district or use, a four-foot solid wall such as brick, decorative block or decorative poured concrete. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district or use.

(4) All lighting shall be shielded from adjacent residential districts.

(5) The sale of propane gas is permitted provided all requirements of the International Fire Code as amended are complied with.

(O) *Automobile service station with major vehicle repair.*

(1) The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

(2) The curb cuts for ingress and egress shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 20 feet from a street intersection or from adjacent residential districts.

(3) There shall be provided on those sides abutting or adjacent to a residential district or use, a six-foot solid wall such as brick, decorative block or decorative poured concrete. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district or use.

(4) All lighting shall be shielded from adjacent residential districts.

(5) Vehicle repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building. The storage of wrecked automobiles on the site shall be obscured from public view.

(6) No vehicles of any kind shall be stored in the open for a period exceeding one week.

(P) *Satellite dish antennas.*

(1) Satellite dish antennas over 39 inches in diameter in all residential districts:

(a) Roof-mounted antennas shall be located only on the rear one-half of the roof (that portion of the roof furthest from the street upon which the residential building abuts) so that it will be screened from the street side;

(b) Roof-mounted antennas shall not project upward beyond the height in feet allowed for the main building within the district in which said satellite antenna dish is being placed;

(c) Ground-mounted antennas shall only be located in the rear yard and shall not extend into any rear extension of required side yards; and

(d) Ground-mounted antennas shall not project upward more than 12 feet.

(2) Satellite dish antennas over 39 inches in diameter in all other districts:

(a) No ground-mounted antennas shall be permitted; and

(b) Roof-mounted antennas shall not project upward beyond 12 feet measured from the roof upon which it is mounted. The combined height of the building and antennas shall not exceed the maximum allowable height for a building designated for that particular district in which said antenna is to be mounted.

(3) Building permits shall be required before any satellite dish antennas may be installed and the installation of the antennas shall conform to all requirements of the Building Code.

(Q) *Motels.*

(1) It shall be demonstrated that ingress and egress does not conflict with adjacent business uses.

(2) A four-foot solid wall such as brick, decorative block or decorative poured concrete must be provided where abutting or adjacent districts are zoned for residential use. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district.

(3) No kitchen or cooking facilities are to be provided within the dwelling units with the exception of units for the use of the manager or caretaker.

(4) Each unit shall contain not less than 250 square feet of floor area.

(R) *Commercial outdoor recreational space.*

(1) Facilities utilized by children shall be fenced on all sides with a four-foot wall or fence.

(2) Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot wall or obscuring fence where adjacent to the use area of the facility.

(S) *Outdoor cafés.*

(1) (a) Subject to all of the conditions described herein, an outdoor café may be set up and used annually from January 1 through December 31. The permitted hours of operation are:

1. Monday 7:00 a.m. to 12:00 midnight (17 hours);
2. Tuesday 7:00 a.m. to 12:00 midnight (17 hours);
3. Wednesday 7:00 a.m. to 12:00 midnight (17 hours);
4. Thursday 7:00 a.m. to 12:00 midnight (17 hours);
5. Friday 7:00 a.m. to 2:00 a.m. Saturday morning (19 hours);
6. Saturday 7:00 a.m. to 2:00 a.m. Sunday morning (19 hours); and
7. Sunday 7:00 a.m. to 12:00 midnight (17 hours).

(b) In addition to the above:

1. Each day of the Wyandotte Street Art Fair 7:00 a.m. to 2:00 a.m. of the following day (19 hours);
2. March 17 (St. Patrick's Day) 7:00 a.m. to 2:00 a.m. of the next day (19 hours);
3. New Year's Eve 7:00 a.m. to 2:00 a.m. of the next day (19 hours);
4. Wednesday immediately before Thanksgiving Day 7:00 a.m. to 2:00 a.m. of the next day (19 hours); and
5. Thursday immediately before Traditional Easter Sunday 7:00 a.m. to 2:00 a.m. of the next day (19 hours).

(c) Noise radiating from an outdoor café, which exceeds 75 DBA between 7:00 a.m. to 12:00 midnight or 65 DBA for all other times shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is prohibited. The "DBA" represents the sound pressure level in decibel measured on the "A" scale of a standard sound level meter. Noise level measurements shall be taken at the zoning district boundary of any residential zoning district, recreation unit district and any planned development as may be appropriate. In all other districts, noise level measurements shall be taken at the property line of an affected property. No one will be allowed to have possession of food or drink on the café, except during the permitted hours as set forth in this section.

(d) Upon request, the City Council may by resolution, extend the dates of operations or the hours of operation. A public hearing on said request shall first be held by the Planning Commission (under the same procedures for approval of special land use). Upon receipt by the City Council of recommendation of the Planning Commission the City Council may approve the request.

(e) The criteria for approval will include the impact on adjacent or nearby residential, religious, educational or commercial properties and review of previous or current compliance with all city ordinances, state and federal regulations.

(f) Any approval for extension of dates or hours shall be issued on a calendar year basis and shall expire on December 31 and must be renewed annually. The City Council may grant a renewal of the extended dates or hours without the necessity of a public hearing if it determines the applicant is in compliance with all requirements of all city ordinances and approvals for the special land use. Any approval for extension of dates or hours is subject to revocation by the Planning Commission in accordance with § 190.306 of this chapter.

(2) A site drawing showing the detailed plan of the outdoor café must be submitted to and approved by the Planning Commission. The detailed plan is to include: the design; relevant details and location of all temporary structures such as awnings, planters, landscaping, railing, tables, chairs and other equipment, as well as lighting and electrical outlet locations. The location of entrances and exits shall be shown. For cafés on public property, the plan shall also show existing sidewalks, buildings, curbs, existing improvements (i.e., lamp posts, street trees, benches, mailboxes and the like) and an unobstructed clear area for pedestrian use (a minimum of 60 inches). A minimum clearance of seven feet shall be maintained between the sidewalk and bottom edge of table umbrellas or awnings. The layout shall show all seating, tables and chairs and shall be used to determine maximum occupancy load for the outdoor café. The occupancy load shall be posted in a conspicuous location.

(3) Plans for setting up the outdoor café must be approved by the Department of Engineering and Building to provide for the free passage of pedestrians along the sidewalks, by the Police Department to provide for traffic and pedestrian safety, and by the Fire Department for fire-safety issues. An outdoor café which is adjacent to residential properties or shares an alley with residential properties shall be screened with a solid fence a minimum of six feet high.

(4) The outdoor café must be part of a licensed restaurant and meet all the requirements of the Department of Health and any other local, county or state requirements, including the city's ordinance and the state's Liquor Control Commission (if applicable).

(5) For outdoor cafés on public property, liability insurance, liquor liability coverage and property damage coverage naming the city as an insured party, in an amount approved by the City Administrator, must be provided before an outdoor café may be set up and be maintained for as long as the outdoor café is in operation.

(6) Approval of the City Council is required for the proposed use of any public area or facility. All provisions of a grant of license must be complied with at all times. Consideration for approval for use of any public area shall be limited to public property that is situated within 50 feet of the extended property boundaries of property owned by the applicant. Any public outdoor café not within the road right-of-way may also require a written lease as determined by the City Council.

(7) An outdoor café in a B-2 district may provide for only 35% more seating than is provided inside the restaurant. Additional parking shall be provided for the square foot area of the outdoor café in accordance with § 190.324 of this chapter.

(8) No sign or any other form of advertising is permitted in the dining area, nor on fences or railings of such area with the exception of an identification or menu sign. The name of the establishment may appear on the valance of an umbrella. No display of merchandise for sale shall be allowed.

(9) Furnishings of an outdoor café shall consist solely of readily removable awnings, covers, canopies, railings, tables, chairs, planters containing plants and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property; except that, canopies and railings, shall be secured by means of flush mounted anchors or other methods approved by the Building Official. No objects which are part of an outdoor café, except lighting fixtures, railings, awnings or other non-permanent covers or canopies, may be attached, even in a temporary manner, to any building, or structure on which the outdoor café abuts. When the associated establishment and/or the outdoor café on public property are not open for daily use, all furnishings and fixtures, unless otherwise specifically approved, shall be removed from the public property or stored in an approved manner which shall not cause a public nuisance or hazard. The Building Official shall determine when fences on public property shall be removed. The Building Official shall determine when a hazardous condition exists in the public right-of-way and on other public property. Any fence abutting public right-of-way or in public right-of-way must be of black metal material. Shop drawings plans shall be provided with each application for fencing and all furniture on any outdoor café for review by the Planning Commission.

(10) Outdoor dining areas must remain clear of litter, food scraps and soiled dishes at all times. All outdoor cafés shall post the hours of operations as specified by the City Engineer.

(11) Annual inspection of the outdoor café to be conducted by the Engineering and Building Department for compliance with approved plan. All outdoor cafés shall apply annually to the Engineering and Building Department for approval and no person may operate an outdoor café until such annual approval by city is granted for the given year. A public hearing will be required for an existing outdoor café only if a written complaint, changes to outdoor café layout or violations are received by any city department in the previous year. The Engineering and Building Department will be responsible to receive written complaints concerning an outdoor café and said complaints shall be forwarded to the Planning Commission. The City Council will approve an application checklist which will include yearly fees for application review, inspections, use of public area and review of insurance. This checklist will be utilized for inspection by the Engineering and Building Department. The yearly fee will be established by City Council resolution.

(T) *Second floor dwellings in office/business buildings.*

(1) A determination shall be made that such dwellings will be compatible with other uses on adjacent properties.

(2) No dwelling unit shall occupy any portion of the building at ground level or below ground level.

(3) Dwellings shall meet all applicable codes and ordinances of the city, county and state.

(4) Off-street parking is required for all residential dwellings.

(U) *Pool halls and amusement arcades.*

(1) Facilities shall be subject to all codes and ordinances governing such establishments.

(2) Locations for any such establishment shall be confined to major thoroughfares and shall have the entrance to both the business and parking area for such establishment on the thoroughfare. Access from a side residential street or alley shall be prohibited.

(3) Locations for any such facility shall be no closer than 500 feet to the property line of any elementary, intermediate or high school.

(4) No such business shall be located within 500 feet of the property line of a similar business.



(V) *Outdoor sales space for new or used automobiles, recreational vehicles, mobile homes and boats.*

- (1) All lighting shall be shielded from adjacent residential districts.
- (2) Ingress and egress to the outdoor sales area shall be at least 20 feet from the intersection of any two streets.
- (3) A four-foot wall such as brick, decorative block or decorative poured concrete shall be provided when abutting or adjacent districts are zoned or used for residential use. The height of the fence or wall shall be measured from the surface of the ground of the abutting residential district.
- (4) No major repair or major refinishing shall be done on the property.
- (5) A suitable building of at least 150 square feet for said use shall be located on the site.
- (6) A minimum lot width of 50 feet fronting on a street and containing a minimum of at least 5,000 square feet of area shall be provided.
- (7) The provisions of Public Act 495 of 2004 shall be complied with including as a minimum 1,300 square feet to accommodate ten vehicles and a minimum of 650 square feet for customer parking.
- (8) No used car lot shall be permitted within 750 feet of another used car lot.
- (9) Outdoor sales spaced for new or used automobiles, recreational vehicles, mobile homes and boats shall only be allowed on Fort Street (M-85).

(W) *Bed and breakfast dwelling.*

- (1) Bed and breakfast dwellings are to be allowed only in areas within close proximity to the Central Business District and shall be limited to that area bounded by Eureka Avenue, Fourth Street, Ford Avenue and the Detroit River (hereinafter referred to as "geographical area") or may be allowed in historically designated buildings located within or outside the geographical area within the city.
- (2) Such dwellings shall meet all applicable codes and ordinances of the city, county and state.
- (3) Floor plans drawn to scale of all floors to be utilized for bed and breakfast activities shall be submitted to the Planning and Rehabilitation Commission.
- (4) Dwellings shall be suitable in character for the use proposed and shall not be cause for a change in character of the neighborhood.
- (5) The dwelling shall be the permanent residence of the bed and breakfast operator.
- (6) The dwelling shall exhibit historical qualities with not more than five sleeping rooms available for guests of the bed and breakfast dwelling.
- (7) The site shall meet the minimum requirement of §§ 190.035 through 190.037 of this chapter for RA dwellings.
- (8) There shall be no separate cooking facilities provided for the bed and breakfast occupants. Meals, other than those served as a part of the normal operation of the household, shall be served only to occupants of the bed and breakfast facility.
- (9) Occupancy shall be of a transient nature for periods not to exceed one week in duration in any one month by any transient occupant. A guest registry indicating name, address, phone number and vehicle license number shall be kept indicating dates of arrival and departure of guests and shall be available to the Police Department for inspection upon request.
- (10) An unlighted sign not to exceed six square feet in area may be provided. Such sign may be provided as a ground sign or a wall sign.
- (11) Off-street parking shall be provided based upon one space for each rental room and one space for the operator of the facility. It is the city's intent to not encourage yards to be destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide parking. In those instances where parking requirements cannot be met, the applicant may request special consideration from the Planning Commission. In such a case, the applicant shall submit an analysis of parking required and parking provided within a 300-foot radius of the subject parcel. After analyzing this data, the Planning Commission may lower the number of the required parking spaces based on the fact the sufficient off-street parking exists in the neighborhood.
- (12) Such bed and breakfast dwelling shall not be located within 300 feet as measured from the nearest property lines of another such facility.
- (13) A bed and breakfast dwelling established shall be considered to have ceased operation when active rental of the facility lapses for six months or more.
- (14) A bed and breakfast dwelling located in the geographic area shall be a single-family dwelling or a historically designated building. A bed and breakfast dwelling located outside the geographic area shall be a historically designated building that was not formerly used as a residential building or dwelling.

(X) *Drive-in or drive-through restaurant.*

- (1) A setback of at least 20 feet from the right-of-way line of any existing or proposed street shall be maintained.
- (2) Access points shall be located at least 60 feet from the intersection of any two streets.
- (3) All lighting shall be shielded from adjacent residential districts.
- (4) A six-foot-high solid wall such as brick, decorative block or decorative poured concrete shall be provided when abutting or adjacent districts are zoned residential. The height of the wall shall be measured from the surface of the ground of the abutting residential district.
- (5) Locations for any such establishment shall be confined to major thoroughfares and shall have the entrance to both the business and parking area for such establishment on the thoroughfare. Access from a side residential street or alley shall be prohibited.

(Y) *Auto wash.*

- (1) All buildings shall have a front yard setback of not less than 50 feet.
- (2) All washing facilities shall be within a completely enclosed building, except self-serve facilities.
- (3) Vacuuming and drying areas may be located outside the building, but shall not be in the required front yard and shall not be closer than 25 feet to any residential district.
- (4) All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with §§ 90.324 and 190.325 of this chapter.
- (5) Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
- (6) All off-street parking and waiting areas shall be hard surfaced and dust free.
- (7) All lighting shall be shielded and directed away from adjacent residential districts.
- (8) A six-foot solid wall such as brick, decorative block or decorative poured concrete shall be provided where abutting to a residential district. The height of the wall shall be measured from the surface of the ground of the abutting residential district.
- (9) Locations for any such establishment shall be confined to major thoroughfares and shall have the entrance to both the business and parking area for such establishment on the thoroughfare. Access from a side residential street or alley shall be prohibited.

(Z) *Marina and boat livery facilities.*

- (1) Such facilities shall have direct access to the water.
- (2) Secure mooring shall be provided.
- (3) Retail stores dealing in boating accessories and supplies may be provided.
- (4) Repair of boats may be permitted subject to adequate measures to control any nuisance factors and subject to all federal, state and city regulations.
- (5) A designated area for repairs shall be required.
- (6) Off-street parking shall be available from May 1 to September 15 and boats shall not be stored on required parking spaces during this time period.

(AA) *Uses authorized by special license (adult entertainment facilities).*

- (1) *Procedure.* It shall be unlawful to establish any use authorized by special license, except as hereinafter provided.
  - (a) Application shall be made to the City Council by the owner or person having interest in the subject property for an annual license to use the subject property for one or more uses authorized by special license. Application fee shall be not less than \$200. The City Council shall refer the application to the Planning Commission.
  - (b) Any applicant for a use authorized by special license shall submit a site plan in accordance with § 190.377 of this chapter.
  - (c) The application shall be reviewed, and a report with recommendation shall be made, by the Planning Commission to the City Council. The Planning Commission shall conduct necessary field inspections, surveys and investigations; and otherwise process said application in order to arrive at a proper recommendation. The cost incurred by the referenced inspection, surveys and investigation shall be paid by the applicant.
  - (d) Recommendation by the Planning Commission shall be given only after a public hearing. Such hearing shall be carried out in accord with the requirements of Public Act 110 of 2006 as amended.

(e) The City Council shall either approve, approve with conditions, or deny the application in accordance with the standards set forth in this section.

(f) Upon approval or approval with conditions of the application by the City Council, an annual license shall be authorized for the use authorized by special license. Said annual license shall be a non-transferable license for the life of the use, and shall be issued upon payment by the applicant of the costs incurred in the review process, as referenced in divisions (AA)(1)(a) and (AA)(1)(c) above, and an annual license fee to be determined by resolution of the City Council.

(2) *Approval standards.*

(a) Uses authorized by special license shall be limited to property zoned B-2 (General Business District) and further limited as described in this chapter.

(b) No use authorized by special license shall be established within 1,000 feet of a public or private school or place of worship. Measurement shall be made from the boundary of said school or place of worship on a straight line to the boundary of the proposed uses authorized by special license.

(c) No use authorized by special license shall be established within 1,000 feet of any residentially zoned district. Measurement shall be made from the boundary of all residentially zoned property on a straight line to the boundary of the proposed uses authorized by special license.

(d) No use authorized by special license shall be established within 1,000 feet of any other use authorized by special license. Measurement shall be made from front door to front door along the street line.

(e) No use authorized by special license shall be approved by the City Council unless all of the following findings are made:

1. The establishment, location, maintenance and operation of the use authorized by special license will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
2. The use authorized by special license will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted nor substantially diminish or impair property values within the neighborhood;
3. The establishment of the use authorized by special license will not impede the normal and orderly development and improvement of surrounding property and uses permitted within the zoning district;
4. The use authorized by special license will not be conducted in any manner that permits the observation of any material depicting or describing specified sexual activities or specified anatomical areas, from any public way or from any other property. This provision shall apply to any display, decoration, sign, show window or other opening; and
5. The use authorized by special license will conform with all other requirements of the zoning district.

(f) Prior to granting any use authorized by special license, the City Council may impose any additional conditions or limitation upon the establishment, location, construction, maintenance or operation of the use authorized by special license as may in its judgment be necessary for the protection of the public interest and to secure compliance with the standards as specified above. The City Council may require such evidence and guarantees as it deems necessary as proof that the conditions stipulated in connection therewith are being and will be fulfilled.

