

Chapter 29

ZONING*

* **Cross References:** Columbia area economic development commission, § 2-281 et seq; community development commission, § 2-326 et seq.; special business district board, § 2-436 et seq.; buildings and building regulations, Ch. 6; fire prevention and protection, Ch. 9; parks and recreation, Ch. 17; planning, Ch. 20; public works and improvements, Ch. 22; signs, Ch. 23; streets, sidewalks and public places, Ch. 24; subdivision regulations, Ch. 25; utilities, Ch. 27.

Sec. 29-1. Tense and usage.

For the purpose of this chapter, the following words and terms shall have the meanings given below, unless a contrary intention clearly appears:

- (1) Words used in the present tense shall include the future.
- (2) Words in the singular shall include the plural and vice versa.
- (3) The words "shall" and "must" are mandatory.
- (4) The word "building" includes the word "structure."
- (5) The term "used for" includes the terms "designed for" and "intended for."
- (6) The word "plan" when used as a type of required submittal (i.e., landscape plan, screening plan, etc.) shall be a drawing to a scale of not more than one inch equals one hundred (100) feet, drawn in pencil or ink, and shall be on eighteen-inch by twenty-four-inch or twenty-four-inch by thirty-six-inch sheet(s) of single or double-matted polyester film or reproducible paper.

(Code 1964, § 19.100; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-2. Definitions.

For the purpose of this chapter, the following words and terms as used are defined to mean the following:

Accessory building or use. A detached subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property.

Adult day care home. A group home designed to provide care and supervision to meet the needs of five (5) or more functionally impaired adults for periods of less than twenty-four (24) consecutive hours but more than two (2) hours per day in a place other than the adult's home.

Alley. A public right-of-way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Amusement game machine. A coin-operated machine or device which, whether mechanical, electrical or electronic, shall be ready for play by the insertion of a coin, token or other type of fee and may be operated by the public for use as a game, entertainment or amusement, the object of which is to achieve either a high or low score, which, by comparison to the score of other players, whether playing concurrently or not, demonstrates relative skill or competence, or indicates in any other way competitive advantage of one player or team over another, regardless of skill or competence. It shall include devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities. Any machine of this type shall be considered an accessory use to the commercial establishment in which it is located.

Bed and breakfast establishment. A residential building containing not more than five (5) guest rooms which provides sleeping units and meals for transient guests, and which is managed and occupied by the owner of the property.

Block. A parcel of land entirely surrounded by public highways or streets, other than alleys. In plats which are incomplete or disconnected, the director of public works shall determine the outline of the block.

Board. The board of adjustment of the city.

Boardinghouse or lodging house. A building occupied as a single housekeeping unit, where lodging or meals are provided for five (5) or more persons for compensation, pursuant to previous arrangements, but not for the public or transients; or a building occupied as a group home by five (5) or more persons, each of whom is either a recovering alcoholic or a recovering drug addict.

Channel. A natural or artificial watercourse with a definite bed and banks which confine and conduct the normal continuous or intermittent flow of water.

City. The City of Columbia, Missouri.

Clinic. A building used solely as a place for the treatment and diagnosis of out-patients.

Commission. The planning and zoning commission of the City of Columbia, Missouri.

Cooperative. A development in which individual ownership is a share of the overall development.

Cooperative house. A building used for living quarters by a group or groups of persons sharing the costs of operation.

Council. The city council of the City of Columbia, Missouri.

Court. An open space, other than a yard, on the same lot with a building or buildings and which is bounded on two (2) or more sides by the walls of such building or buildings.

Court apartment building. An apartment building constructed around a court.

Curb level. The mean elevation of the curb in front of the lot, or along any abutting street where the median curb elevation is the highest.

Development. Any man-made change to all real estate, including but not limited to building, mining, dredging, filling, grading, paving, excavating or drilling operations.

Dormitory. A building devoted exclusively to living facilities, in which each person residing in each living unit shall be a duly registered student in any accredited school, college or university, the spouse of such student, or a management employee. Such living facilities may contain sleeping rooms for use of one or more persons, provided that there is at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

Driveway. An area established or used for ingress and egress of vehicles from a street or thoroughfare to any point on private property.