(g) The City Council may waive the location requirement of this division (AA)(2) if the following findings are made:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed;
2. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation;
3. The proposed use will not enlarge or encourage the development of a skid row blighting influence for the area; and
4. All applicable requirements of this section will be complied with.

(h) In any case where a use authorized by special license has not been established within six months after the granting of an annual license therefor, then without further action by the City Council, the annual license for the use authorized by special license shall be null and void.

(3) *Re-submittal of application.* No application for a use authorized by special license which has been denied wholly or in part by the City Council shall be resubmitted for a period of one year from the date of said order or denial, except on the grounds of new evidence or proof of changed conditions found to be valid as determined by the City Council.

(4) *Violations.* The failure of a licensee under this section to comply with the requirements thereof and all other applicable laws and ordinances shall constitute a violation and shall result in revocation of the license by the City Council and shall subject licensee, property owner and any other person violating this section to the fines and penalties set forth in this chapter.

(5) *Appeal.* An appeal may be taken to the Circuit Court from any decision of the City Council on an application for the use authorized by special license or revocation of a license for a use authorized by special license.

(6) *Public nuisance per se.* Any violation of any provision of this section is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(7) *Amortization of non-conforming adult entertainment facilities.* Any adult entertainment facility lawfully operating on the effective date of this section that is in violation of the locational or other standards or requirements of this section shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed six months, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more; provided, however, said non-conforming use shall be permitted to continue for an additional six-month period if said adult entertainment facility applies for said extension to the City Council in the first six-month period. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more adult entertainment facilities are within 1,000 feet of one another and otherwise in a permissible location, the adult entertainment facility that was first established and continually operated at a particular location is the conforming use and the later established business(es) is non-conforming.

(BB) *Beverage container processing.*

- (1) All processing shall be conducted within an enclosed building.
- (2) Outdoor storage of unprocessed or processed containers shall be allowed only within an area surrounded by a masonry wall on those sides visible from adjacent properties or visible to the public.
- (3) Compacting of beverage containers shall be conducted within buildings.
- (4) Utilization of metal cleaning material shall be conducted within buildings and cleaning materials shall be stored within buildings in a safe and secure manner.
- (5) Metal cutting by use of torch or other method in which glare or radioactive materials may be present, shall be conducted inside buildings and shall be shielded from public view. Fuel tanks shall be stored in such manner that fire hazards are minimized.

(CC) *Junkyards.*

- (1) All ordinances of the city as applied to these activities shall be complied with.
- (2) The location for such facilities shall be allowed only where property abuts railroad tracks or yards.
- (3) No such use shall be allowed within 500 feet of a residential district.
- (4) Open burning of materials or the open burning of junk cars shall be prohibited.

(DD) *Sewage disposal plants.*

- (1) Appropriate measures to control odor shall be instituted to minimize effects on residential areas.
- (2) The perimeters of the area shall be suitably landscaped.

(EE) *Industrial and retail uses in IRO Districts.*

- (1) Any of the following industrial uses when conducted wholly within a completely enclosed building:
  - (a) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, vitamins, hardware and cutlery, tool, die, gauge and machine shops;
  - (b) The manufacture, compounding, assembly or treatment of articles of merchandise from the following previously prepared materials: bone; canvas; cellophane; cloth; cork; feathers; felt; fiber; fur; glass; hair; horn; leather; paper; plastics; precious or semi-precious metals or stones; sheet metal (excluding large stamping such as automobile fenders and bodies); shell; textiles; tobacco; wax; wire; wood (excluding saw and planing mills); and yarns;
  - (c) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas;
  - (d) Manufacture of musical instruments, toys, novelties and metal or rubber stamps or other small molded rubber products;
  - (e) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs; and
  - (f) Experimental, film or testing laboratories.
- (2) Retail and service uses shall be permitted in buildings which exceed one story in height as secondary uses to the principal permitted office uses:
  - (a) Personal service establishments, such as but not limited to repair shops (watches, radio, television, shoes and the like), tailor shops, beauty parlors or barber shops, laundries or dry cleaners, printing or photographic reproduction, photographic, art or interior decorating studios; and
  - (b) Restaurants or other places serving food or beverage, but not including drive-in/fast food, carry out or drive-through restaurants, and subject further to the following conditions.

1. Such uses shall be located within an office structure.
  2. The location of such uses shall be established at the time of site plan review and approval for the total development complex.
- (3) The uses subject to special conditions in IRO Districts shall be subject to the following conditions:
- (a) Such uses shall not be permitted in a building separate from a permitted principal use.
  - (b) The total area devoted to such uses in a building shall not exceed 25% of the total floor area of the building.
  - (c) All uses shall have customer entrances from the interior of the principle building in which they are located.
- (FF) *Public utility facilities and uses.*
- (1) Such facilities shall not provide outdoor storage yards.
  - (2) Operating requirements necessitate locating said facilities within the district in order to serve the immediate vicinity.
  - (3) Adequate screening of facilities shall be provided when such facilities abut residential property.
- (GG) *Residential boutiques.*
- (1) Residential boutiques are prohibited in all districts, except those districts located on Oak Street and Eureka Avenue which allow single-family dwellings.
  - (2) Permits shall be subject to renewal by the Planning Commission.
  - (3) Retail trade activity for goods is permitted.
  - (4) A certificate of occupancy and all other state and city permits and licenses as may be appropriate shall be required.
  - (5) The building shall be inspected by the Engineering Department to assure compliance with all city requirements for a business activity in conformance with applicable city ordinances.
  - (6) The owner of the property requesting a residential boutique shall provide a site plan prior to the public hearing in accord with the site plan requirements of §90.377 of this chapter, with particular emphasis on identifying all on site and off-site parking locations and hours of availability for any off-site location. There shall be no parking in required setback areas. The Planning Commission shall determine the number of vehicles that can be parked at any time during business hours.
  - (7) No additions to the building on the site are permitted.
  - (8) A residential boutique activity may be carried on by the property owner and not to exceed two employees.
  - (9) The hours of operation of a residential boutique shall be subject to determination of the Planning Commission.
  - (10) One unlighted ground sign with a maximum of 12 square feet of sign area per sign face and located five feet from the property line shall be permitted.
  - (11) The storage of goods and/or materials outside of a building is prohibited.
  - (12) No business that includes the storage, repair or sale of firearms or ammunition shall be permitted.
  - (13) A residential boutique does not include boarding or rooming houses, bed and breakfast establishments, new and used automobile sales, services and repair, or similar uses.
- (HH) *Auto and machinery assembly plants.*
- (1) Areas other than employee and visitor parking areas shall be provided for delivery truck parking.
  - (2) Adequate maneuvering lanes shall be provided abutting the site for arrival and departure of trucks and vehicles delivering goods or existing with finished products.
  - (3) Assurance that all requirements for performance within all codes and ordinances of the city shall be provided prior to issuance of an occupancy permit.
- (II) *Towers and antennas for wireless communication facilities.*
- (1) Towers and antennas for wireless communication facilities shall be permitted in I-1, I-2 and I-3 Districts and on municipally owned or controlled property subject to the following.
    - (a) The height of the tower and antennas shall not exceed 200 feet, measured from the grade at the base of the tower to the top of the highest antennas.
    - (b) The base of the tower shall be located centrally on a continuous parcel so that there shall be a distance of not less than one and one-half the height of the tower to all points on each property line.
    - (c) If located on the same zoning lot with another permitted use, such tower and any other accessory structures shall not be located in a front yard or side yard.
    - (d) A tower shall not be located within one mile of another freestanding tower. Towers shall be designed and constructed to accommodate multiple antennas on the same tower. Certified plans shall indicate the location of future antennas. Owner of towers shall not unreasonably deny other companies to locate antennas on the owners tower.
    - (e) The site of the tower shall be properly fenced or secured to prevent access to the tower by unauthorized persons.
    - (f) A certified, sealed statement by a licensed engineer or architect verifying that the tower, antennas or pole including all attachments will withstand wind speeds of up to 100 mph with ice and 74 mph with up to one-half-inch of radial ice shall be furnished with the application.
    - (g) A licensed engineer shall certify that the wireless communication systems signal(s) will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment. Compliance with Federal Aviation Agency and Federal Communications Commissions standards shall be required.
    - (h) Towers shall be of a color which blends into the surrounding area. Advertising or signage shall not be permitted on any tower, antennas or related structures.
    - (i) Antennas and supporting structures shall be permitted to be placed on the roofs of buildings subject to the following conditions.
      1. The principal use and any building or structure located on the property shall conform to all existing ordinance requirements.
      2. Existing structures 75 feet or greater in height above ground may be used to support antennas not exceeding 35 feet above the structure.
      3. Existing structures less than 75 feet in height above ground may be used to support antennas provided the antenna is not higher than the structure and the antenna(s) are screened from view by materials which will maintain the normal appearance of the structure.
    - (j) If the use of any tower and antennas is discontinued for a period of 12 consecutive months the use shall be considered abandoned, and the owner of such tower shall remove same within 90 days from receipt of notice from the city. The city may remove the tower or antennas at the owner's expense. If there are two or more users of a single tower, then these provisions shall not become effective until all users cease using the tower.
- (JJ) *Wind energy systems.*
- (1) *Height and type.*
    - (a) Only monopole construction shall be permitted.
    - (b) The total height of a wind energy system tower, including maximum extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district.
  - (2) *Setback.* A wind energy systems tower shall be set back a distance equal to one and one-half times its total height from:
    - (a) Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road.
    - (b) Any overhead utility lines, unless written permission is granted by the affected utility.
    - (c) All property lines, unless written permission is granted from the affected landowner or neighbor.
    - (d) Support cables, if provided, shall be anchored to the ground no closer than ten feet to any property line.
    - (e) In instances where such wind energy system is located abutting the Detroit River a setback of 100 feet shall be required.
  - (3) *Access.*
    - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
    - (b) The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
  - (4) *Speed controls.* Each wind turbine system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application shall include a statement by a registered professional engineer certifying that the rotor and over speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer shall certify the structural compatibility of towers with rotors and equipment.
  - (5) *Sound pressure level.* Wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy systems. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A), plus five dB(A).

(6) *Electrical wires.* All electrical wires associated with a wind energy system, other than those necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

(7) *Code compliance.* Wind energy systems including towers shall comply with all of the applicable construction codes, electrical codes and the National Electric Code.

(8) *Discontinued use.* Any wind energy system that is discontinued for a period of 12 consecutive months shall be considered abandoned, and the owner of such tower shall remove same within 90 days from receipt of notice from the city. The city may remove the tower at the owner's expense.

(KK) *Joint use parking facilities.*

(1) Parking shall meet or exceed the standards of §190.324 of this chapter.

(2) Joint use of parking facilities may only be allowed subject to assurance that all of the parking facilities to be utilized jointly will not in any way overlap in times of utilization.

(3) Assurance should be had that the joint use parking facility will not negatively impact abutting properties and the neighborhood due to overflow parking, traffic or hours of operation.

(LL) *Stores that sell alcoholic beverages.*

(1) A masonry wall not less than five feet high or a densely planted evergreen planting not less than five feet high shall be provided abutting any residential district and conform to §90.326(K) and (O) of this chapter.

(2) All outdoor lighting shall be screened from nearby residential areas.

(3) No drive through service areas should be provided.

(4) Outdoor storage of any nature is prohibited.

(5) On street truck loading and unloading is prohibited.

(6) Signage shall be limited to that provided for in §190.329 of this chapter. No signs advertising products and prices of any nature shall be permitted on the outside walls, windows, doors or the roof of the building.

(7) A certificate of occupancy and all other state and city permits and licenses as may be appropriate shall be required.

(MM) *Murals.*

(1) Design review by the Design Review Committee (§190.320 of this chapter) may be requested by the Planning Commission when a proposed mural is within the design review district.

(2) A mural on private property will be reviewed and approved or denied by the Planning Commission.

(3) A mural on public property will be reviewed by the Planning Commission and a recommendation made to the City Council for approval or denial.

(4) A dimensioned sketch plan in color on a dimensioned wall elevation shall be provided for review.

(5) Murals shall only be permitted on the side or rear walls of buildings. Permission of a building owner in writing shall be obtained before a mural may be applied.

(6) A mural shall not serve as an advertising device for any product or business.

(7) Murals shall be allowed only on building walls that do not contain signs on the same wall as occupants of the building.

(8) Murals depicting partially nude or seminude persons shall be prohibited.

(9) Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.

(10) The city may require a bond for assurance that such mural is maintained or removed.

(11) Lighting of a mural may be permitted, provided it is not of an intermittent or flashing type.

(12) Graffiti shall not be considered as a mural and shall not be permitted.

(NN) *Public art.*

(1) Review of public art by the Design Review Committee may be requested by the Planning Commission when proposed public art is to be placed within the design review district.

(2) Public art on private property will be approved or denied by the Planning Commission.

(3) Public art on public property will be reviewed and a recommendation made to the City Council for approval or denial.

(4) Public art shall not constitute a hazard to the public.

(5) Public art shall be located so as not to hinder access on public streets or rights-of-way.

(6) Public art shall not serve as an advertising device for any product or business.

(7) Public art shall be of durable construction and shall be maintained or removed if not maintained.

(8) Lighting of public art may be permitted, provided it is not of an intermittent or flashing type.

(9) The city may require a bond for assurance that such public art is maintained or removed.

(OO) *Domesticated companion animal lodging facility.*

(1) An establishment where domesticated companion animals are kept or confined for the purpose of providing training, boarding, sale or day care or extended sheltering, and includes kennels.

(2) A domesticated companion animal lodging facility which includes a dog kennel, shall obtain a kennel license in accordance with the "Dog Law of 1919" as amended, or as may be amended, as currently set forth in M.C.L.A. §§ 287.270 et seq.

(3) The facility shall be brought into compliance with all city codes and ordinances.

(4) Animal care and maintenance shall comply with §§90.055 through 90.062 and 90.999 of this code of ordinances.

(5) The required outdoor area for dog run shall be at least 120 square feet per dog able to be housed at the facility, or individual pens for each dog shall be a minimum three feet wide, ten feet long and six feet in height. Dog runs and pens shall include areas shaded from the sun. Dog runs and pens shall be allowed in rear yards only with an obscuring fence or wall on all sides, and shall not encroach into any required side or rear yard setback.

(6) The domesticated companion animal facility shall comply with §90.040 of this code of ordinances.

(7) A six-foot solid wall such as brick, decorative block, or decorative poured concrete must be provided where abutting or adjacent districts are zoned or used as residential. The height of the wall will be measured from the surface of the ground at the rear yard line of the premise.

(8) Off-street parking shall be provided at one parking space for each employee in the largest working shift and one additional parking space for each four animals able to be housed.

(9) All lighting shall be shielded from adjacent residential districts.

(PP) *Kennel.*

(1) An establishment where three or more dogs are kept or confined for sale, boarding, breeding or training purposes. A kennel established as an accessory use by a licensed veterinarian or technician specializing and trained in the medical treatment or medical observation of dogs shall be allowed in the zoning district in which the primary use is allowed for short-term recovery and observation only, and shall not include outdoor dog runs or pens.

(2) A dog kennel shall obtain a kennel license in accordance with the "Dog Law of 1919" as amended, or as may be amended, as currently set forth in M.C.L.A. §§ 287.270 et seq.

(3) The facility shall be brought into compliance with all city codes and ordinances.

(4) The kennel shall comply with §90.040 of this code of ordinance.

(5) The kennel shall comply with §§90.055 through 90.062 and 90.999 of this code of ordinances.

(6) Outdoor area for dog run shall be at least 120 square feet per dog able to be housed at the facility, or individual pens for each dog shall be a minimum three feet wide, ten feet long and six feet in height. Dog runs and pens shall include areas shaded from the sun. Dog runs and pens shall be allowed in rear yards only with an obscuring fence or wall on all sides, and shall not encroach into any required side or rear yard setback.

(7) A six-foot solid wall such as brick, decorative block, or decorative poured concrete must be provided where abutting or adjacent districts are zoned or used as residential. The height of the wall will be measured from the surface of the ground at the rear yard line of the premise.

(8) Off-street parking shall be provided at one parking space for each employee for the largest working shift and one additional parking space for each four animals able to be housed.

(9) All lighting shall be shielded from adjacent residential districts.

(Prior Code, App. A, § 2202) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010; Ord. 1342, passed 3-14-2011; Ord. 1373, passed 10-8-2012; Ord. 1411, passed 7-13-2015; Ord. 1424, passed 3-14-2016; Ord. 1434, passed 10-10-2016; Ord. 1463, passed 4-30-2018; Ord. 1498, passed 9-28-2020)

## SUPPLEMENTAL REGULATIONS

### § 190.320 DESIGN REVIEW.

Design review is required in order to: provide for the orderly development and redevelopment in the Design Review District, the boundaries of which are defined on the Design Review District map (located at the end of this section); maintain and enhance property values; promote the health, safety and welfare of the community by facilitating development where the physical, visual and spatial characteristics are established and reinforced through appropriate design in harmony with the historic character of the area; provide for a Design Review Committee of the Planning Commission to act in the application of this provision; encourage creativity in the development and redevelopment of property in the Design Review District; and to ensure the standards and guidelines established by the ordinance are administered so as to encourage the disposition of development proposals without undue delay or cost to property owners in the district.

(A) *Definitions.* Because many of the words or terms used in design review are not in common usage, or they could be misconstrued as to meaning, the following definitions are to be used in the context of the use of this section. Terms not herein defined shall have the meaning customarily assigned to them, unless otherwise defined in this chapter.

**APPEARANCE.** The outward aspect of a building structure or site visible to the public.

**APPROPRIATE.** Sympathetic, or fitting, to the context of the site and the whole community.

**APPURTENANCES.** The visible, functional objects accessory to and part of buildings.

**ARCHITECTURAL CONCEPT.** The basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development, which produces the architectural character.

**ARCHITECTURAL FEATURE.** A prominent or significant part or element of a building, structure or site.

**ARCHITECTURAL STYLE.** The characteristic form and detail, as of buildings of a particular historic period.

**DESIGN REVIEW DISTRICT.** The area designated on the Design Review District map of this chapter.

**CHARACTER.** The combination of traits which, when considered together, distinguish specified land and/or development from other specified land and/or development. In assessing **CHARACTER**, the following may be considered, along with any other expressly identified factors:

- (a) Percentage of a lot(s) covered by structures and other impervious improvements;
- (b) Type or style of structure(s);
- (c) Traffic flow and pattern, and the relationship of traffic to pedestrian and vehicular thoroughfares;
- (d) Density of land uses; and
- (e) Intensity of uses.