Dwelling, multiple-family. A building containing three (3) or more dwelling units.

Dwelling, one-family. A building containing one dwelling unit.

Dwelling, one-family attached (also known as "twin house," "zero lot line," "single-family attached," "semi-attached," and "semi-detached"). A building containing two (2) attached dwelling units that share a common wall at the lot line and that are on separate lots.

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Dwelling, two-family (also known as "duplex"). A building containing two (2) dwelling units, situated on a single lot.

Dwelling unit. A building or portion thereof, designed to house a family.

Dwelling, villa. A one-family attached dwelling that is subject to the design criteria set forth in section 29-10.

Family:

- (1) An individual or married couple and the children thereof and no more than two (2) other persons related directly to the individual or married couple by blood or marriage, occupying a single housekeeping unit on a nonprofit basis. A family may include not more than one additional person, not related to the family by blood or marriage; or
- (2) a.
 1. In zoning districts R-1 and PUD (when the PUD development density is five (5) or less dwelling units per acre), a group of not more than three (3) persons not related by blood or marriage, living together by joint agreement and occupying a single housekeeping unit on a

nonprofit cost-sharing basis.

2. The use of a dwelling unit by four (4) persons not related by blood or marriage, living together by joint agreement and occupying a single housekeeping unit on a nonprofit cost-sharing basis, prior to February 4, 1991, shall be allowed to continue in districts R-1 and R-1 PUD as a lawful nonconforming use.
- b. In all other applicable zoning districts, a group of not more than four (4) persons not related by blood or marriage, living together by joint agreement and occupying a single housekeeping unit on a nonprofit cost-sharing basis.

Family day care homes, day care centers, preschool centers, nursery schools, child play centers, child education centers, child experiment stations or child development institutions. A place for reception, care, training or instruction of five (5) or more children, not of common parentage, residing therein, regardless of sex, under the age of eighteen (18) years, for compensation or otherwise, provided that nothing herein contained shall be construed as applying to the regularly established public or parochial schools, colleges, universities, academies or seminaries, or other schools or institutions organized under and by virtue of the laws of the United States or the State of Missouri, and under the supervision of the duly constituted authorities thereof.

Flood boundary floodway map (FBFW). An official map delineating the floodway, floodway fringe, one hundred-year floodplain, and five hundred-year floodplain. The FBFW is prepared in conjunction with the flood insurance study (FIS).

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Game arcade. Any commercial building in which there are more than three (3) amusement game machines on the premises which are available to the public. An arcade may contain commercial recreational machines or games other than amusement game machines.

Garage, private. A building designed for storage of motor vehicles.

Garage sales. The sale or offering for sale to the general public of over five (5) items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building. Sales of programs and food and beverage items at school athletic events shall not be deemed to constitute garage sales.

Group care home for mentally retarded children. A facility which provides care, treatment or custody for four (4) to nine (9) mentally retarded children under the age of sixteen (16) years and affords the opportunity for utilization of community educational, recreational and health facilities and which is licensed as a group care home under Chapter 202, RSMo., 1969.

Group home for foster care. Any private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven (7) children who are unrelated to either foster parent by blood, marriage or adoption.

Group home for mentally or physically handicapped. Any home in which eight (8) or fewer mentally or physically handicapped persons reside, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

Halfway house. A residential facility primarily for persons who have been institutionalized for various reasons and released, and require the temporary protection of a group setting to facilitate the transition to society.

Halfway house for young offenders. A not-for-profit institution which primarily serves individuals between the ages of seventeen (17) and twenty-five (25) who have not been imprisoned (except for "shock probation" terms) and have not been convicted of adult or juvenile violent crimes (as defined by the Missouri Department of Corrections), which has 24-hour on-duty staff, and which is designed to provide an alternative to prison for young offenders.

Hazardous material. Any material or substance listed in 40 CFR Part 355, Appendix A, as an extremely hazardous substance when that substance is stored, generated, used or released in quantities equal to or greater than the lowest quantity listed for either the threshold planning quantity or reporting quantity for the substance; any materials designated hazardous and subject to special requirements by the federal government or the State of Missouri.

Height of buildings. The vertical distance measured from the highest of the following three (3) elevations:

- (1) From the street curb elevation.
- (2) From the established or mean street elevation if the curb has not been established.
- (3) From the average finished ground elevation of the portion of the lot adjoining and within ten (10) feet of the building where it sits back from the street line ten (10) feet or more, to the elevation of the highest point of the roof beams of flat roofs or roofs inclining not more than one (1) inch to the foot, and to the mean elevation of the top of the main plate and highest ridge for other roofs.

Hotel. A building occupied or used as a temporary abiding place of individuals or groups of individuals who are lodgers, with or without meals, and in which there are more than twelve (12) sleeping rooms.

Hundred-year flood. The base flood having a one (1) per cent chance of annual occurrence.

Landscaping. The improvement of a lot, parcel or tract of land with a combination of grasses, trees, ground cover, shrubs, flowerbeds, ornamental gravel and statuary, and other objects designed and arranged to produce an aesthetically pleasing effect.

Light industrial. Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, treatment of finished or semi-finished products from previously prepared materials, servicing or sale of consumer products, which activities are conducted wholly within an enclosed

building.

Live adult entertainment business. Any place of business at which any employee, patron or other person is required, encouraged or allowed to dance or perform any activity on the business' premises for the entertainment, amusement or viewing of others while exposing to view any portion of the person's buttocks, pubic area, or, in the case of a female, any portion of the breast below the top of the areola.

Live/work unit. A building or space within a building used jointly for non-residential and residential purposes.

Lot. A tract or parcel of land which:

- (1) Is set forth as a lot on an approved recorded plat; or
- (2)
 - a. Is zoned A-1, R-1 or R-2, or any combination thereof, and was described by a metes and bounds description accurately describing the location, boundaries and size of the tract on a recorded instrument prior to annexation into the city or prior to October 5, 1964; or
 - b. Is zoned A-1, R-1 or R-2, or any combination thereof, and was described by an accurate written description, recorded prior to annexation into the city or prior to October 5, 1964, that referred to an existing recorded subdivision or existing land survey; or
 - c. Is zoned any district and contains less than one (1) acre of land area and is partially or fully developed with an existing principal building(s) at the time of application for a development permit and was described by a metes and bounds or other written description accurately describing the location, boundaries and size of the tract on a recorded instrument prior to annexation into the city or prior to October 5, 1964; or
- (3) Is zoned A-1, R-1 or R-2, or any combination thereof, and was described by a recorded survey prior to annexation; or
- (4) Was platted as a lot in a recorded subdivision plat prior to October 5, 1964, or described by a recorded survey prior to October 5, 1964; or
- (5) Is a portion of one (1) or more platted lots in a recorded subdivision plat prior to annexation or prior to October 5, 1964; and was described on a recorded instrument prior to annexation or prior to October 5, 1964 and the director, after having consulted with the director of public works and all applicable utility providers, has certified that no additional easements or right-of-way dedications relating to the property are needed.

When a portion of a tract of land is acquired for highway or other public purposes, such division of ownership shall not affect the remainder of the tract in meeting the definition of a lot so long as the original tract met the definition of a lot under one (1) of the above provisions.

For purposes of this definition, the term "recorded" means recorded in the office of the Boone County Recorder of Deeds.

Lot, corner. A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the director of public works.

Lot depth. The median horizontal distance from the front property line to the rear line.

Lot, front of. The front of a lot shall be considered to be that part of a lot which abuts and has access to a public street, except for corner lots.

Lot, interior. A lot whose side lines do not abut any streets.

Lot line, front. The boundary between a lot and the street on which it fronts.

Lot line, rear. The boundary line which is opposite and most distant from the front property line or that boundary line of an irregularly shaped lot that the director of public works shall determine to be the rear lot line.

Lot line, side. Any lot boundary line not a front or rear line.

Lot lines. The lines bounding a lot as defined herein.

Lot, through. An interior lot having frontage on two (2) streets.

Lot width. The mean horizontal distance between side lines measured at right angles to the depth at the building line.