**EXTERIOR DESIGN FEATURE.** The general arrangement of any portion of a building, sign, landscaping or structure and including the kind, color and texture of the materials of such portion and the types of roof, windows, doors, lights, attached or ground signs or other fixtures appurtenant to such portions, as will be open to public view from any street, place or way.

**GRAPHIC ELEMENT.** A letter, illustration, symbol, figure, insignia or other device employed to express and illustrate a message or part thereof.

**HARDSCAPE.** Any exterior paving such as driveways, sidewalks, patios and terraces which are constructed of a brick-paver, stone, compacted gravel, concrete or bituminous concrete surface.

**LANDSCAPING.** Any modification or embellishment of the plant cover or hardscape of a property.

**MAJOR ARCHITECTURAL CHANGE.** The following: change in roof pitch, structural additions or removals, covering or replacement of facade materials, decorative trim, and/or exterior trim which is not similar in texture, dimension or proportion to the original, and changes to door and window opening or style.

**ORDINARY MAINTENANCE.** Keeping a building, structure or other exterior architectural features unimpaired, and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. **ORDINARY MAINTENANCE** does not change the exterior architectural appearance, except through the elimination of the usual expected effects of time and weathering. **ORDINARY MAINTENANCE**, such as repainting, repairs to broken windows, and caulking does not constitute work as herein defined. **ORDINARY MAINTENANCE** does not include replacement of existing signage, repainting of signage or repainting of a building to a different color than the current building color.

**PAINTING.** Applying a different color of paint or stain over what is currently visible on the exterior. Existing brick building that have not been previously painted shall not be painted without approval of the Design Review Committee.

**REPAINTING.** Applying the same color of paint or stain as currently exists on the exterior as a part of ordinary maintenance. **REPAINTING** does not constitute work for the purpose of this chapter.

**REPAIR.** To restore a decayed or damaged building or architectural feature to a good or sound condition by any process **REPAIRS** which do not change the exterior architectural appearance, except through the elimination of the usual and expected effects of time and weathering do not constitute work.

**SHINGLING.** Replacing an existing roofing material with a new material. New materials should convey the same visual appearance as the existing materials or the documented, historic, roofing materials.

**SIGNIFICANT.** Important to the overall character of a building and essential to the preservation of the architectural style of the Design Review District, such as changes in exterior design features as defined herein and including alteration or enlargement of signage, and changes in architectural trim features. All changes shall however, comply with the design guidelines and design review ordinance to the extent possible.

**WORK.** Any activity which changes the exterior architectural appearance of a building.

(B) *Design Review Committee.*

(1) *Creation.* A Design Review Committee shall be appointed by the City Council for the purpose of assisting the City Council to: preserve, protect and enhance the aesthetic appeal of the Design Review District; protect property values through the application of good design principles; and promote the general health, safety and welfare of the Design Review District and the community.

(2) *Membership.*

(a) The Design Review Committee shall consist of not less than five members all of whom shall be residents of the city. The Committee shall consist of one member from each of the following commissions or departments:

1. Planning Commission: a PC member as appointed by the Chair and approved by the PC;
2. Cultural and Historical Commission: the President of the Commission or her or his designee;
3. Downtown Development Authority: a DDA member as appointed by the Chair and approved by the DDA;
4. Engineering and Building Department: the City Engineer or his or her designee;
5. Resident at large appointed by Mayor and approved by City Council.

(b) Appointments shall be for a period of three years and appointment may be extended by reappointments. The Review Committee, as it determines necessary or appropriate, shall utilize the assistance of planning, architectural and other consultants. The Review Committee shall seek the assistance of relevant experts in an effort to achieve accord in those instances in which the applicant objects to the decision of the Review Committee.

(3) *Requirement for approved design; nature of review.* In the Design Review District, no permit required under the ordinances of the city for a sign or for the erection, construction, alteration or repair of any building or structure which involves a major architectural change or a significant change to an exterior design feature shall be issued by the city unless and until the Design Review Committee has reviewed and approved such activity. The Building Official may determine that no major architectural change or significant exterior design feature is involved in the work for which the approval is sought, in which case, no review by the Design Review Committee shall be required. The Building Official may request a review by the Design Review Committee where a question arises relative to whether proposed exterior changes fall within the intent of the design review ordinance and guidelines. Design review shall not apply to repair, ordinary maintenance as defined herein, or landscape activities. The Building Official may, however, impose requirements stated in the design guidelines when issuing permits for work that is otherwise exempt from a formal design review process.

(4) *Review meeting attendance and appeals.* The property, business owner or a representative must be present for the Design Review Committee meeting at which the applicant's request is being reviewed. A quorum of the Design Review Committee (at least three members) must be present for the review and action on an application. Should an application be denied, an appeal may be made to the City Council.

(5) *Design guidelines.* The design guidelines (available in the engineering and building department) established by the Planning Commission for the Design Review District shall serve as a guide to the Design Review Committee in the review of plans.

(C) *Administration.*

(1) As a separate and distinct part of site plan review, drawings and plans shall be submitted to the city at a scale in sufficient detail to illustrate clearly the design for which approval is sought.

(2) Such plans shall show the following:

(a) Existing conditions (both public and private) and natural features, all structures and uses, improvements, public streets rights-of-way, sidewalks, public and private easements and restrictions for the subject site and immediately abutting property;

(b) Site plans showing buildings in plan view and showing site features as they relate to property lines and to abutting properties and buildings;

(c) Architectural drawings of all exterior building elevations, colors of exterior walls, trims and roofs, lighting materials, ornamental, pictorial or decorative material to be used in or about the exterior of the structure. Samples of building materials and colors may be required to be submitted; and

(d) Such other information as may be required by the Design Review Committee to permit reasonable consideration of the application.

(D) *Design Review Committee action.* The Design Review Committee may approve, conditionally approve or disapprove signs on behalf of the city. Actions of the Design Review Committee on signs shall be appealable to the City Council.

(1) Upon the granting of an approved design or amendment thereto, the exterior drawings, sketches, landscape and site plans, renderings and materials upon which an approved design or amendment was granted shall be turned over to the Building Official, whose responsibility it shall be to determine, from time-to-time as the project is in progress and finally upon its completion, that there have been no deviations therefrom.

(2) It shall be the duty of the person, firm or corporation to whom an approved design has been granted to comply therewith, and to obtain such inspections as may be necessary in order to assure compliance. The Building Official may notify such persons of any deficiencies found to exist. Failure to comply with an approved design will constitute a violation of this chapter. Before any use may be made of improvements constructed under these provisions of design review, a final inspection of these premises must be obtained from the Building Official.

(E) *Design criteria.*

(1) *Criteria.*

(a) The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of the Design Review District environment. Pertinent to appearance is the design of the site, building and structures, planting, signs, street hardware and miscellaneous other objects which are observed by the public. The design guidelines established by the Planning Commission shall serve as the guidelines for review by the Design Review Committee.

(b) These criteria are not intended to restrict imagination, innovation or variety, but rather to provide a guide for decision-making and assist in focusing on design principles, which can result in creative solutions that will continue to develop and enhance a satisfactory visual appearance within the Design Review District.

(2) *Relationship of building site.*

(a) Parking areas where provided shall be treated with decorative elements, building wall extensions, plantings, berms or other innovative means so as to largely screen parking areas from view from public ways.

(b) To the extent reasonably feasible, the height and scale of each building shall be compatible with its site and adjoining buildings. A building may exceed the height of adjoining buildings up to the maximum height permitted by ordinance, but said building shall be compatible with adjoining buildings in regards to architectural style and exterior design features to the extent reasonably feasible.

(3) *Relationship of building and site to adjoining area.*

(a) Adjacent buildings of different architectural styles that are in harmony with the overall design guidelines shall be respected in the design or alterations of a building site.

(b) To the extent reasonably feasible, harmony in texture, lines and masses are required.

(c) To the extent reasonably feasible, the building and site shall not be inconsistent with the character (as defined in this chapter) of the area.

(4) *Building design.*

(a) Architectural style is not restricted. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings.

(b) To the extent reasonably feasible, buildings shall have good scale and be in harmonious conformance with permanent neighboring development.

(c) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

(d) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.

(e) Inappropriate materials and methods, and those which will produce inconsistency with the structure of those building, shall be avoided.

(f) Materials shall be of durable quality.

(g) Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationship to one another.

(h) Colors shall be harmonious, and not used to draw attention (e.g., serving as a sign).

(i) Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.

(j) Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

(k) Refuse and waste removal areas, service yards, storage yards' and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.

(l) Inappropriate, incompatible, bizarre and exotic designs shall be avoided.

(m) To the extent reasonably feasible, the building design shall not be inconsistent with the character (as defined in this chapter) of the area.

(F) *Signs.* The provisions of this chapter in regard to signs shall be part of the criteria of this division (F). In addition to zoning ordinance standards, the design guidelines (available in the Engineering and Building Department) established by the Planning Commission shall serve as a guide for sign design.

(1) Wall signs shall be part of the architectural concept. Size, color, lettering, location, and arrangement shall be harmonious with the building design, and shall be compatible with signs in conformance with zoning standards on adjoining buildings. Signs shall have good proportions.

(2) Identification signs of a prototype design shall conform to the criteria for signs.

(3) Materials used in signs shall have good architectural character and be harmonious with building design and surrounding landscape.

(4) Every sign shall have good scale in its design and in its visual relationship to buildings and surroundings.

(5) Colors shall be used harmoniously. Brilliant colors shall be avoided. Lighting shall be harmonious with the design. If external spot or ground lighting is used, it shall be arranged so that the light source is shielded from view.

(G) *Miscellaneous structures and street hardware.*

(1) Miscellaneous structures include any structures, other than buildings, visible to view from any public way or ways. Street hardware includes all objects not commonly referred to as structures and located in streets and public ways and outside of buildings.

(2) Miscellaneous structures and street furniture located on private property shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be good, colors shall be in a harmony with buildings and surroundings, and proportions shall be attractive.

(3) Miscellaneous structures and street hardware located in public ways and other public property shall be harmonious with design of adjacent buildings and other structures and landscape.

(4) Lighting in connection with miscellaneous structures and street hardware shall meet the criteria applicable to site, landscape, buildings and signs.

(5) The provisions of this chapter in regard to area and bulk regulations and standards, and of those portions of the Building Code which directly affect appearance, shall be part of the criteria of this division (G).

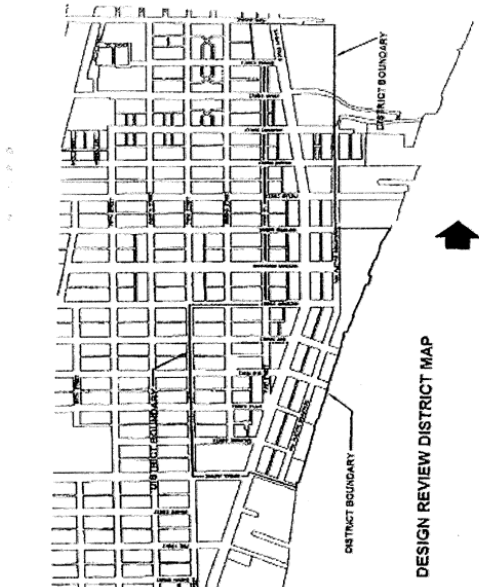
(H) *Maintenance; planning and design factors.*

(1) Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.

(2) Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglects, damage and abuse.

(3) Provision for washing and cleaning of buildings and structures, and control of dirt and refuse, shall be included in the design. Such configurations that tend to catch and accumulate debris, leaves, trash, dirt and rubbish shall be avoided.

(l) *Exceptions.* Existing single-family, two-family and multiple-family dwellings shall be exempt from design review.



(Prior Code, App. A, § 2300) (Ord. 1277, passed 4-2-2007; Ord. 1386, passed 8-12-2013)

**§ 190.321 CONFLICTING REGULATIONS.**

Wherever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern.

(Prior Code, App. A, § 2400) (Ord. 1277, passed 4-2-2007)

**§ 190.322 NON-CONFORMITIES.**

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(A) *Intent.*

(1) It is recognized that there exists within the districts established by this chapter or amendments that may later be adopted, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter.

(2) It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(3) A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(4) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(B) *Non-conforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record or parcel with a minimum of 40 feet in width, at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area that are generally applicable in the district; provided that, yard dimensions and other requirements not involving the area of the lot shall conform to the regulations for the district in which such lot is located.

(C) *Non-conforming uses of land.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

(1) No such non-conforming 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 such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If such non-conforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(D) *Non-conforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No such structure may be enlarged or altered in a way which increases its non-conformity.

(2) Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such 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.

(E) *Non-conforming uses of structures and land.* If a lawful use of a structure, 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 so 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 non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use; provided that, the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(4) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

(5) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months, the structure, or structure and premises in combination, shall not thereafter be used, except in conformity with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

(6) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(F) *Repairs and maintenance.*

(1) On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the true cash value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. The repair and maintenance or remodeling of buildings located in O-S, B-1, CBD or B-2 Districts for uses allowed in such districts shall not be prohibited due to inadequate off-street parking as required in § 190.324 of this chapter.

(2) 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 any official charged with protecting the public safety, upon order of such official.

(G) *Uses under special use provisions not conforming uses.* Any existing use for which a general exception or special approval is permitted as provided in this chapter shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

(H) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, structures and premises; provided, there is no change in the nature or character of such non-conforming uses.

(Prior Code, App. A, § 2401) (Ord. 1277, passed 4-2-2007)

**§ 190.323 ACCESSORY BUILDINGS AND USES.**

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations.

(A) Where the accessory building is structurally attached to a main building, it shall be subject to all regulations applicable to main buildings.

(B) To construct or replace an accessory building with a floor area of 200 square feet or less, a site plan shall be submitted, approved and a zoning permit issued by the engineering and building department to the homeowner or contractor to ensure proper placement as regulated by this chapter. The accessory building must have a four-inch wide by 24-inch deep rat wall or a four-inch concrete floor slab.

(C) Accessory residential buildings shall not be erected in any required yard, except a rear yard.

(D) An accessory building shall not exceed 40% of the total rear yard in a residential district; provided that, in no instance shall the accessory building exceed the ground floor area of the main building.

(E) No detached accessory building shall be located closer than ten feet to any main building. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall be no closer than one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

(F) For detached accessory structures, an exterior wall shall not be located less than three feet from interior lot lines, except accessory structures less than 200 square feet in area may be built on interior lot lines with no part thereof protruding over said lot line. There shall be no opening in any wall which is located less than three feet from an interior lot line.

(G) No detached accessory building in an RA, RU, RT, RM-1, RM-1A, RM-2, RM-3, O-S or B-1 District shall exceed 15 feet in height to the ridge line, with an exception that no accessory building may exceed 15 feet in height; provided, the slope of the roof has a pitch of 4:12 or greater to a maximum height of 17 feet to the ridge line. Accessory buildings in all other districts may be constructed to 20 feet in height to the ridge line.

(H) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said accessory building shall not be located closer to the street side lot line than the existing front yard setback of the lot to the rear; provided, in those instances where lots are 40 feet or less in width, the setback need not exceed 15 feet. Where lots are 35 feet or less, the setback need not exceed ten feet. When an accessory building is located on a corner lot, the side line of which is substantially a continuation of the side lot line of the lot to its rear, said accessory buildings shall not be closer than the required street side yard setback of the lot to its rear.

(I) A garage attached by a breezeway that has enclosed walls and is habitable and heated may be constructed to a height to the peak not to exceed the height of the peak of the existing dwelling. Attached garages shall not exceed the ground floor area of the dwelling.

(J) An attached garage shall not project more than six feet forward of the dwelling portion of the home and shall not occupy more than 60% of the front building facade.

(K) Private swimming pools shall not encroach on any front yard or required side yard. A wall of a swimming pool shall not be located less than four feet from any rear or side property line or five feet from any street property line, or ten feet from any transmission line. When a swimming pool is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said swimming pool shall not be located closer to the street side lot line than the existing front yard setback of the lot to the rear; provided, the setback need not exceed ten feet.

(L) Mechanical equipment installed outside of one- or two-family dwellings and their attached structures shall not be installed in any front and/or minimum required side yard and shall be located behind the dwelling and not closer than five feet from the property line. Exception: where a side yard abuts a street or an alley, the Building Official may approve a side yard location on the street or alley side, if the locations is established prior to installation.

(M) An accessory building or use shall not include a wood burning device to supplement home heating.

(Prior Code, App. A, § 2402) (Ord. 1277, passed 4-2-2007)

**§ 190.324 PARKING REQUIREMENTS.**

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking with adequate access to all spaces. The number of off-street parking spaces and improvements shall be in accordance with this section, in conjunction with all land or building uses prior to the issuance of a certificate of occupancy, a certificate of compliance, certificate of approval or certificate of conformity as hereinafter prescribed. Refer to § 72.003 of this code of ordinances for regulations for parking on city streets and in residential areas.

(A) Except as specifically permitted in the P-1 Vehicular Parking District, off-street parking or off-street parking areas shall not be permitted as the sole or principal permitted use in any zoning district.

(B) Off-street parking for other than residential uses shall be either on the same lot or within a reasonable distance of the building it is intended to serve as determined by the Planning Commission. Ownership or control shall be shown of all lots or parcels intended for use as parking by the applicant.

(C) Off-street parking spaces may be located within a side or rear yard. Off-street parking shall not be permitted within a required front yard unless otherwise provided for in this chapter.

(D) In all districts, parking abutting a street shall be set back from the property line not less than five feet and such setback shall not be paved.

(E) Parking in industrially zoned districts shall be allowed in a required front yard.

(F) Off-street parking spaces for one- and two-family dwellings shall be designated on a parking ribbon, on a driveway, or in a garage, or combination thereof. To construct or replace a driveway for said dwellings, a site plan shall be submitted, approved and a zoning permit issued by the Engineering and Building Department to the homeowner or a contractor, to ensure proper placement as regulated by this chapter. Said spaces shall be provided with asphalt or concrete surfaces and shall be located on the premises they are intended to serve. Garages/accessory structures shall be subject to the provisions of § 190.323 of this chapter.

(G) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal parking spaces are provided elsewhere.

(H) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(I) In the instance where the same off-street parking spaces are to be utilized by two or more businesses or other uses, providing the operating hours of the businesses do not overlap, the Planning Commission may, after a public hearing, grant a special land use for the joint use of the same parking facilities in accordance with §§ 190.305 through 190.307 of this chapter.

(J) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited in parking areas.

(K) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which is similar in type.