Manufactured home. A factory-built structure which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site contains three hundred twenty (320) or more square feet, which is equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and designed to be used as a single-family dwelling unit with or without a permanent foundation.

The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner.

The term "mobile home" shall be included in, and shall be synonymous with, the term "manufactured home."

Manufactured home park. A parcel of land which has been planned and improved for the placement of manufactured homes for nontransient use.

Manufactured home space. A parcel of land for the placement of a single manufactured home and the exclusive use of its occupants.

Manufactured home stand. Improvement on a manufactured home lot constructed for the purpose of

providing a structural base for the manufactured home.

Medical laboratory. A facility primarily engaged in providing analytic or diagnostic services on human specimens, including body fluid or body tissue, or performing diagnostic imaging, to government agencies, to the medical, dental, or other health service professions or to the patient; includes the fabrication of dentures, eyeglasses and contact lenses, and prosthetic devices.

Motel. One (1) or more buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit.

Nonconforming use, building, or yard. A use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated.

Overlay district. A district which acts in conjunction with the underlying zoning district or districts.

Parking space. A parcel of land or floor space as specified in section 29-30, off-street parking and loading regulations, containing a minimum area of eight and one-half (8 1/2) by eighteen (18) feet and designed for accommodating the temporary storage of a motor vehicle.

Place. An open, unoccupied space, a minimum of fifty (50) feet in width, other than a street or alley, permanently established or dedicated as the principal means of access to property abutting thereon.

Private club. An organized group of people not open to or intended for, or controlled by the public, or for the use of the public.

Research and development laboratory. A facility primarily engaged in conducting scientific research, experimental design, and prototype development of devices or products in the physical, engineering, or life sciences (excluding laboratory testing that qualifies under the definition of medical laboratory), such as agriculture, electronics, biology, biotechnology, chemistry, geology, medicine, pharmacy, veterinary, and other allied subjects; does not include the manufacturing, servicing or sale of consumer products.

Residential care facility. A residential institution, whether operated for profit or not, which provides personal care, custody, or treatment for five (5) or more individuals not related to the operator who, for reasons of illness, mental retardation, advanced age, or physical handicaps, are unable to care for themselves.

Scenic roadway. A street designated by the city council as a scenic roadway following the procedure outlined in section 29-21.2(e).

Scenic roadway area. The area of land lying within two hundred (200) feet and on each side of the right-of-way of a scenic roadway.

Self service storage facility. A building, or group of buildings, with controlled access containing separate storage spaces or compartmentalized units of varying sizes, with no unit exceeding six hundred (600) square feet, that are rented or leased to tenants, with no tenant leasing more than two thousand (2,000) square feet, for the storage of goods.

Solar energy system. A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

Stormwater management plan. A detailed design in conformance with the standards on file with the public works department signed and sealed by an engineer licensed to practice in the State of Missouri.

Street. A public thoroughfare or place which affords principal means of access to property abutting thereon.

Structure. Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls. (As used for the floodplain overlay district, a walled and roofed structure including a gas or liquid storage tank, that is principally above the ground.)

Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Substantial improvement. Any repair, reconstruction, or other change of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure either:

- (1) Before the improvement is started; or
- (2) If the structure has been damaged and was being restored, before the damage occurred.

In the case of a nonconforming structure, restoration of damage is considered a "substantial improvement" which the cost equals or exceeds fifty (50) per cent of the structure's market value. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations.

Temporary shelter. A residential facility that primarily provides temporary housing with accommodations for five (5) or more people for little or no financial compensation and that is operated in a manner that provides staff supervision and other support services. The length of time that such persons may stay at the shelter may be indefinite but is not intended to be permanent.

Testing laboratory. A facility primarily engaged in performing physical, chemical, and other analytical testing services, such as electrical, environmental, geotechnical, industrial, mechanical, radiation, thermal, vibration or other similar testing.

Travel trailer.