(L) For the purpose of computing the number parking spaces required, the definition of floor area usable, in § 90.004 of this chapter shall govern unless specifically mentioned otherwise herein.

(M) Whenever off-street parking requirements shall be determined on a square footage of usable floor area basis, the usable floor area for planned commercial centers and freestanding retail commercial uses, other than grocery stores and restaurants, shall be 75% of the gross floor area.

(N) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, a full space shall be provided.

(O) Whenever the City Council shall establish off-street parking spaces by means of special assessments, the required number of spaces may be reduced by that number of spaces which can be prorated to the use which was specially assessed.

(P) CBD parking.

(1) Within the Central Business District (CBD) Zoning District, as shown on the city's zoning map, all uses, except for those listed below, are exempt from the off-street parking requirements contained in division (R) below:

(a) Residential uses;



- (b) Funeral homes/mortuary establishments;
- (c) Hotels and motels with 34 or more rooms;
- (d) Hospitals;
- (e) Clinic; and
- (f) Private clubs.

(2) For properties within the "developed business area", but not zoned CBD, Central Business, Zoning District, the provisions of division (R) below shall be reduced by one-half the minimum required spaces for all uses, except residential. The "developed business area" for purposes of this division (P) is that area illustrated on the map.

(Q) Required parking spaces shall be provided free of charge to parking lot users.

(R) (1) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

<i>Use</i>	<i>Minimum Number of Parking Spaces Per Unit of Measure</i>
<i>Use</i>	<i>Minimum Number of Parking Spaces Per Unit of Measure</i>
<b>BUSINESS AND COMMERCIAL USES</b>	
Auto wash (automatic)	1 for each 1 employee, plus a minimum of 15 spaces for cars waiting to be washed for each conveyor system or line
Auto wash (coin-operated or self-service)	3 waiting spaces for each washing stall in addition to the stall itself
Beauty parlor, barber shop, tattoo parlor, salon or similar use	1-1/2 spaces for beauty, barber chair or station, plus 1 space for each employee
Boat launching ramp	25 spaces for each 12 feet of launching ramp width. Each parking space is to measure 10 feet by 40 feet
Bowling alleys	4 for each bowling lane plus parking for accessory uses
Dance halls, roller rinks, exhibition halls and assembly halls without fixed seats	1 for each 75 square feet of usable floor area. In those instances where patrons are served without seating, 1 space for each 20 square feet of standing room floor area in addition to the above requirements shall be provided
Drive-in restaurants (food served in car)	1 for each 30 square feet of usable floor area, plus 1 for each 2 seats in an established seating area
Drive-through restaurants	5 waiting spaces for each serving window; plus 1 for each 2 seats in an established seating area, plus 1 for each employee
Driving range	1 for each tee
Establishments for sale and consumption on the premises of beverages, food or refreshments, including outdoor cafés	1 for each 75 square feet of usable floor area, plus 1 for each employee. In those instances where patrons are served without seating, 1 space for each 20 square feet of standing room floor area in addition to the above requirements shall be provided
Furniture and appliance, hardware, laundries/dry cleaning, household equipment, repair shops, showroom of a plumber, decorator, electrician or other similar uses	1 for each 600 square feet of usable floor area, plus 1 for each 2 employees
Gasoline service station with major auto repair	1 for each gasoline pump, plus 1 for each employee, plus not less than 2 for each service bay. In those instances where convenience store merchandise is provided additional parking of not less than the requirement for a retail use, but not less than 2 spaces separate from pump spaces shall be provided. On-street parking of service vehicles or vehicles awaiting services shall be prohibited
Gasoline service stations with minor auto repair	1 for each gasoline pump, plus 1 for each service vehicle, plus 1 for each employee, plus 1 for each service bay in addition to the service bay. In those instances where convenience store merchandise is provided additional parking of not less than the requirement for a retail use, but not less than 2 spaces separate from pump spaces shall be provided
Gasoline service stations (self-serve)	1 space for each gasoline pump, plus 1 space for each employee. In those instances where convenience store merchandise is provided additional parking of not less than the requirement for a retail use, but not less than 2 spaces separate from pump spaces shall be provided
Health club	1 for every 2 lockers or 1 for each 100 square feet of usable floor area, whichever is greater
Laundromats and coin-operated dry cleaners	1 for each 2 washing machines or dry cleaning machines
Marina and boat livery facilities	1-1/2 spaces per boat mooring slip, plus 1 additional space for every 4 boat racks or storage spaces either inside or outside of a boat storage building where the business provides an in-out boat launching service. Required parking spaces may be utilized for winter boat storage from September 15 to May 1, plus additional spaces as required for accessory uses Boat liveries shall provide 1 space for each 2 boats available for rent
Miniature or "par-3" golf courses	3 spaces per hole, plus 1 for each employee
Mortuary establishments	1 for each 50 square feet of usable area of assembly room and parlors
Motel/hotel	1 for each occupancy unit, plus 1 for each employee, plus spaces as required for accessory uses

Motor vehicle sales establishments, boat showrooms	1 for each 200 square feet of usable floor area of sales room, plus 1 for each service stall in service areas
Open air business establishments, except as listed in "motor vehicle sales establishments..." above	1 for each 500 square feet of lot area for retail sales and retail uses
Outdoor special assembly area	1 space per each 10 square feet of assembly area in addition to requirements for additional accessory uses on site, plus 1 space for each employee
Pool hall and/or arcade	2 for each game table and 1 for each amusement device, or 1 for each 100 square feet of usable floor area in the game room, whichever is greater
Retail stores, except as otherwise specified herein	1 for each 150 square feet of usable floor area, plus 3 waiting spaces for each drive-through window
Studios: dance; music and; other similar places of instruction	1 for each 150 square feet of usable floor area
Supermarket (self service food stores)	1 for each 150 square feet of usable floor area
Tanning salon	1 space for each 3 tanning booths
<b>INDUSTRIAL USES</b>	
Industrial establishments including manufacturing, research and testing laboratories or similar uses and related accessory offices	5, plus 1 for each employee in the largest working shift
Major automotive repair	1 for each 400 square feet of usable floor area, plus 1 for each employee. (Does not include storage of wrecked or repaired vehicles)
Truck sales and services	1 for each 200 square feet of usable floor area of sales room, plus 1 for each service stall in the service area
Warehouse and wholesale establishments and related accessory offices	3, plus 1 for each 1 employee in the largest working shift, or 5 plus 1 for every 1,700 sq. ft. of usable floor area, whichever is greater
<b>INSTITUTIONAL USES</b>	
Elementary or junior high schools	1 for each teacher, employee or administrator or the requirements of the auditorium, whichever is greater
Homes for the aged and convalescent homes	1 for each 4 beds, plus 1 for each 2 employees in the largest working shift
Hospitals	1 for each 1 bed, plus 1 for each 2 employees in the largest shift, plus spaces as required for related uses
Library, museum and post office	1 for each 150 square feet of usable floor area
Nursery schools, day care centers or child care centers	1 for each 350 square feet of usable floor area, plus 1 for each employee
Places of worship	1 for each 4 seats or 8 feet of pew in the main unit of worship. In places of worship where seating is not provided such as mosques, 1 space for each 30 square feet of worship room
Post office	1 for each employee in the largest shift, plus 1 for each 150 square feet of lobby area
Private clubs or lodge halls	Whichever of the following requires the greatest amount of parking:
	1 space per club member and 1 space per guest
	1 space per occupancy permitted as determined by the state's Building Code based on plans submitted by the applicant
Senior high schools	1 space for each 100 square feet of usable floor space
	1 for each teacher, employee or administrator, and 1 for each 10 students, or the requirements for an auditorium, whichever is greater
Stadium or sports arenas or similar outdoor place of assembly	1 for each 4 seats or 8 feet of benches
Swimming pool clubs or similar uses	1 for each 3 member families or individuals, plus spaces as required for accessory uses
Tennis clubs or similar uses	3 for each court, plus spaces as required for accessory uses
Theaters and auditoriums	1 for each 4 seats, or 1 for each 60 square feet of floor area in the assembly room without fixed seats, plus 1 for every 2 employees
<b>OFFICE USES</b>	
Business offices or professional offices, except as indicated in "professional offices..." below	1 for each 300 sq. ft. of usable floor area
Financial institutions (banks, savings and loan offices, credit unions)	1 for each 200 sq. ft. of usable floor space, plus 4 waiting spaces for each drive-through window
Professional offices of doctors, dentists, veterinarians or similar professions; outpatient clinic	1 for each 50 sq. ft. of usable floor area in waiting rooms and 1 for each examining room, dentist chair or similar use area and 1 space for each 2 employees
<b>RESIDENTIAL USES</b>	
Bed and breakfast or rooming houses	1 for the owner or resident manager and 1 for each guest room
Housing for the elderly	1 for each 3 dwelling units and 1 for each employee in the largest working shift. Should units revert to general occupancy, the standards of "multiple-family" below shall apply

Mid-rise, high-rise condominiums or apartments in CBD	1 parking space for each dwelling unit of 1 bedroom, 1-1/4 parking spaces for each dwelling unit of 2 or more bedrooms, plus 1 additional parking space for every 8 dwelling units for guest parking
Mid-rise, high-rise condominiums or apartments not in CBD	1-1/4 parking space for each dwelling unit of 1 bedroom, 2 parking spaces for each dwelling unit of 2 or more bedrooms, plus 1 additional parking space for every 8 dwelling units for guest parking
Multiple-family	1-1/2 parking spaces for each dwelling unit of 1 bedroom; 2 parking spaces for each dwelling unit of 2 bedrooms; 2-1/2 parking spaces for each dwelling unit of 3 or more bedrooms; plus 1 additional parking space for every 8 units for guest parking
One- and two-family	1 for each dwelling unit

(2) Barrier free design: Off-street parking areas shall conform with all applicable requirements of the state's Department of Labor Construction Code Commission in accordance with §2.003 of this code of ordinances.

(Prior Code, App. A, § 2403) (Ord. 1277, passed 4-2-2007; Ord. 1374, passed 11-12-2012; Ord. 1392, passed 2-10-2014; Ord. 1467, passed 11-12-2018)

**§ 190.325 OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE.**

Wherever the off-street parking requirements in §190.324 of this chapter require the building of an off-street parking facility which consists of three or more parking spaces, or where P-1 Vehicular Parking Districts are provided, such off-street parking areas shall be laid out, constructed and maintained in accordance with the following standards and regulations.

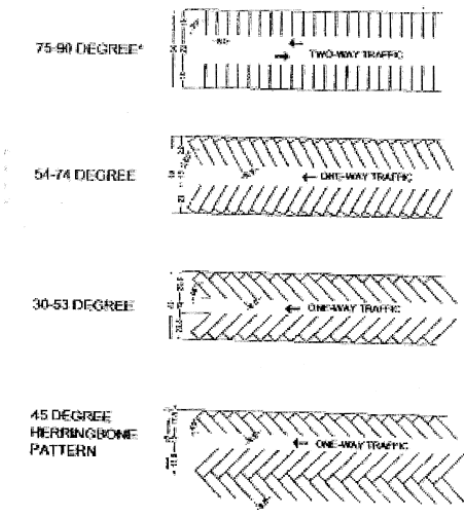
(A) No parking area or off-street parking facility shall be constructed or reconstructed unless and until a permit therefor is issued by the City Engineer. Applications for a permit shall be submitted to the City Engineer for approval. The application shall be submitted with two sets of site plans for the development and construction of the parking area or off-street parking facility showing the provisions of this section will be fully complied with. The dumpster and transformer, if required, shall be shown on submitted plan. Landscape plans shall be submitted as required in § 190.328 of this chapter.

(B) Adequate ingress and egress to the parking area or parking facility by means of clearly defined drives shall be provided for all vehicles. Such necessary directional signs and controls as are required shall be established and maintained by the owner or lessee. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.

(C) In an industrially zoned area, the requirements of division (B) above may be modified with the approval of the City Engineer and the Police Department.

(D) (1) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements.

Parking Pattern (degrees)	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0 (parallel parking)	12 ft.	8 ft.	23 ft.
30 to 53	12 ft.	8 ft. 6 in.	20 ft.
54 to 74	15 ft.	8 ft. 6 in.	20 ft.
75 to 90	22 ft.	8 ft. 6 in.	19 ft.
Small car design (90 degrees only)	21 ft.	8 ft.	15 ft.



\* Small car parking only at 90° - parking stall width 8', parking stall length 15', maneuvering lane width 21'.

**PARKING LAYOUTS**

(2) Only parking lots with double loaded aisles may incorporate small car design standards into their parking layout. A maximum of 20% of the parking spaces may utilize the small car design standard. Such spaces shall be clearly marked for small car usage.

(E) All maneuvering lane widths shall require one-way traffic movement, with the exception of the 90-degree pattern where two-way movement may be permitted.

(F) Each entrance to and exit from any off-street parking lot or parking facility shall be at least 20 feet in distance from adjacent property which is zoned residential.

(G) The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the City Engineer.

(H) Off-street parking areas or parking facilities shall be constructed or reconstructed as specified in this section and require a permit from the Department of Engineering and Building before work begins. Two sets of plans must be submitted showing, but not limited to, the following information: Location, dimensions and elevations with respect to lot lines and existing building, location and elevations of paved streets or alleys and existing drainage structures, type of surface construction, proposed drainage pattern, proposed drainage structures and landscaping.

(I) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to prevent drainage of water onto adjacent property or toward buildings. Surface water on all paved areas shall be collected at intervals as required so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas.

(1) Surface run-off is acceptable for small parking lots if the engineer determines that a nuisance to pedestrian or vehicular traffic is not created.

(2) When catch basins are utilized, plans must be submitted for the permit. Plans must include a maximum six-inch diameter storm sewer where connecting to the public sewer, details of the catch basin (must have a two-foot sump), sewer main connection, grades indicating surface flow of the parking lot, and a restrictive catch basin grate. Hydraulic information may be required by the City Engineer showing the impact on the public sewer and verifying that the proposed additional flow will not adversely affect the public sewer main capacity.

(J) In all cases where such parking facilities abut public or private sidewalks, a curb at least six inches in height or bumper guards shall be placed thereon so that a motor vehicle cannot be driven or parked extending over a public or private sidewalk or within five feet of a front of a building. A sidewalk not less than five feet in width shall be provided wherever parking abuts a wall of the main entrance to a building.

(K) A six-inch high curb or bumper guards shall be provided to prevent motor vehicles from striking any structure, wall or fence.

(L) (1) Off-street parking areas shall be provided with a continuous and completely obscuring wall or fence not less than five feet, but not more than six feet in height measured from the surface of the parking area.

(2) This wall or fence shall be provided on all sides where the abutting or adjacent property is used or designated as residential and shall be of solid type material such as brick, block or poured concrete or other approved material as determined by the Zoning Board of Appeals upon appeal and shall meet the requirements of the P-1 District, § 190.262 of this chapter, minimum distances and setbacks.

(3) The obscuring wall or fence shall be properly maintained.

(4) The side lot line required wall shall end a minimum distance of ten feet from the front line.

(M) Dumpster areas shall be screened to obscure the dumpster from any public street or residential area. Screening materials shall be masonry or other durable material. Transformers shall be screened with landscaping.

(N) (1) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only. When a parking lot abuts a major thoroughfare lighting fixtures shall be provided in the private greenbelt adjacent to the street.

(2) This lighting will be required to be the following:

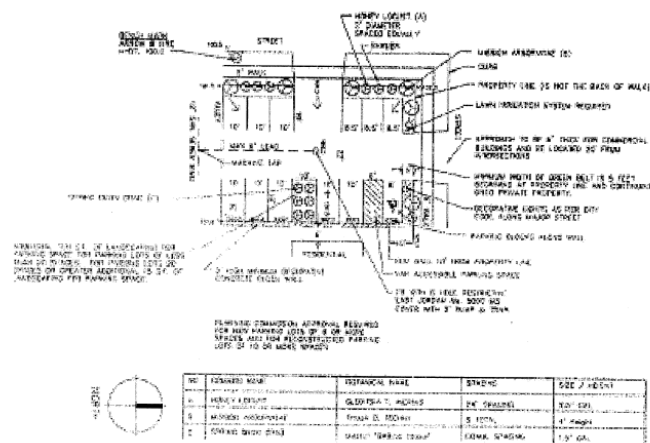
Manufacture	Holophane Unique Solutions 515 McKinley Avenue, Newark, OH 43055
Post	Burlington Series, Black Cast Aluminum 11" Sq. Base 4" dia. Fluted Shaft
Light	Granville Series Luminaire, Leaf Style Housing
Arm mount	Philadelphia Series, Black Cast Aluminum 36" -2 Arm 180 deg.
Height	12 feet except on Eureka, Biddle and Fort Streets where the height shall be 14 feet
Spacing	Lights shall be spaced not more than 50 feet apart
Fixture heads	2 head fixtures are required on Eureka, Biddle and Fort Streets; all other streets require single head fixtures; 2 headed fixtures shall be located perpendicular to the street

OR

Manufacture	Cooper Lighting 1121 Highway 74, South Peach Tree City, GA 30269
Post	Grand, Black Cast Aluminum, 11.5", 1 Piece Structural Catalog #CLB050LEDU33x32 BK
Height	12 feet, except on Eureka, Biddle and Fort Streets where the height shall be 14 feet
Spacing	Lights shall be spaced not more than 50 feet apart
Fixture heads	2 headed fixtures are required on Eureka, Biddle and Fort Street which will require the use of Holophane Unique Solutions approved light. All other streets require single headed fixtures which allow the approved light from Cooper Lighting; 2 headed fixtures shall be located perpendicular to the street

(O) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

EXAMPLE - PARKING AND USED CAR LOT LANDSCAPING & DRAINAGE



(P) The Planning Commission, where it has site plan review, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where no good purpose would be served by the compliance with the requirements of this section.

(Q) For all new parking areas and used car lots of six or more spaces, and all existing parking areas and used car lots to be reconstructed consisting of 20 or more spaces, the following requirements shall apply. These requirements shall also apply to existing parking lots that are reconfigured or add additional parking spaces. If the existing parking lot consists of 20 or more spaces, these requirements shall apply when 50% of the parking lot area is reconstructed. The off-street parking area shall have a planting area of at least five feet in width along any abutting dedicated street right-of-way. Additional planting areas shall be required equaling at least ten square feet in area for each parking space. Parking and used car lots of 20 or more parking spaces shall provide 15 square feet of landscaping for each parking space. Planting areas shall be so located as to divide and break-up the expanse of paving. Landscape planting areas shall be subject to the requirement of § 190.328 of this chapter.

(R) All parking lot landscaped areas shall be provided with underground irrigation.

(S) Bars and restaurants shall not have parking access from an alley which abuts residential properties.

(T) A survey by a registered land surveyor may be required by the City Engineer.

(Prior Code, App. A, § 2404) (Ord. 1277, passed 4-2-2007; Ord. 1298, passed 9-15-2008; Ord. 1335, passed 10-11-2010)

#### § 190.326 PERFORMANCE STANDARDS.

Uses permitted within any district shall conform to the following standards of use, occupancy and operation.

(A) *Smoke, dust, dirt and fly ash.* It shall be unlawful for any person, firm or corporation to permit the emission or discharge of any smoke, dust, dirt or fly ash in quantities greater than prescribed in the codes and ordinances of the city.

(B) *Open storage.* The open storage of any equipment, vehicles and all materials, including wastes, shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall or an obscuring fence not less than eight feet in height, except as otherwise provided herein. Scrap, junk cars and other junk materials shall not be piled or stacked as open storage to a height in excess of 25 feet. Sand, gravel, aggregate, slag or other materials of this nature, piled or stored outside buildings shall not exceed the height of 40 feet.

(C) *Glare and radioactive materials.* Glare from any process which emits harmful rays shall be completely shielded from public view. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not emit radiation at levels which exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(D) *Fire and explosive hazards.*

(1) The storage, utilization or manufacture of materials, goods or products ranging from incombustible to moderate burning, as determined by the Fire Chief, is permitted, subject to compliance with all other performance standards above-mentioned.

(2) The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Chief, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met.

(a) Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the Building Code of the city.

(b) All such buildings or structures shall be set back at least 40 feet from lot lines and all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.

(c) The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the state rules and regulations as established by Public Act 110 of 2006, as amended.

(E) *Noise.*

(1) Levels of noise shall be controlled in accord with Title XIII of this code of ordinances.

(2) Noise from any use of property shall not exceed 55 DBA as measured at the property line of the use emitting such noise. Exceeding this level shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area. The "DBA" represents the sound pressure level in decibels measured on the "A" scale of a standard level meter. Temporary uses such as lawn mowers, snow blowers and portable generators are excepted provided such uses does not exceed one hour per 24 hours. Portable generators may be utilized for the entire period of a power outage.

(Prior Code, App. A, § 2405) (Ord. 1277, passed 4-2-2007)

#### § 190.327 FENCES.

(A) (1) Fences, not exceeding five feet in height may occupy a side yard, however, fences six feet in height may be permitted; provided, a side yard width of not less than four feet on both sides of the fence is provided and a front yard of not less than 20 feet is provided.

(2) Fences not exceeding six feet in height may occupy a rear yard.

(3) Except for the following: wherein the adjacent lot is developed and the side yard fence is adjacent to the rear yard of the developed lot or wherein the lot is adjacent to an alley or a street, then said side yard fence may be six feet in height.

(B) No residential or non-residential fence or wall shall be erected in a required front yard; except that, on lots with a side lot line adjacent to an alley or a street, a decorative or ornamental fence shall be allowed, such as, but not limited to, a split-rail or a two-rail fence; but not to include chain link or fences of solid type construction and not exceeding four feet in height, may be constructed along the alley, street line or extension of the side yard to the front of said lot.

(C) Decorative or ornamental fences constructed under this section shall not be intended to enclose or be capable of enclosing animals or human beings.

(D) Prior to construction of any decorative or ornamental fence allowed by this chapter, a site plan showing the location and type of fence to be constructed shall be submitted to the Department of Engineering and Building for approval.

(E) No decorative or ornamental fence shall be constructed without first obtaining the approval set forth herein.

(F) Fences on non-residential properties are not permitted in a front yard or side yard when the fence is within 20 feet of the front property line or in front of the building.

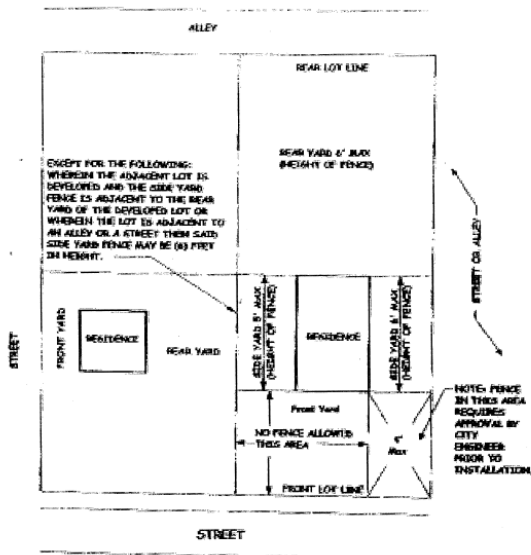
(G) Where a rear or side yard of "non-residential property" abuts a residentially zoned area, then any fence shall be of solid type material such as brick, decorative block or decorative poured concrete or other approved material as determined by the Zoning Board of Appeals upon appeal.

(H) It shall be unlawful for any owner or occupant of land in the city to build or maintain any fence constructed wholly or in part of barbed wire, razor wire or other similar security wires or materials which could easily cause injury to persons, or any fence, guard wall or other protection upon which there shall be fixed, attached or placed in any manner any spike, nail or pointed instrument of any kind or description or any fence electrically charged; provided, however, barbed wire may be used along the top of such fences surrounding industrial zoned parcels of property, if such barbed wire is fastened to a portion of the fence extending at an angle over the property enclosed and not over other private property and not projecting on the opposite side or the side adjacent to a sidewalk or public way.

(I) (1) When a fence is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said fence shall not be located closer to the street side lot line than the existing front yard setback of the lot to the rear; provided, in those instances where lots are 40 or less in width, the setback need not exceed 15 feet. Where lots are 35 feet or less, the setback need not exceed ten feet.

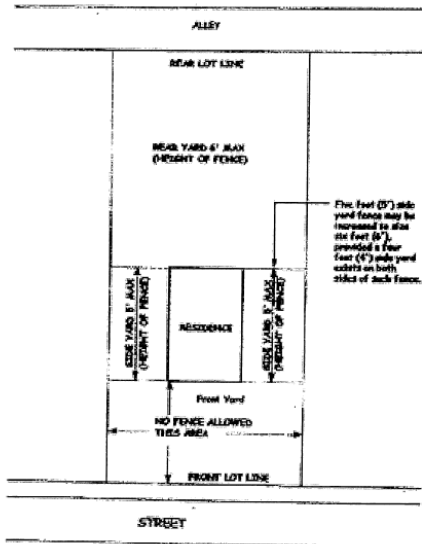
(2) When a fence is located on a corner lot, the side line of which is substantially a continuation of the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said fence shall not be closer than the required street side yard setback of the lot to its rear.

## FENCES



PERMITTED FENCE HEIGHT & LOCATION - CORNER LOT

## FENCES - INTERIOR LOT



PERMITTED FENCE HEIGHT & LOCATION - INTERIOR LOT

(Prior Code, App. A, § 2406) (Ord. 1277, passed 4-2-2007)

### § 190.328 LANDSCAPE PLANTING.

(A) Wherever in this chapter a landscape planting screen or landscape plantings are required the developer shall provide a surety bond or escrow money acceptable to the City Engineer in an amount sufficient to ensure completion in accordance with the approved planting plan prior to the issuance of any building permits. Such landscape plantings shall be planted in accordance with an approved planting plan, planted to completion and approved by the City Engineer prior to issuance of a certificate of occupancy, certificate of compliance, certificate of approval or certificate of conformity unless the structure or required paving construction is completed in an off planting season, in which case temporary certificates will be issued; however, all required plantings shall be placed to completion within 60 days of the next planting season. Failure to place the required plantings within 60 days of the next planting season shall be grounds for termination or revocation of a temporary certificate and subject the property owner to the fines and penalties of § 190.999 of this chapter. No additional certificate, either temporary or final will be issued until all required plantings are placed to completion.

(B) All plantings shall consist of permanent, living plant materials and shall be so planted as to be in a healthy growing condition. Planting materials shall be maintained in a healthy growing condition which shall include watering, cultivation and weed control and further maintained in a neat and orderly appearance free of refuse and debris. All unhealthy and dead plant materials shall be replaced within three months or during the next appropriate planting season.

(C) Whenever a landscape planting screen or landscape plantings are required under the provisions of this chapter, a site plan together with a detailed planting plan of said screen or plantings, shall be submitted to and be approved by the Planning Commission prior to issuance of a building permit. Estimated costs shall also be submitted with the detailed planting plans. Detailed plans shall be submitted in accordance with the following:

- (1) A minimum scale of one inch equals 40 feet;
  - (2) Plans shall indicate, to scale, the location, spacing, starting size and description for each unit of plant material proposed for use within the required screening or planting area, together with the finished grade elevations therein;
  - (3) Plans shall indicate the proposed location and height of all structures, proposed location of off-street parking areas, points of ingress and egress to the site, location of walks and roadways, location of proposed outside storage, dumpster areas, loading or service areas and transformers; and
  - (4) Plans shall indicate existing plant or tree cover including types of trees and tree height.
- (D) The planting plan shall be reviewed relative to the following:
- (1) The proper spacing, height, placement, location and type of plant materials:
    - (a) To ensure landscape screens are the length and width so the required horizontal and vertical obscuring effect of proposed land uses will be achieved; and

(b) To ensure landscape planting areas are planted within the minimum requirements as set forth in this chapter.

(2) The choice and selection of plant materials so as to ensure that root systems will not interfere with public utilities and that fruit and other debris (excluding leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners;

(3) The choice and selection of plant materials are of types that will survive and thrive in the area which they are to be located. It is suggested that a mixture of plant materials (evergreen and deciduous trees and shrubs) be provided in all landscape plans as a protective measure against disease and insect infestation. Where landscape screens are required, a proper relationship exists between deciduous and evergreen plant materials to assure that the desired obscuring effect will be maintained throughout the various seasonal periods; and

(4) The size of plant materials (both starting and ultimate):

(a) Where landscape screens are required to ensure adequate maturity and optimum screening effect; and

(b) Where landscape planting areas are required, such areas are to be safely located from any building, point of ingress or egress and not create a traffic hazard.

(E) Landscape planting screens and landscape planting areas shall consist of suitable plant materials laid out in conformance with the following: landscape planting screen.

(1) Plant materials (except creeping vine type) shall not be located within two feet of a property line.

(2) Where plant materials are planted in two or more rows, planting shall be staggered in rows.

(3) Evergreen trees shall be a minimum of six feet in height. When planted in informal groupings, they shall be spaced not less than ten feet on centers. If placed further apart, additional screen plantings shall be used to achieve the desired obscuring effect. When planted in rows, they shall be spaced not more than eight feet on centers.

(4) Narrow evergreen trees shall be a minimum of five feet in height. When planted in informal groupings, they shall be spaced not more than ten feet on centers. When planted in rows, they shall be spaced not more than five feet on centers.

(5) Tree-like shrubs shall be a minimum of six feet in height and spaced not more than ten feet on centers.

(6) Large deciduous shrubs shall be a minimum of four feet in height and spaced not more than six feet on centers.

(7) Deciduous trees shall be a minimum of eight feet in height with a minimum caliper of two and one-half inches, they shall be spaced not more than 30 feet on centers.

(F) In addition to parking lot landscape requirements as specified herein, street tree shade trees shall be provided between the curb and sidewalk or if space is not adequate between the curb and sidewalk, trees shall be located on private property spaced 35 feet on centers along all street frontages. On streets under the jurisdiction of the county or the state, plans for street trees shall be subject to the requirements of such agency.

(G) (1) Yard planting exposed to public view shall be required in all multiple-family, office service, neighborhood business, general business and all industrial districts. Plantings shall consist of shrubs, trees, flowers and lawns as may be appropriate.

(2) The pavements surface in any residential yard shall not exceed 50% for a required front yard.

(H) (1) Spacing between and minimum size of plant materials (in feet) shall be as follows:

<i>Plant Material Types</i>	<i>Narrow Evergreen Trees</i>	<i>Evergreen Trees</i>	<i>Tree-Like Shrubs</i>	<i>Large Deciduous Trees</i>	<i>Large Shrubs</i>
Evergreen trees	Min. 12'	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 6'
Large deciduous	Min. 15'	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 6'
Large shrubs	Min. 5'	Min. 6'	Min. 6'	Min. 6'	Min. 4' Max. 6'
Narrow evergreen	Min. 5' Max. 10'	Min. 12'	Min. 10'	Min. 15'	Min. 5'
Tree like shrubs	Min. 10'	Min. 12'	Min. 8' Max. 15'	Min. 15'	Min. 6'

**NOTES TO TABLE:**  
 Narrow evergreen trees: 5 feet in height  
 Evergreen trees: 6 feet in height  
 Tree-like shrubs: 6 feet in height  
 Large deciduous trees: 2-1/2-inch caliper  
 Large deciduous shrubs: 4 feet in height

(2) Trees not permitted (all locations):

- (a) Box elder;
- (b) Soft maples;
- (c) Elms;
- (d) Horse chestnut (nut-bearing);
- (e) Tree of Heaven;
- (f) Catalpa; and
- (g) Ash.

(3) Trees not permitted within street right-of-way:

- (a) Basswood;
- (b) Cottonwood; and
- (c) Willow.

(4) On the following table is a list of suggested plant materials. Size, special characteristics and tolerances are given to aid in determining what plant materials are right for an individual situation. This list is not intended to be a comprehensive list of plant materials, especially in the area of deciduous shrubs.

T - Tolerant I - Intolerant S - Slow M - Moderate F - Fast V - Varies																		
	Deicing Salt	Heat	Drought	Shade	Course	Medium	Fine	Oval	Round	Pyramidal	Light Foliage	Dense Foliage	Ped Level Massing	Attractive Flowers	Attractive Fruit	Good Fall Color	Winter Interest	Growth Rate
T - Tolerant I - Intolerant S - Slow M - Moderate F - Fast V - Varies																		

	Deicing Salt	Heat	Drought	Shade	Course	Medium	Fine	Oval	Round	Pyramidal	Light Foliage	Dense Foliage	Ped Level Massing	Attractive Flowers	Attractive Fruit	Good Fall Color	Winter Interest	Growth Rate	
Shade (Canopy) trees 50'—60'																			
Hackberry	T	T	T	T		X		X											F
Honeylocust, Thornless	T	T	T				X		X		X		X						F
Linden, American	I			T	X			X				X	X	X					M
Maple, Norway	T		I		X				X			X	X						M
Maple, Red	I			T		X		X						X		X			F
Maple, Sugar	I	I		T		X		X				X				X			S
Oak, Pin	I		I	T		X				X			X			X	X		M
Intermediate Trees 30'—40'																			
Birch, River				T			X	X			X		X			X	X		F
Linden, Greenspire				T		X				X		X	X	X					F
Linden, Littleleaf			I	T		X		X			X	X	X						M
Linden, Redmond				T	X					X		X	X	X					M
Low trees 15'—25'																			
Beech, Blue				T			X		X				X			X			S
Crabapple	I			I		X		X	X				X	X	X		X		F
Dogwood, Pagoda				T		X		X					X	X		X			M
Hawthorn, Thornless	I					X			X				X	X	X				F
Maple, Amur	T			T		X			X				X			X			F
Mountain Ash, European	I		T	I			X	X	X				X						M
Olive, Russian	T	T	T				X		X				X						F
Shadblow Serviceberry				T		X		X			X		X						F
Evergreen trees 50'—60'																			
Pine, Austrian	T			T		X				X			X				X		F
Pine, Scotch	T					X				X			X				X		F
Spruce, Black Hills	T	T	T			X				X			X				X		M
Spruce, Colorado	T					X				X			X				X		S
Deciduous Shrubs 4½' and taller																			
Buckthorn, Columnar	T	T		T		X		X					X		X				F
Chokeberry, Black				T		X			X				X	X	X	X			S
Dogwood, Redtwig	I					X			X				X	X			X		F
Euonymus, Winged	I				X			X			X		X			X	X		S
Lilac, French				T		X			X				X	X					M
Ninebark, Golden				T		X			X				X						F
Deciduous shrubs under 4½'																			
Currant, Alpine	T	T					X		X			X	X						M
Barberry, Japanese	I		T	T	X				X				X		X	X	X		M
Cranberry Bush, Compact	I					X			X				X						
Honeysuckle, Emerald Mound				T		X			X				X	X	X				M
Potentilla	T	T	T		X				X				X	X					M
Spiraea, Anthony Waterer				T		X			X				X	X					M
Evergreen shrubs (height varies)																			
Arbortitae		Varies				X			Varies				X				X		S
Juniper		Varies				X			Varies				X				X		S
Pine, Mugho		Varies				X			Varies				X				X		S
Yews		Varies				X			Varies				X				X		S
Groundcovers 1'—2'																			
Cinquefoil Wineleaf			T				X						X			X			F
Crownvetch			T	T			X						X	X					S
Creeper, Virginia	T		T	T	X								X			X			F
Fleeceflower		T	T			X							X	X	X		X		F

(5) All parking lot landscaped areas shall be provided with underground irrigation.

(6) Except as otherwise allowed or specified in this chapter, all land in all use districts located between abutting public right-of-way, railroad right-of-way or waterway shall be landscaped and well maintained in grass, ground cover, shrubs or trees.

(Prior Code, App. A, § 2407) (Ord. 1277, passed 4-2-2007)

**§ 190.329 SIGNS.**

Any public displayed sign, symbol or notice on a premise to advertise the business or activity there transacted, or name of person or firm conducting said business or activity on premises, or directing to some other locale, shall be regulated as follows.

(A) All plans for the erection of signs shall be submitted to the city's Engineering and Building Department for review and approval and shall be further subject to all codes and ordinances of the city.



(B) Prior to the erection of a sign in a public right-of-way or overhanging a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency (city, county or state) having jurisdiction over such right-of-way. The city may require a bond to be provided for any sign in or overhanging a public right-of-way.

(C) After the effective date of this chapter, all new signs within the city shall conform to the city's Building Code and this chapter.

(D) Existing signs in need of repair may be repaired provided the cost of repairs does not exceed 50% of the replacement cost for the entire sign (in the judgment of the Building Official). If it does, then the sign must be replaced and must conform to code.

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

**"A" FRAME TEMPORARY SIGN.** A sign other than a ground sign or portable sign which is not attached to a building and is capable of being moved on the same zoning lot and is only allowed to be displayed during hours of operation and is capable of being moved by one person. (Fig. 2)

**AWNING SIGN.** A sign on or attached to a temporary retractable shelter that is supported entirely on the exterior wall of a building. (Fig. 17.)

**BENCH SIGN.** A sign painted, placed or attached to a bench. (Fig. 18.)

**CANOPY SIGN.** A sign on or attached to a permanent overhanging shelter that projects from the face of the building and is supported only partially by the building. (Fig. 19.)