- (1) A vehicular, portable structure built on a chassis and designed for temporary occupancy for travel, recreational or vacation use; and when factory-equipped for the road, being of any weight,

provided its overall length is less than forty (40) feet or is less than three hundred twenty (320) square feet in floor area;

- (2) A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
- (3) A portable, temporary dwelling to be used for travel, recreational and vacation purposes, constructed as an integral part of a self-propelling vehicle; or
- (4) A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Travel trailer park. A parcel of land which has been improved for the placement of travel trailers.

Travel trailer space. A parcel of land for the placement of a single travel trailer.

Variance. A modification or variation of the provisions of this chapter, as applied to a specific piece of property, as distinct from rezoning.

Watercourse. A natural running stream of water flowing in a particular direction and having a definite channel with a bed or banks. A watercourse may be intermittent, but shall be considered more than mere surface drainage over the entire fall of a tract of land.

Yard. An open space between a building and the adjoining lot line.

(Code 1964, § 19.110; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11373, § 2, 2-16-87; Ord. No. 11398, § 1, 3-2-87; Ord. No. 11702, § 1, 12-7-87; Ord. No. 12856, § 1, 2-4-91; Ord. No. 13169, § 1, 11-18-91; Ord. No. 13526, § 1, 12-7-92; Ord. No. 13543, § 1, 2-21-92; Ord. No. 14334, § 1, 1-3-95; Ord. No. 14347, § 1, 1-17-95; Ord. No. 14363, § 1, 2-6-95; Ord. No. 14777, § 1, 3-4-96; Ord. No. 15180, § 1, 3-17-97; Ord. No. 15828, § 2, 12-7-98; Ord. No. 16816, § 1, 3-5-01; Ord. No. 17116, § 1, 12-17-01; Ord. No. 17667, § 1, 5-5-03; Ord. No. 17860, § 2, 10-6-03; Ord. No. 18841, § 1, 1-3-06; Ord. No. 19748, § 1, 12-3-07; Ord. No. 19816, § 1, 2-18-08; Ord. No. 20237, § 1, 4-20-09)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 29-3. Districts established.

For the purpose of regulating and restricting the erection, construction, reconstruction, alteration, repair, or use of buildings or land, and regulating and restricting the location of trades and industries and the location and design of buildings for specific purposes, and to regulate and limit the height and bulk of buildings, and the area of yards and other open spaces, and to regulate and limit the density of population, the city is hereby divided into districts as follows:

<i>Agricultural:</i>	
District A-1,	Agricultural District
<i>Residential:</i>	
District R-1,	One-Family Dwelling District
District R-2,	Two-Family Dwelling District

District R-3,	Medium Density Multiple-Family Dwelling District
District R-4,	High Density Multiple-Family Dwelling District
District RMH,	Residential Manufactured Home District
District PUD,	Planned Unit Development District
<i>Commercial and Office:</i>	
District O-1,	Office District
District O-2,	Special Office District
District O-P,	Planned Office District
District C-1,	Intermediate Business District
District C-2,	Central Business District
District C-3,	General Business District
District C-P,	Planned Business District
<i>Industrial:</i>	
District M-R,	Research, Development and Office Park District
District M-C,	Controlled Industrial District
District M-I,	General Industrial District
<i>Special or overlay districts, supplemental to underlying zoning:</i>	
District F-1,	Floodplain District
District FW,	Floodway Overlay District
District FF,	Flood Fringe Overlay District
District FD,	Flood Drainage Overlay District
District M-U,	Underground Space

(Code 1964, § 19.120; Ord. No. 9958, § 1, 10-3-83; Ord. No. 10847, § 1, 1-6-86); Ord. No. 11702, § 1, 12-7-87; Ord. No. 14334, § 1, 1-3-95)

Sec. 29-4. District map adopted.

(a) The boundaries of the districts as enumerated in section 29-3 of this chapter are hereby established and adopted as shown on the map which is hereby designated as the "Zoning District Map," and which map and all the notations, references and information shown thereon are hereby made as much a part of this chapter as if the same were set forth in full herein. It shall be the duty of the director of public works to keep on file in his office an authentic copy of such district map, and duplicate copies thereof, showing all the changes, amendments or additions thereto. When definite distances in feet are not shown on the zoning district map, the district boundaries on the zoning district map are intended to be along the existing street, alley or plotted lines, or extension of the same, and if the exact location of such line is not clear, it shall be determined by the director of public works, due consideration being given to location as indicated by the scale of the zoning district map.