**CHANGEABLE MESSAGE SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. When any particular type of sign is also an electronic message sign, the requirements and restrictions for electronic message signs take precedence. In addition, the size of the electronic sign shall be based upon the type of sign being utilized (example: wall, ground and pole).

**CONSTRUCTION SIGNS.** A sign which is not of a permanent nature and is utilized during the construction of a new building or major remodeling.

**DECORATIVE DISPLAY.** A decorative, temporary display designed for the aesthetics or cultural enrichment of the public and having no direct or indirect sales or advertising content. (Fig. 1.)

**GROUND SIGN.** A permanent display sign mounted directly and permanently in and upon the ground surface and having a height not in excess of six feet. (Fig. 16)

**MARQUEE SIGN.** A sign on or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building. (Fig. 5)

**OFF-PREMISES SIGN.** A sign that advertises activities, goods, products and the like that are available elsewhere than within the building or on the lot where the sign is located. (A billboard, for example Fig. 11.)

**POLE OR PYLON SIGN.** A display sign supported by one or more columns, uprights or braces set a minimum 42 inches below ground surface and having a height in excess of eight feet. (Fig. 3.)

**PORTABLE SIGN.**

(a) A sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another.

(b) The sign may or may not have wheels, changeable lettering and/or hitches for towing. (Fig. 4.)

**PROJECTING SIGN.** Projecting sign means a sign which is affixed to any building or structure, other than a marquee, and any part of which extends beyond the building wall or structure more than 15 inches. (Fig. 8.)

**ROOF SIGN.** A display sign which is erected, constructed and maintained on or above the roof of the building and supported on the building roof. (Fig. 6.)

**SIGN.**

(a) Any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures or any part of combination) used for visual communication to attract the attention of the public and visible from the public right-of-way or other properties.

(b) The term **SIGN** shall not include any flag, badge or insignia of any governmental unit, nor shall include any item of merchandise normally displayed within a window of a business.

**SIGN AREA MEASUREMENTS.**

(a) The total sign area shall be the area within a single, continuous perimeter of the sign surface composed of any rectilinear line or geometric figure which encloses the extreme limits of the sign.

(b) If the sign is composed of individual letters or symbols using the wall, awning or mansard roof as the background, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter and the combined area of the individual figures shall be considered the total sign area. (See Fig. 20 "Common Geometric Shapes and Formulas to Determine Sign Area".)

(c) Buildings with more than one occupant may prorate the sign area for the total building to each building occupant, but not to exceed the total allowable sign area for the building.

**Common Geometric Shapes & Formulas**

**To Determine Sign Area**

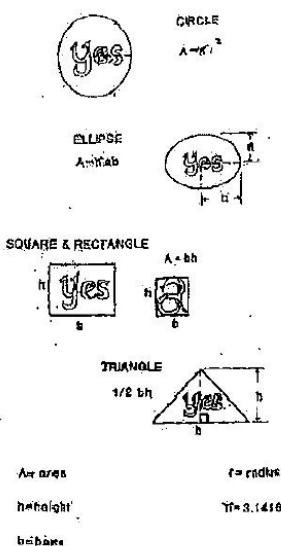


Fig. 20

**SIGN FRONTAGE.** The length in feet of the ground floor level of a building front or side facing a street that is occupied by a business or businesses.

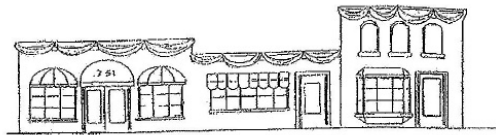
**TEMPORARY SIGN.** A display sign, banner or other advertising device constructed of paper, cloth, canvas, fabric, plastic or other light temporary material, inflated devices with or without a structural frame. (Fig. 10.)

**TRANSITORY SIGN.** A sign which is not of a permanent nature and exists for a short time. (Fig. 7.)

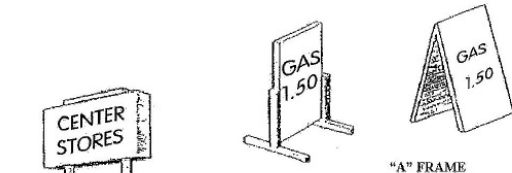
**VEHICLE SIGN.** A sign attached to a vehicle or placed within or upon such vehicle. (Fig. 15.)

**WALL SIGN.** A display sign which is painted on or attached directly to the building wall. (Fig. 9.)

**WINDOW SIGN.** A sign on the inside of the glass of a window. (Fig. 14.)



DECORATIVE DISPLAY - FIG. 1



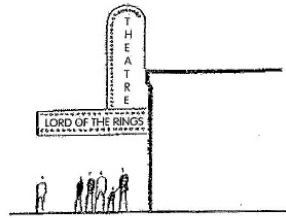
"A" FRAME SIGNS - FIG. 2



POLE SIGN - FIG. 3



PORTABLE SIGN - FIG. 4



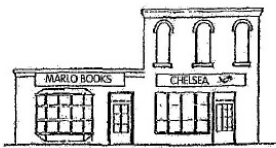
MARQUEE SIGN - FIG. 5



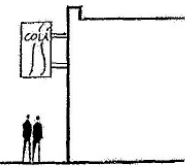
ROOF SIGNS - FIG. 6



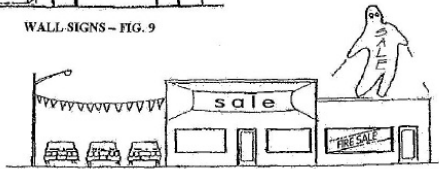
TRANSITORY SIGN - FIG. 7



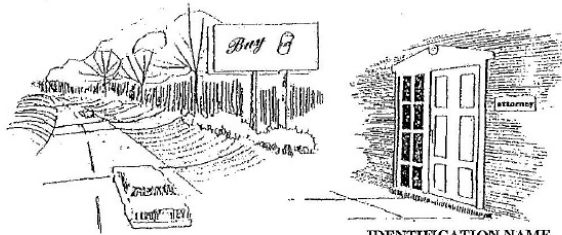
WALL SIGNS - FIG. 9



PROJECTING SIGN - FIG. 8



TEMPORARY SIGNS - FIG. 10

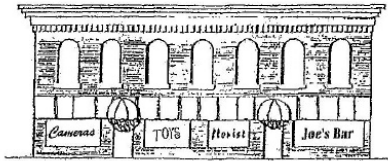


BILLBOARD - FIG. 11

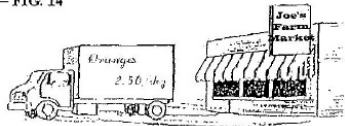
IDENTIFICATION NAME PLATE - FIG. 12



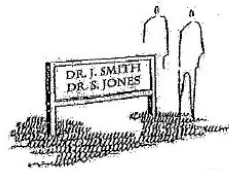
BANNER SIGN - FIG. 13



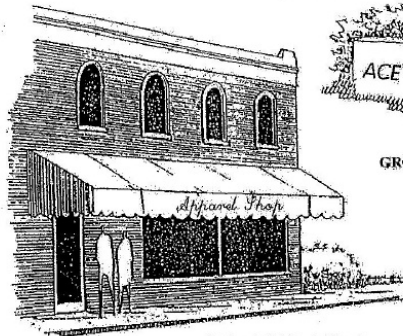
WINDOW SIGN - FIG. 14



VEHICLE BUSINESS SIGN - FIG. 15



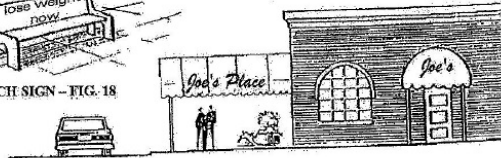
GROUND SIGNS - FIG. 16



AWNING SIGN - FIG. 17



BENCH SIGN - FIG. 18



CANOPY SIGNS - FIG. 19

(F) (1) CBD Central Business Districts sign types allowed and standards:

(a) *Wall signs.* Wall signs which project no more than 15 inches from the building face, nor extend higher than whichever of the following is lowest:

1. Twenty-five feet above grade;
2. The sills of windows located above the first story; or
3. The lowest point of a gable, hip or shed roof.

(b) *Projecting signs.*

1. Projecting signs must project at right angles to the building, shall have no more than two faces and project no more than five feet from the face of the building. Only one projecting sign will be allowed at each entrance to a business establishment and that business must occupy a minimum of 18 feet of frontage.
2. The bottom of the sign must be at least ten feet above ground level and its top may not extend higher than whichever of the following is lowest:
  - a. Twenty-five feet above grade;
  - b. The sills of the first level of windows above first story; and
  - c. The lowest part of the roof.
3. No projecting signs shall be attached to roofs, chimneys, smokestacks, elevator towers, penthouses and the like.
4. The area of each sign may not exceed 24 square feet for each sign face.
5. No exposed guy wires or turnbuckles are allowed on a projecting sign.

(c) *Window signs.* A permanent sign on the inside of the glass of a window shall not exceed 30% of the window area on the section of the building front occupied by the business the sign advertises. Any permanent sign in ground floor windows must be included in calculating the total area of signage for that building.

(d) *Painted-on signs.* Painted on signs shall not be allowed on the sides of buildings. Painted on signs must be applied to the front of the buildings and will be included in the total area of signage for that building. Sides of buildings abutting streets or parking lots shall be treated the same as building fronts.

(e) *Awning, canopy and marquee.* Letters may be painted or otherwise affixed to any permissible awning, canopy or marquee subject to the following regulations.

1. Lettering or letters shall not project above, below or beyond the vertical drip of the awning or canopy.
2. Lettering on a marquee shall not extend beyond the geometric figure which encloses the sign message.
3. No awning, canopy or marquee sign shall extend below a minimum height of seven feet six inches.
4. The area of such sign shall be limited as part of the total sign area for all signs permitted.
5. Backlighting of an awning or marquee shall be prohibited.

(f) *Temporary signs.* Temporary window signs are allowed only on the inside of the window for no more than 15 days. They shall occupy no more than 30% of the area of the window in which they appear.

(g) *"A" frame temporary signs.* "A" frame temporary sign provided they do not exceed six square feet of sign area per sign face and shall be located so as to not obstruct pedestrian traffic. One sign shall be allowed per business. A hold harmless agreement must be obtained through the Engineering and Building Department by the property owner, tenant and any occupant. Such sign shall be securely anchored to prevent movement by wind forces.

(h) *Attention-getting devices.* Attention getting devices including searchlights, balloons, banners (provided payment of the required fee for the banner is made, and the banner may not be placed on outdoor café enclosures) and similar devices or ornamentation designed for purposes of attracting attention, promotions or advertising, are allowable. A banner or multiple banners, shall be allowed on each street, parking lot or alley side of the building, and shall not exceed 24 square feet in area per banner or 24 square feet total for all banners on each side of building, except only one banner shall be allowed on the front of the building and shall not exceed 24 square feet in area. All banners and signs cannot exceed 10% of the wall area. A maximum two banners on any wall, except the front wall, and no more than five banners shall be allowed at one time. Attention-getting devices, except banners as described above, shall be allowed for up to three separate 30-day periods in a calendar year. Feather banners are not permitted.

(i) *Changeable message signs.*

1. Changeable message signs are permitted on buildings that are located on the following streets:
  - a. East side of First Street between Elm Street and alley north of Oak Street;
  - b. East side of Second Street between Sycamore Street and alley north of Oak Street; and
  - c. Third Street between Eureka Avenue and alley north of Elm Street.
2. Changeable message signs shall only be permitted as a wall sign that is facing First Street, Second Street or Third Street in the locations set forth above.

3. An electronic changeable message sign shall be limited to the electronic display of a non-flashing or non-moving message that shall remain unchanged for at least five continuous seconds before it is replaced by another message. Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 60% of the total permitted display area of the sign.

(j) *Standards for all CBD signs.*

1. For all new construction or remodeling of buildings, the name of the owner and date of construction or the historic name and date of construction shall be indicated on the building above the highest building window or on the cornerstone of the building.
2. Lighting: signs shall be lighted only with a continuous light. Flashing lights are prohibited.
3. Motion: all signs must be stationary.
4. Supports: no supports for a sign may extend above the cornice line of the building to which it is attached.
5. Maximum allowable sign area square footage:

<b>Multiply Building Frontage</b>	<b>By</b>	<b>Centerline of Street</b>
Building frontage	x 2	0—99 feet
Building frontage	x 4	100—399 feet
Building frontage	x 5	400 or more feet

**NOTES TO TABLE:**

If a use has less than 25 feet of building frontage and the building front is 99 feet or less from the centerline of the street it faces, it is allowed a maximum of 50 square feet of permanent sign area. The distance of a sign on or under a canopy, marquee or awning from the centerline of the abutting street should be computed as if the sign were on the building face to which the canopy is attached.

6. Abandoned sign: sign support structures abandoned and no longer supporting a sign shall be removed by the building owner within 30 days after receiving notice to do so from the city. Should the owner fail to comply, the city shall proceed with § 190.999 of this chapter.

7. Sign abatement: notwithstanding other provisions of this chapter, the city shall require the abatement of the following signs or sign devices within five days from the date of notification: temporary, transitory and portable signs.

(2) O-S, B-1, B-2 Districts sign types allowed: wall, awning, canopy, freestanding, ground, marquee, projecting, pole, window, vehicle and temporary (except on outdoor café enclosures) as defined in this chapter and subject to the following conditions.

(a) *Ground sign.*

1. One ground sign shall be permitted having a sign area of not more than 40 square feet for each sign face. On corner lots, two such signs are permissible where business fronts both streets. Such sign shall not exceed six feet in height.
2. Not more than one ground sign may be erected accessory to any one development regardless of the number of buildings, separate parties, tenants or uses contained therein. On corner lots, two such signs are permissible where business fronts both streets.
3. No ground sign shall be located nearer than five feet to any existing or proposed right-of-way line.
4. Ground signs may be illuminated with a continuous light only.

(b) *Pole.*

1. To be allowed only when a ground sign cannot be erected due to building location or other site constraints and upon approval of the Planning Commission.
2. One pole sign may be erected accessory to any one development regardless of the number of buildings, separate parties, tenants or uses contained therein.
3. It shall be unlawful to erect any pole sign to a height greater than 30 feet above the level of the street upon which the sign faces. The distance from the ground to the bottom shall be not less than eight feet and shall be so erected as to not obstruct traffic vision. The area of such sign shall not exceed 120 square feet for each sign face.

4. Signs may be illuminated with a continuous light only.
5. All letters, figures, characters, items or representations in cutout or irregular form, maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure.
6. Loose or missing letters, figures, characters or items shall constitute a maintenance violation.
7. All pole signs shall be securely built, constructed and erected upon posts and standards at least 42 inches below the material surface of the ground and shall be embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment.

(c) *Projecting.*

1. One projecting sign may be erected at each entrance to a business or office establishment.
2. Projecting signs must project at right angles to the building and have no more than two faces, and project no more than five feet from the face of the building.
3. The bottom of the sign projecting must be at least ten feet above ground level and its top may not extend higher than whichever of the following is lowest:
  - a. Twenty-five feet above grade;
  - b. The sills of the first level of windows above first story; and
  - c. The lowest part of the roof.
4. No projecting signs shall be attached to roofs, chimneys, smokestacks, elevator towers, penthouses and the like.
5. The area of each projecting sign may not exceed 24 square feet for each sign face.
6. No exposed guy wires or turnbuckles are allowed on a projecting sign.

(d) *Wall.*

1. Wall signs may be provided on all street sides, parking lots sides or alley sides of a building. The total sign area of wall signs on any one wall shall not exceed 10% of the wall surface of such wall. Where a single principal building is devoted to two or more business, offices or commercial uses, the operator of each such use may install a front wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the allowed signage for the principal building occupied by each such use and applying such proportion of the total sign area permitted for each tenant or the per cent agreed to by the occupants, the total not to exceed the above area limitations for the district in which such building is located. It is the applicant's responsibility to provide the required information when applying for a sign permit. In those instances where a change of tenancy occurs which presents a hardship in providing signage based on this requirement, the Zoning Board of Appeals may vary these provisions.
2. Signs may be illuminated with a continuous light only. Illuminated signs shall not be permitted on the alley side of a building.
3. Materials required: all wall signs of a greater area than 50 square feet shall have a surface or facing of non-combustible material.
4. Limitation on placement: no wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
5. Projection and height: no wall sign shall have a greater thickness than 12 inches measured from the wall to which it is attached to the outermost surface. Wall signs may project over the public right-of-way not to exceed 12 inches; provided, a clearance of not less than seven feet six inches is maintained below such sign if such sign projects more than four inches. Such sign shall not project above the roofline.
6. Supports and attachments: all wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails. The method of attachment shall be stated on the permit application.

(e) *Awning, canopy and marquee.* Letters may be painted or otherwise affixed to any permissible awning, canopy or marquee subject to the following regulations.

1. Lettering or letters shall not project above, below or beyond the physical dimensions of the awning or canopy.
2. Lettering on a marquee shall not extend beyond the geometric figure which encloses the sign message.
3. No awning, canopy or marquee sign shall extend below a minimum height of seven feet six inches.
4. The area of such sign shall be limited as part of the total sign area for all signs as provided in division (F)(2)(d)1. above.

(f) *Window.* Window signs shall not exceed 30% of the glass area of the window area on the section of building front occupied by the business at that location.

(g) *Temporary, transitory or construction signs.*

1. There shall be no more than one such sign; except that, on a corner lot, two signs with one facing each street, shall be permitted. No such sign shall exceed six square feet in area for each sign face of such sign. All such signs shall be removed upon occupancy.
2. Construction signs for buildings under construction may be erected for the period of construction and shall not exceed a face area of 64 square feet for each sign face of such sign. Such signs shall be erected on the building or lot where such construction is being carried on.
3. Temporary window signs are allowed only on the inside of the window lasting no more than 15 days. They shall occupy no more than 30% of the area of the window in which they appear.
4. No temporary sign shall be strung on a building exterior or on a sign structure or across any public right-of-way, nor shall any temporary sign project beyond the property line, except as authorized by the City Council.
5. Temporary signs found by the Building Official to be in torn or damaged condition must be removed by the owner within three days after receipt of notice to do so from the Building Official. Temporary signs found to be unsafe shall be removed immediately upon receipt of notice by the city.
6. "A" frame temporary signs; provided, they do not exceed six square feet of sign area per sign face and shall be located so as to not obstruct pedestrian traffic. One sign shall be allowed per business. A hold harmless agreement must be obtained through the Engineering Department by the property owner and operator of the business being advertised. Such sign shall be securely anchored to prevent movement by wind forces.