(b) When streets or alleys on the ground differ from the streets or alleys as shown on the zoning district map, the director of public works may apply the district designations on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of this chapter.

(c) Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the centerline of any such street or alley.

(d) Except as provided in subsection (f), all territory which may hereafter be annexed to the city shall automatically be placed in zoning district R-1 for a period of not more than six (6) months.

(e) During the six-month period referred to in (d) herein, the commission shall proceed to recommend permanent zoning to the council in the manner prescribed by law, within three (3) months, and the council shall act on the recommendations in the normal manner in the remaining three (3) months, causing permanent zoning districts to be created and having the zoning district map changed to incorporate the permanent district lines.

(f) A petitioner for annexation may request that the petitioner's property in the area proposed to be annexed be placed in one or more specified zoning districts upon annexation. Except as modified by this section, the procedures set forth in section 29-34(a) and (c) shall apply to such zoning requests. When a request for zoning has been made under this subsection, the ordinance annexing the area shall place the area in one or more zoning districts. If the proposed annexation ordinance would place any property in the area to be annexed in a district other than that requested, the petition for annexation may be withdrawn at any time before passage of the ordinance.

(Code 1964, § 19.130; Ord. No. 9958, § 1, 10-3-83; Ord. No. 14234, § 1, 10-10-94; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-5. Compliance.

Except as hereafter provided:

- (1) No buildings shall be erected, moved, constructed, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than that which is permitted in the district in which such building or land is situated.
- (2) No building shall be erected, moved, extended, enlarged, reconstructed or structurally altered which violates the height, yard or area regulations established in this chapter for the district in which such building is situated.
- (3) No lot area shall be reduced so that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population or dwelling units be increased in any manner, except in conformity with the area regulations established in this chapter.
- (4) No development located within known flood hazard areas of the city shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(Code 1964, § 19.140; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-6. District R-1, one-family dwelling district.

- (a) *Purpose.* This district is intended to promote and preserve urban one-family residential

development. The principal land use is a one-family dwelling. Some public recreational uses, religious facilities, educational facilities, and uses incidental or accessory to dwellings are included.

(b) *Permitted uses.* In district R-1, no building or land shall be used, and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions, see section 29-28, Non-conforming Uses; and section 29-31, Board of Adjustment):

Agriculture, nurseries and truck gardens, each of which shall be limited to the propagation and cultivation of plants, provided no retail or wholesale business shall be conducted upon the premises, and no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer renovation is conducted thereon.

Churches, mosques and synagogues.

Dwellings, one-family.

Family day care homes, day care centers, preschool centers, nursery schools, child play care centers, child education centers, child experiment stations, or child development institutions, under the following regulations:

- (1) That not more than ten (10) children not related to the operator shall be kept. Up to three (3) additional children over the age of two (2) may be kept for up to two (2) hours per day. Up to three (3) additional school-age children may be kept on unscheduled days of school closings; provided that at no time shall more than thirteen (13) children not related to the operator be kept.
- (2) That such uses shall be permitted only if the rear yard in which the home would operate meets the minimum requirements of this section and is enclosed with a suitable fence.
- (3) That such uses are located in the dwelling used by the operator as his or her private residence.
- (4) That the operator shall not employ more than one full-time (forty (40) hours per week) assistant who does not reside on the premises or more than two (2) half-time (twenty (20) hours per week) assistants who do not reside on the premises.
- (5) That no advertising or identification sign shall be placed on the premises.
- (6) That all city health and fire regulations are met.
- (7) That all applicable state regulations are met.