(h) *Billboards.* Billboards not exceeding 200 square feet per sign face are permitted only in B-2 Districts on Fort Street and shall be located no nearer than 3,000 feet between such billboards with a maximum height of 30 feet. Billboards shall not be animated and lighting shall be continuous.

(i) *Attention-getting devices.*

1. Attention getting devices including searchlights, balloons, banners (provided payment of the required fee for the banner is made, and the banner may not be placed on outdoor café enclosures) and similar devices or ornamentation designed for purposes of attracting attention, promotions or advertising, are allowable. A banner or multiple banners, shall be allowed on each street, parking lot or alley side of the building, and shall not exceed 24 square feet in area per banner or 24 square feet total for all banners on each side of building, except only one banner shall be allowed on the front of the building and shall not exceed 24 square feet in area. All banners and signs cannot exceed 10% of the wall area. A maximum two banners on any wall, except the front wall, and no more than five banners shall be allowed at one time. Attention-getting devices, except banners as described above, shall be allowed for up to three separate 30-day periods in a calendar year.

2. Feather banners are not permitted.

(j) *Changeable message signs.*

1. Changeable message signs shall only be permitted as ground, wall or pole signs.
2. An electronic changeable message sign shall be limited to the electronic display of a non-flashing or non-moving message that shall remain unchanged for at least five continuous seconds before it is replaced by another message. Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 60% of the total permitted display area of the sign.

(3) PD District sign types allowed: sign types and uses allowed for the uses designated for the area as portrayed in the master plan for future land use shall be allowed provided the Planning Commission may make a determination as to sign size and type most suitable to the promotion of the objectives of the PD District. Signs located in the Design Review District (§ 190.320 of this chapter) shall require design review.

(4) I-1, I-2, I-3, IRO Districts sign type allowed: all sign types allowed and as controlled for O-S, B-1 and B-2 Districts.

(5) P-1 Parking Districts sign types allowed: pole and wall signs are permitted in parking districts subject to the following conditions:

- (a) One entrance and one exit sign for each access way to the parking lot shall be allowed and one conditions of use sign for each parking lot shall be allowed;
- (b) Signs shall not exceed nine square feet in area for each sign face of such sign, nor an overall height above ground of nine feet; and
- (c) Signs as required by the Building Code.

(6) RA-RU-RT Districts sign types allowed: wall, transitory, temporary and construction signs, as defined in this chapter; provided, such signs shall not be illuminated unless otherwise provided for in this chapter and subject to the following conditions by sign type:

- (a) *Wall signs.* Dwelling nameplate: for each dwelling unit, one nameplate not exceeding one square foot in area; and

(b) *Temporary signs or transitory signs.*

1. Not exceeding ten square feet in area for each sign face of such sign. Signs shall not be placed on public property between the sidewalk and street curb.

2. Construction signs. For building or remodeling of non-residential buildings, such as, but not limited to, churches and schools, not more than one sign shall be allowed not to exceed 32 square feet in total surface area for each sign face of such sign and shall be located on the premises being utilized for such construction. For residential buildings, not more than one sign shall be permitted not exceeding ten square feet per sign face. Such sign shall be removed within 15 days of completion of the project.

(7) RM-1, RM-1A, RM-2, RM-3 Districts sign types allowed: wall, real estate, ground and temporary signs as defined in this chapter and subject to the following conditions by sign type and subject to design review when located in the Design Review District: (See § 190.320 of this chapter.)

(a) *Wall sign.* Dwelling nameplate. For each dwelling unit, one nameplate not exceeding one square foot;

(b) *Temporary sign or transitory sign.*

1. One sign not exceeding ten square feet in area for each sign face of such sign. Signs shall not be placed on public property between the sidewalk and street curb; and

2. Signs for new developments. It shall be permissible to erect one sign not to exceed a total surface area of 32 square feet for each sign face of such sign.

(c) *Ground signs.* Multiple-family residential units. Any person owning or operating any multiple-family residential dwelling, with six or more units may erect one sign, such sign not to exceed 32 square feet for each sign face of such sign and not to exceed an overall height of six feet above the ground level and may be lighted during the hours of darkness.

(d) *Temporary signs.*

1. *Banners and pennants.* Banners and pennants may be allowed for periods not to exceed 30 days and must be securely fastened and any torn or damaged units must be repaired or removed.

2. *Construction signs.* For building or remodeling of residential and non-residential buildings, such as, but not limited to, churches and schools, not more than one sign shall be allowed not to exceed 32 square feet in total surface area for each sign face of such sign and shall be located on the premises being utilized for such construction. For residential buildings, not more than one sign shall be permitted not exceeding ten square feet per sign face. Such sign shall be removed within 15 days of completion of the project.

(8) Permitted signs accessory to churches, schools, non-profit institutions or historical markers on buildings in the CBD sign type allowed (all districts): churches, colleges, schools, buildings housing governmental functions and utilities of the city, county or state or any subdivision or historical markers on buildings in CBD thereof, are permitted to erect a sign. Such signs, when of a permanent nature, shall meet all the requirements of this chapter and other ordinances of the city, except as provided hereafter and may include ground, portable, transitory and temporary signs as defined in this chapter and subject to the following conditions.

(a) *Wall signs.* Wall signs may be provided on all street sides, parking lot sides or alley sides of a building. The total sign area of wall signs on any one wall shall not exceed 5% of the wall surface of such wall.

(b) *Ground signs.*

1. There shall be no more than one sign.

2. Such signs shall be set back from the lot line at least one-third of the distance from the lot line to the nearest building, but need not be set back more than ten feet from the property line.

3. No sign shall exceed 30 square feet in area, for each sign face of such sign, unless the sign is located more than 50 feet behind the property line, then said sign may be increased by five additional square feet for each additional ten feet of setback, but in no event shall such sign exceed 50 square feet in area for each sign face of such sign.

4. Illumination of signs shall be permitted.

5. An electronic changeable message sign shall be limited to the electronic display of a non-flashing or non-moving message that shall remain unchanged for at least five continuous seconds before it is replaced by another message. Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 60% of the total permitted display area of the sign.

(c) *Portable signs.*

1. There shall be no more than one portable sign not exceeding 32 square feet in area for each sign face of such sign. Such portable sign shall be permitted as a temporary sign for periods not to exceed seven days in a 30-consecutive-day-period on any one zoning lot and not to exceed 28 days in any one year. In no instance shall such sign obstruct parking spaces or automobile or pedestrian travel lanes or occupy a parking space unless sufficient additional parking space is available on the site.

2. Connections to an energy source for lighting shall be in accord with all codes of the city and shall not be exposed in any way that may constitute a safety hazard to the public.

(d) *Temporary sign or transitory sign.* One sign not exceeding ten square feet in area for each sign face of such sign. Signs shall not be placed on public property between the sidewalk and street curb.

(G) The following signs are prohibited within the city:

(1) No sign or banner shall be placed upon or across any public right-of-way, except by permission of the City Council;

(2) It shall be unlawful for any person to display upon any sign or other advertising structure any obscene, indecent or immoral matter;

(3) Signs which incorporate in any manner flashing lights;

(4) String lights used in connection with business premises for commercial purposes, other than seasonal decorations;

(5) Any sign unlawfully installed erected or maintained;

(6) Signs on trees or utility poles, whether public or private;

(7) Signs on benches (Fig. 18); and

(8) Roof top signs.

(H) It shall be unlawful for any person to erect, repair, paint, alter or relocate any sign within the city, as defined in this chapter, without first obtaining a permit from the city's Building Department with the exception of the following.

(1) *Signs for which a permit is not required.*

(a) Wall signs not exceeding four square feet in area;

(b) Bulletin boards when the same are located on the premises of said institutions; provided, however, if said signs are electrically illuminated, an electrical permit must be obtained;

(c) Traffic or other municipal signs, legal notices, danger and such temporary emergency signs as may be approved by the city;

(d) Temporary signs and transitory signs ten square feet or less;

(e) Flags of recognized federal, state, county or city governments;

(f) Temporary window signs;

(g) Signs of civic and non-profit organization displayed for not more than 90 days within any 12-month period and not to exceed 32 square feet per sign face;

(h) Emblems, badges and insignias;

(i) Holiday decorations not exceeding 32 square feet;

(j) Non-illuminated signs pertaining to the construction or repair of buildings or property on which they are located. Such signs shall be removed upon the issuance of a certificate of occupancy; and

(k) Off premise directional signs. Such signs shall be confined to one signpost per corner and shall not exceed a sign area of four square feet per sign face.

(2) *Application for sign permit.* Applications for permits shall be made upon forms provided by the Building Department and shall contain or have attached thereto the following information:

(a) Name, address and telephone number of the applicant;

(b) Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;

(c) Position and location of the sign or other advertising structure in relation to nearby buildings or structures;

(d) Two blueprints or drawings of the plans and specifications and methods of construction and attachment to the building or in the ground;

(e) Name of person, firm, corporation or association erecting structure;

(f) Written consent of the owner where the sign is to be erected on vacant land;

(g) In all cases where wiring is to be used in connection with the sign an electrical permit shall be obtained in compliance with the city's Electrical Code. The Electrical Inspector shall

approve and affix his or her signature to said permit if it is deemed necessary by the Electrical Inspector; and

(h) Such other information as the city shall require showing full compliance with this and all other ordinances of the city.

(3) *Sign permit fee.* It shall be unlawful for any person to erect or alter any sign, except those signs specifically exempted herein, unless a permit shall first have been obtained from the Building Department for such erection or alteration, and a permit fee paid to the city according to the schedule as may be established from time to time by resolution of the City Council.

(4) *Sign permit revocable at any time.* All rights and privileges accrued under the provisions of this chapter or any amendment thereto are mere licenses and may be voided upon the violation of any of the conditions contained herein. If the work authorized under a sign or electrical permit has not been completed within six months after date of issuance, said permit shall become null and void and a new permit shall be necessary to continue the project. Partially completed signs, if abandoned, shall be removed immediately by the erector upon notice from the city.

(I) All existing signs that do not conform to the provisions of this chapter shall be permitted to continue as non-conforming signs until such time as they are removed or until there is a change in occupancy, at which time they shall conform to the provisions of this chapter. The provision of this division (I) shall not apply to maintenance and repainting.

(J) This chapter shall be enforced by the Building Official or an employee designated by the City Council.

(K) (1) *Maintenance.* All signs for which a permit is required, together with all their supports, braces, guys and anchors, shall be maintained in good working order, and when not galvanized or constructed of approved corrosion-resistant, non-combustible materials, shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces, advertising materials and lettering shall be kept painted and in good repair, so as to present a neat and orderly appearance. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign must be well maintained.

(2) *Housekeeping.* It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary and healthful condition.

(L) (1) Signs shall be subject to inspections and when the condition of the sign is questionable, the owner or occupant shall obtain a professional engineer's report, certifying the sign condition. Failure to submit the report and make any specified correction will result in an order for the sign to be removed.

(2) Sign support structures abandoned and no longer supporting a sign shall be removed by the building owner within 30 days after receiving notice to do so from the city. Should the owner fail to comply, the city, at the owner's expense, may order the work done on the owner's behalf and the cost will be assessed against the property.

(Prior Code, App. A, § 2408) (Ord. 1277, passed 4-2-2007; Ord. 1343, passed 3-14-2011; Ord. 1351, passed 8-8-2011; Ord. 1365, passed 7-23-2012; Ord. 1373, passed 10-8-2012; Ord. 1391, passed 2-10-2014; Ord. 1398, passed 5-12-2014; Ord. 1409A, passed 3-16-2015; Ord. 1440, passed 12-5-2016)

#### **§ 190.330 NEWSRACKS/DROP-BOXES.**

No person shall place or maintain on any public right-of-way in the city, any newsrack or drop-boxes that do not comply with the following.

(A) No newsracks or drop-boxes shall exceed 61 inches in height, 30 inches in width or 21 inches in thickness.

(B) No newsracks shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

(C) No drop-boxes shall be used for advertising signs or publicity purposes other than that dealing with the deposit of envelopes or packages therein.

(D) Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication for which he or she has paid. The coin-return mechanism shall be maintained in good working order.

(E) Each newsrack shall have affixed to it, in a readily visible place, so as to be seen by anyone using the newsrack, a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction or to secure a refund in the event of a malfunction of the coin-return mechanism or to give the notices provided for in this section.

(F) Every newsrack or dropbox shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack or drop-box shall be serviced and maintained so that:

(1) It is reasonably free of dirt and grease;

(2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible areas thereof;

(3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;

(4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discolorations;

(5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;

(6) Newsracks or drop-boxes shall not be placed in the right-of-way next to a building or property without the permission of the property owner;

(7) No newsracks nor drop-boxes shall be placed or maintained which project onto, into or over any part of the roadway of any public street or which rests, wholly or in part upon, along or over any portion of the roadway of any public street;

(8) No newsracks or drop-boxes shall be permitted to rest upon, in or over any public sidewalk, when such installation, use or maintenance endangers the safety of persons or property which such site or location is used for public utility purposes, governmental use or when such newsracks or drop-boxes unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near such location;

(9) No newsracks shall be chained, bolted or otherwise attached to any fixture located on the public right-of-way, except to other newsracks;

(10) No drop-boxes shall be chained, bolted or otherwise attached to any fixture located on the public right-of-way, except to another drop-box;

(11) Newsracks may be placed next to each other; provided that, no group of newsracks shall extend for a distance of more than eight feet along a curb;

(12) Drop-boxes may be placed next to each other; provided that, no group of drop-boxes shall extend for a distance of more than eight feet along a curb;

(13) No newsracks or drop-boxes shall be placed, installed, used or maintained:

(a) Within three feet of any marked crosswalk;

(b) Within 12 feet of the curb return of any unmarked crosswalk;

(c) Within five feet of any fire hydrant or other emergency facility;

(d) Within five feet of any driveway;

(e) At any location whereby the clear space for the passageway of pedestrians is reduced to less than five feet;

(f) Within three feet of or on any public area improved with lawn, flowers, shrubs or trees or other landscaping; and

(g) Within two and one-half feet from the back of street curbs.

(14) No newsracks shall be placed, installed, used or maintained within 300 feet of any other newsrack. No drop-boxes shall be placed, installed, used or maintained within 300 feet of any other drop-box;

(15) In the event a newsrack remains empty for a period of 30 continuous days, the same shall be deemed abandoned, and may be removed immediately and processed as unclaimed property; and

(16) Placement of newsracks and drop boxes in a public right-of-way shall require a zoning permit and hold harmless agreement issued by the Building and Engineering Department.

(Prior Code, App. A, § 2409) (Ord. 1277, passed 4-2-2007)

#### **§ 190.331 LOT AND PARCEL SPLITS.**

In no instance shall a certificate of occupancy be approved for a lot or parcel split without the approval of the city. The sale or transfer of ownership of a portion of such a lot or parcel or the detachment of a portion of such lot or parcel to an abutting parcel, which causes the remaining parcel to be less than the requirements of § 190.290 of this chapter, shall not be allowed. The following procedure shall be followed in the undertaking of any lot or parcel split and any transfer of one part of a lot or parcel to an abutting lot or parcel.

(A) *Submissions.* The developer or petitioner shall submit to the City Engineer:

(1) One copy of an application for review of the proposed lot or parcel split; and

(2) One copy of a sketch drawn to scale of the proposed lot or parcel split indicating the following data:

(a) Name and address of the owner, subdivider or petitioner;

(b) Date, north arrow and scale, written and graphic;

(c) Boundary lines of the lot or parcel to be split;

- (d) Street names, rights-of-way and roadway widths of all existing and proposed streets within and adjacent to the proposed lot or parcel split;
- (e) All existing structures and other physical features which would influence the layout and design of the lot or parcel split; and
- (f) Location, width and purpose of easements.

(B) *Application review.*

- (1) Should the City Engineer find that the proposed lot or parcel split will not impair or does not create or increase the non-conforming condition or create a lot or parcel which cannot be used under the terms of the zoning ordinance, such lot or parcel split shall be approved.
- (2) All lots or parcels resulting from a lot or parcel split shall be suitable for development as zoned.
- (3) Should the City Engineer find that the proposed lot or parcel split will create or increase the non-conforming condition of a lot or parcel which cannot be used under the terms of the zoning ordinance, such lot or parcel split shall be disapproved. If the application is denied, the applicant may appeal to the Zoning Board of Appeals.

(Prior Code, App. A, § 2410) (Ord. 1277, passed 4-2-2007)

**§ 190.332 AREA, HEIGHT AND USE EXCEPTIONS.**

The regulations in this chapter shall be subject to the following interpretations and exceptions.

(A) *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances of the city; it being the intention hereof to exempt such essential services from the application of this chapter.

(B) *Voting place.* The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(C) *Height limit.* The height limitations of this chapter shall not apply to chimneys, church spires, flag poles or public monuments.

(D) *Lots adjoining alleys.* In calculating the area of a lot that adjoins a vacated alley or lane, for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot so long as the alley is part of the same subdivision as the lot.

(E) *Multiple-dwelling side yard.* For the purpose of side yard regulations, a two-family, a terrace, a row house or a multiple dwelling shall be considered as one building occupying one lot.

(F) *Projections into required open spaces.*

- (1) Outside stairways, fire escapes, vestibules, balconies, decks and similar projections from a wall of a building and detached decks extending more than two feet above the established grade shall not extend into any required yard. A landing required for exit from a building of a maximum area of ten square feet is allowed.
- (2) Fences, walls, chimneys, bay windows or other obstructions more than four feet above the established grade required for the proper maintenance of the land, may occupy parts of the side yard but may not extend more than 16 inches.
- (3) (a) Accessory buildings not over 17 feet in height to the ridge line may occupy part of the rear yard, but not a side yard.
- (b) Such occupancy shall not exceed 40% of the total rear yard in a residential district.
- (c) Accessory buildings attached to a principal building shall be treated as a principal building.
- (d) In a business district or industrial district, accessory buildings, if not used for dwelling purposes, may occupy only the lot coverage area allowed for the principal building.
- (4) Unenclosed vehicle storage or loading space may occupy parts of a side or rear yard and the area thus used shall not be computed in the total percentage of lot coverage as long as it remains unenclosed.
- (5) Structures four feet in height or less shall not be considered in computing maximum per cent of lot coverage in residential districts.
- (6) An unenclosed terrace porch may project six feet into a required front yard and may include a fixed canopy or awning, but this shall not be interpreted to include enclosed sides. An existing porch within a required front yard or required side yard may be replaced, but may not be extended any closer to the front or side property line. To construct or replace a deck or porch with an area enclosed below the floor level with an access door for storage, a four-inch wide by 24-inch deep ratwall or a four-inch concrete floor slab is required.
- (7) (a) No more than two of the following type vehicles may be parked and/or stored in permitted areas on residential lots:
  - 1. Recreational type vehicles including travel trailers;
  - 2. Non-recreational type vehicles including travel trailers;
  - 3. Motor homes (but not converted buses);
  - 4. Boats with trailers; and
  - 5. Snowmobiles with trailers.
- (b) Such parking and storage of said vehicles is allowed only in a rear yard. The rear yard shall be as defined in this chapter and is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building. Any vehicle under this section may only be parked or stored on a hard surface (such as concrete, blacktop or other comparable surfaces, but not gravel). Any other vehicle not described above must be housed in a garage when not in use.
- (8) (a) Private swimming pools shall not encroach on any front yard or required side yard.
- (b) A wall of a swimming pool shall not be located less than four feet from any rear or side property line or five feet from any street property line, or ten feet from any transmission line.
- (c) When a swimming pool is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said swimming pool shall not be located closer to the street side lot line than the existing front yard setback of the lot to the rear; provided, the setback need not exceed ten feet.
- (9) Mechanical equipment installed outside of one- or two-family dwellings and their attached structures shall not be installed in any front and/or side yard and shall be installed behind the structure and a minimum of five feet from the property line.

(Prior Code, App. A, § 2500) (Ord. 1277, passed 4-2-2007; Ord. 1422, passed 3-14-2016)

**CONDITIONAL REZONING**

**Editor's note:**

*It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this subchapter to provide a process consistent with the provisions of § 405, State Zoning Enabling Act 110 of 2006 (M.C.L.A. § 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.*

**§ 190.345 APPLICATION AND OFFER OF CONDITIONS.**

- (A) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed, or may be made at a later time during the rezoning process.
- (B) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
- (C) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (D) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- (E) Any use of development proposed as part of an offer of conditions that would require a special land use permit under the terms of the ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.
- (F) Any use or development proposed as part of an offer of conditions that require variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.
- (G) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.
- (H) The offer of conditions may be amended during the process of rezoning consideration; provided that, any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(Prior Code, App. A, § 2800A) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)



#### **§ 190.346 PLANNING COMMISSION REVIEW.**

The Planning Commission, after public hearing and consideration of the factors for rezoning, recommends approval, approval with recommended changes or denial of the rezoning; provided, however, that, any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(Prior Code, App. A, § 2800A1) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.347 CITY COUNCIL REVIEW.**

After receipt of the Planning Commission's recommendations, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning of this chapter. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with § 405 of the state's Zoning Enabling Act (M.C.L.A. § 125.3405), refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(Prior Code, App. A, § 2800A2) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.348 APPROVAL.**

(A) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested zoning.

(B) The statement of conditions shall:

(1) Be in a form recordable with the Register of Deeds of the county or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the City Council;

(2) Contain a legal description of the land to which it pertains;

(3) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land;

(4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the documents may be examined;

(5) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the city with the Register of Deeds of the county; and

(6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(C) Upon rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(D) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the Register of Deeds of the county. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(E) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(Prior Code, App. A, § 2800A3) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.349 COMPLIANCE WITH CONDITIONS.**

(A) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set for in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(B) No permit or approval shall be granted under this chapter for any uses or development that is contrary to an applicable statement of conditions.

(Prior Code, App. A, § 2800A4) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.350 TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE.**

(A) Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion.

(B) This time limitation may upon written request be extended by the City Council if:

(1) It is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and

(2) The City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(Prior Code, App. A, § 2800A5) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.351 REVERSION OF ZONING.**

If approved development and/or use of the rezoned land do not occur within the time frame specified under §190.350 of this chapter, then the land shall revert to its former zoning classification as set forth in the state's Zoning Enabling Act (M.C.L.A. § 125.3405). The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(Prior Code, App. A, § 2800A6) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.352 SUBSEQUENT REZONING OF LAND.**

When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to § 190.351 of this chapter or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of the county that the statement of conditions is no longer in effect.

(Prior Code, App. A, § 2800A7) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.353 AMENDMENT OF CONDITIONS.**

During the time period for commencement of an approved development or use specified pursuant to §190.350 of this chapter, or during any extension thereof granted by the City Council, the city shall not add to or alter the conditions in the statement of conditions.

(Prior Code, App. A, § 2800A8) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.354 CITY RIGHT TO REZONE.**

Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the state's Zoning Enabling Act (M.C.L.A. § 125.3405).

(Prior Code, App. A, § 2800A9) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

#### **§ 190.355 FAILURE TO OFFER CONDITIONS.**

The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this chapter.

(Prior Code, App. A, § 2800A10) (Ord. 1277, passed 4-2-2007; Ord. 1320, passed 1-25-2010)

### **ADMINISTRATION**

#### **§ 190.370 ADMINISTRATING OFFICER.**

The provisions of this chapter shall be administered by the Building Official. He or she shall make general rules and prescribe the use of such forms and methods consistent with the intent of this

chapter as may facilitate the work.

(Prior Code, App. A, § 2600) (Ord. 1277, passed 4-2-2007)

#### **§ 190.371 RECORDS.**

A record of each certificate of occupancy issued or applied for and each application for a zoning and building permit issued or applied for shall be kept on record and such record shall be available for inspection in accord with the Freedom of Information Act.

(Prior Code, App. A, § 2601) (Ord. 1277, passed 4-2-2007)

#### **§ 190.372 BUILDING PERMIT.**

No building permit shall be issued for the erection of or alteration to any structure or part thereof which is not in accordance with the provisions of this chapter.

(Prior Code, App. A, § 2602) (Ord. 1277, passed 4-2-2007)

#### **§ 190.373 CERTIFICATE OF OCCUPANCY.**

(A) No structure shall be occupied nor land used until a certificate of occupancy has been issued for such occupancy or use, which occupancy or use shall be in compliance with the provisions of this chapter. No structure or use shall be changed until a certificate has been issued for the changed structure or use.

(B) The cost for processing a certificate of occupancy application shall be a fee established by the City Council.

(Prior Code, App. A, § 2603) (Ord. 1277, passed 4-2-2007)

#### **§ 190.374 EXISTING USES.**

A certificate of occupancy shall be issued for structure and uses existing at the time of adoption of this chapter or within one year thereafter when requested.

(Prior Code, App. A, § 2604) (Ord. 1277, passed 4-2-2007)

#### **§ 190.375 TEMPORARY CERTIFICATES.**

Temporary certificates of occupancy shall be issued, upon deposit of an escrow as determined by the Building Official, for a portion of a structure in the process of construction; provided that, such temporary certificates shall not be effective for a period of more than six months, nor for more than one month after completion of the structure unless additional time is authorized by the Building Official due to weather conditions.

(Prior Code, App. A, § 2605) (Ord. 1277, passed 4-2-2007)

#### **§ 190.376 APPLICATION FOR CERTIFICATES.**

Application for certificates shall be made to the Building Official in writing upon forms furnished by him or her at the time of application for a building permit. All applications shall be accompanied by a plan of the location and size of the structure thereon proposed with other information which may be necessary to show conformance with this chapter. Should the Building Official find the application in accordance with this chapter, he or she shall endorse the same on the plan. If, however, he or she shall find that it is not in accordance with the ordinance, he or she shall state in writing wherein it does not comply, within seven days after receipt of the application. Certificates of occupancy shall be issued if after inspection, upon completion of the structure or use, it is found to conform to the application and this chapter.

(Prior Code, App. A, § 2606) (Ord. 1277, passed 4-2-2007)

#### **§ 190.377 SITE PLAN REVIEW.**

(A) A site plan shall be submitted for Planning Commission review and approval for all new construction where parking for six or more parking spaces is required, not including the remodeling of existing structures, in areas zoned RM, O-S, B-1, CBD, B-2, I-1, I-2, I-3 and IRO Districts.

(B) A site plan shall be submitted for approval for any use or development for which the submission of a site plan is required by any provision of this chapter.

(C) (1) Every site plan submitted shall be in accord with the requirements of this chapter. No site plan shall be approved until same has been reviewed by the Building Official and Planning Commission where applicable, for compliance with the requirements for site plan review as follows.

(2) The following information shall be included:

- (a) A scale of not less than one inch equals 50 feet if the subject property is less than three acres and one inch equals 100 feet if three acres or more;
- (b) Date, north arrow and scale;
- (c) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties;
- (d) The location of all existing and proposed structures and site improvements on the subject property and all existing structures and improvements within 100 feet of the subject property;
- (e) Typical floor plans and building elevation drawings including type of materials and building colors;
- (f) Plans for landscape planting with materials identified with proposed sizes;
- (g) The location of all existing and proposed drives and parking areas;
- (h) The location and right-of-way widths of all abutting streets and alleys;
- (i) The names and addresses of the architect, planner, designer, engineer or person responsible for the preparation of the site plan;
- (j) Such other information as may be required by the city to assist in the consideration of the proposed development; and
- (k) Air conditioners, transformers and other exterior appurtenances shall be screened with landscaping or a decorative obscuring fence.

(D) In the process of reviewing the site plan, the following, in addition to other requirements of this chapter, shall be considered:

- (1) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and in relation to pedestrian traffic;
- (2) The traffic circulation features within the site, and the location of automobile parking areas; and may make such requirements with respect to any matters as will assure: safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets;
- (3) Satisfactory and harmonious relationships between the proposed development and use of the site and the existing and prospective development and use of contiguous land and surrounding area; and
- (4) The Planning Commission may further require landscaping, fences, walls and other improvements in pursuance of these objectives and same shall be provided and continually maintained as a condition of the establishment of any use to which they are appurtenant.

(E) Plans shall be submitted two weeks prior to the scheduled Planning Commission meeting.

(Prior Code, App. A, § 2607) (Ord. 1277, passed 4-2-2007)

#### **§ 190.378 PUBLIC HEARINGS.**

Whenever any section on this chapter refers to this section, notice of a public hearing shall be given in accordance with Public Act 110 of 2006, as amended.

(Prior Code, App. A, § 2608) (Ord. 1277, passed 4-2-2007)

## **BOARD OF APPEALS**

#### **§ 190.390 ESTABLISHMENT OF BOARD.**

(A) There is hereby established a Zoning Board of Appeals consisting of nine members appointed by the Mayor, subject to confirmation by the City Council. One member of the Board of Appeals shall be a member of the Planning Commission. The members of the Board now serving shall serve the terms for which they were appointed and confirmed. Subsequent terms of all members shall be for a period of three years. Members shall be citizens of the United States, and residents and freeholders in the city. Their compensation, if any, shall be established by the City Council.

(B) The City Council may also appoint not more than two alternate members for the same term as regular members of the Board of Appeals. The alternate members may be called on a rotating basis to sit as regular members of the Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve on the case until a final decision had been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

(Prior Code, App. A, § 2700) (Ord. 1277, passed 4-2-2007)

#### § 190.391 OFFICERS.

The officers shall consist of a Chairperson and Vice-Chairperson elected by the Board, and a Secretary. The terms of the Chairperson and Vice-Chairperson shall be for terms of one year, the term of the Secretary, who may be other than a voting member of the Board, for such term as serves the pleasure of the Board. He or she shall keep a record of all appeals brought before the Board and appropriately record actions taken.

(Prior Code, App. A, § 2701) (Ord. 1277, passed 4-2-2007)

#### § 190.392 RULES AND PROCEDURE.

(A) The Board shall adopt general rules and regulations governing its procedure and shall make rules for the filing of appeals and other matters requiring its attention which shall not cause unreasonable delays in the transaction of its business. Hearings shall be held on all appeals. The Board shall cause to be given notice to all owners of property as required by Public Act 110 of 2006, as amended.

(B) Appeals shall be decided by the Board within 30 days after conclusion of hearings thereon.

(Prior Code, App. A, § 2702) (Ord. 1277, passed 4-2-2007)

#### § 190.393 APPEALS, HOW TAKEN.

Appeals shall be taken within such time as shall be prescribed by the Board by general rule, by the appellant paying to the city an appeal fee as may be established by the City Council and filing an application in writing with the Zoning Board of Appeals and with the official from whom an appeal is taken who shall forthwith transmit to the Board all papers constituting the record upon which the appeal is taken. An appeal stays all the proceedings in furtherance of the action appealed from unless the official from whom the appeal was taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, Circuit Court or other court of jurisdiction or notice on application to the official from whom the appeal was taken and on due cause shown.

(Prior Code, App. A, § 2703) (Ord. 1277, passed 4-2-2007)

#### § 190.394 POWERS AND DUTIES.

(A) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review, interpretation and to authorize a variance as defined in this section and laws of the state.

(B) Said powers include:

(1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Building Official or any other administrative official in carrying out or enforcing any provisions of this chapter; and

(2) *Exceptions and special approvals.* To hear and decide in accordance with the provisions of this chapter, requests, for interpretations of the zoning text and zoning map, and for decisions on special approval situations on which this chapter specifically authorizes the Board to pass. Any exception or special approval permit shall be subject to such conditions as the Board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this chapter.

(C) Variance: to authorize the following upon an appeal:

(1) A non-use variance from the strict applications of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties in the use of the property in question upon the owner of such property; provided, such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed use as it may deem reasonable in furtherance of the purpose of this chapter. A non-use variance shall require a majority vote of the membership of the Board to reverse a determination of an administrative official. The applicant must show practical difficulty by demonstrating that:

(a) Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

(b) A variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

(c) The plight of the owner is due to unique circumstances of the property; and

(d) The problem is not self-created.

(2) A use variance for a use not permitted in the zoning district in which the property is located subject to the following procedure.

(a) *Procedure.* A request for rezoning of the property in question shall be made in accord with zoning ordinance amendment procedure before a request for a use variance is made.

(b) *Information required.* In addition to the information required for other variance requests, an application for a use variance under this section shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which must support all of the following conclusions to demonstrate the showing of unnecessary hardship:

1. Applicant's property cannot be used for the purposes permitted in the zoning districts;
2. Applicant's plight is due to unique circumstances peculiar to his or her property and not to general neighborhood conditions;
3. Applicant's suggested use would not alter the essential character of the area;
4. Applicant's problem has not been self-created; and
5. Unavailability of administrative relief which may afford reasonable use of applicant's property.

(c) *Pre-hearing conference.* Prior to the scheduling of a hearing, the applicant shall contact the Building Official for the purpose of scheduling a pre-hearing conference between the applicant, the city's Building Official and the City Attorney and others as may be deemed appropriate by the city. The purpose of the pre-hearing conference shall be to:

1. Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant;
2. Attempt to secure a statement of agreed-upon facts to be used to narrow the matters of dispute and shorten the hearing;
3. Explore a means of providing relief by way of non-use variance from the Zoning Board of Appeals, or other relief which may require action by persons or bodies other than the Zoning Board of Appeals which will afford an adequate remedy for the applicant; and
4. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference stated above.

(d) *Use variance decision by the Board of Appeals.*

1. A use variance shall require a two-thirds vote of the membership of the Board to reverse a determination of an administrative official.

2. The Zoning Board of Appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.

3. At the conclusion of the hearing, the Zoning Board of Appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.

4. If the Zoning Board of Appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one or more non-use variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.

5. If the Zoning Board of Appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief subject to review by the Planning Commission or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the Zoning Board of Appeals shall request the completion of all reviews by other commissions or persons by a specific date.

(D) Permit the modification of automobile parking space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements, or where the provision of the required amount of parking spaces would create undue hardship or practical difficulty in existing business areas, in the opinion of the Board.

(E) The Board may issue temporary building or use permits during periods of construction.

(Prior Code, App. A, § 2704) (Ord. 1277, passed 4-2-2007)

#### § 190.395 STANDARDS.

(A) Each case before the Zoning Board of Appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring board approval for a permit shall be of such location, size and character that, in general, it will be in harmony

with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts and to adjacent uses.

(B) The Board shall give consideration to the following:

- (1) The location and size of the use;
- (2) The nature and intensity of the operations involved in or conducted in connection with it;
- (3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use;
- (4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood;
- (5) Taking into account among other things, convenient routes of pedestrian traffic, particularly of children;
- (6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood;
- (7) The location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;
- (8) The nature of filling or excavation which may be necessary to utilize the site, shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof, and such filling or excavation shall not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter;
- (9) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons and the physical and economic relationship of one type of use to another;
- (10) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety; and
- (11) Where a variance is granted, the requirements of the Building Code shall be met.

(Prior Code, App. A, § 2705) (Ord. 1277, passed 4-2-2007)

#### **§ 190.396 MISCELLANEOUS.**

(A) No order of the Zoning Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit. No order of the Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that, the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

(B) An appeal once denied shall not again be presented for appeal for 12 months unless condition for such appeal has substantially changed.

(Prior Code, App. A, § 2706) (Ord. 1277, passed 4-2-2007)

#### **§ 190.397 CHANGES AND AMENDMENTS.**

The City Council may from time to time, on recommendation from the Planning Commission, or on its own motion, or on petition, amend supplement, modify or change this chapter in accordance with the authority of Public Act 110 of 2006, as amended. Upon presentation to the City Council of a petition for amendment of said ordinance by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the City Council and shall be used to defray the expense of publishing the required notices and the expense of said Planning Commission.

(Prior Code, App. A, Art. XXVIII) (Ord. 1277, passed 4-2-2007)

#### **§ 190.999 PENALTY.**

(A) *Violations.*

(1) Any person, firm or corporation violating any of the provisions of this chapter shall be responsible for a municipal civil infraction, and shall be fined not less than \$100, nor more than \$500, for such finding of responsibility. Any person who is responsible for any municipal civil infraction shall be required to pay a fee of \$15 in addition to any other civil fine and court cost imposed.

(2) Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(3) A second offense or subsequent violation of the same provision within this chapter may be issued as a misdemeanor punishable by a fine not exceeding \$500 and/or imprisonment not exceeding 93 days; provided, the authorized city official issues an appearance ticket and marks it as a misdemeanor. The authorized city official may issue subsequent violations as municipal civil infractions.

(Prior Code, App. A, § 3200)

(B) *Public nuisance.* 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.

(Prior Code, App. A, § 3201)

(C) *Fines, imprisonment and the like.* The owner of any building, structure or premises or parts thereof, where any condition in violation of this chapter shall exist or shall be created, and any person who has assisted knowingly in the commission of such violation shall each be guilty of a separate offense and, upon conviction thereof, shall be liable to the fines and imprisonment herein provided.

(Prior Code, App. A, § 3202)

(D) *Each day a separate offense.* A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Prior Code, App. A, § 3203)

(E) *Rights and remedies are cumulative.* The right and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Prior Code, App. A, § 3204)

(Ord. 1277, passed 4-2-2007)