Garage sales, under the following restrictions:

- (1) That a special permit is obtained from the city business license inspector according to section 13-20 of this Code.
- (2) That no more than two (2) garage sales per dwelling unit may be held on any lot in a residential

zoning district in any calendar year. For any use other than a dwelling unit on a lot in a residential district, there shall be no more than two (2) such sales per calendar year by or on behalf of each separate group or organization which forms a part of the allowable zoning purpose of such other use (for example, a school band or athletic team). One additional sale per year shall be allowed under each of the following circumstances:

- a. The sale occurs as a result of the resident of that lot moving from that lot to another dwelling; and
 - b. The sale is conducted by or through the estate or legal guardian of a resident of that lot.
- (3) Garage sales may be held only from 8:00 a.m. to sundown on weekdays and Saturdays, and from 9:00 a.m. to sundown on Sundays and holidays. No sale shall extend for more than two (2) consecutive days or any portion thereof.

Golf courses and golf clubhouses appurtenant thereto (except miniature golf courses, driving ranges, and other activities operated as a business).

A hobby may be pursued as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation, provided that the articles produced or constructed are not sold in the ordinary course of business either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

Group homes for foster care.

Group homes for mentally or physically handicapped, under the following restrictions:

- (1) Any such group home shall not be located within a one thousand (1,000) foot radius of another such group home in any specific single-family neighborhood.
- (2) Before operating such group home, the owner or operator of the home shall register with the Public Works Department and shall sign an affidavit certifying that the home will be in compliance with subsection (1) above.
- (3) The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards.

Home occupations which are compatible with the residential character of the neighborhood will be permitted, however, in order to promote peace, quiet and freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas all home occupations must meet the following restrictions:

- (1) A home occupation shall be incidental to the use of a dwelling unit for residential uses. No person other than a person residing at the dwelling unit shall be directly involved with or work in the home occupation. If the home occupation employs persons to work at other locations, the dwelling unit shall not be used as an assembly point for any employees who may work at sites

outside of the dwelling.

- (2) No alteration of the residential appearance of the premises shall be made, including the creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the home occupation.
- (3) No more than twenty (20) per cent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A garage shall not be used for a home occupation if such use has the effect of eliminating required parking.
- (4) The home occupation shall be conducted entirely within the dwelling unit or garage and no stock in trade shall be displayed or visible outside, or stored outside of any building, nor shall any raw materials, tools or appliances or waste products be stored outside of any building.
- (5) Signs may be used for identification or advertisement of the home occupation but such signs must be attached flat to the structure, may not be larger than one square foot and may not be illuminated.
- (6) No power other than electric shall be used and no single machine shall draw more than one-half horsepower and not more than one horsepower total shall be used,
- (7) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that orders previously made by telephone or at a sales party may be filled on the premises; that is, direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.
- (8) The use shall not generate traffic in volumes greater than would normally be expected in a residential neighborhood. For purposes of this section, the normal volume of traffic generated by a single-family dwelling shall be defined as twelve vehicle trips to and/or from the dwelling unit per twenty-four-hour period. The use shall not use commercial or business vehicles to deliver finished products from the dwelling unit. All parking necessarily generated by the use shall be off the street in accordance with section 29-30 of this chapter.
- (9) The use shall not produce noise, obnoxious odors, vibrations, glare, fumes or electrical interference detectable to normal sensory perception outside the structure.
- (10) No toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials may be used or stored on the site.
- (11) All persons desiring to have a home occupation must first present appropriate plans to the building regulations supervisor detailing how the dwelling will be used or altered to accommodate the use. Thereafter, whenever any permit or license is to be renewed, the dwelling may be inspected to determine how it has been altered to accommodate the use.

Abatement. Any home occupation which does not comply with the above restrictions shall be brought into compliance within thirty (30) days of the notice of the deficiency. It shall be

unlawful to fail to comply with the above restrictions after notice.

Public police and fire stations.

Public administrative buildings.

Public libraries.

Public museums.

Public parks and playgrounds, including public recreation or service buildings within such parks.

Public schools, elementary and secondary, private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning including gymnasiums, stadiums, and dormitories if located on the campus. Before any building or structure shall be hereafter constructed on a campus of an institution of higher learning, a development plan of the campus shall be submitted to the commission, and after a public hearing, such commission shall report its recommendations to the council. If the council shall approve the development plan by ordinance, such plan shall be filed with the permanent records of the city. The development plan shall show existing and future buildings, parking areas, streets and drives, athletic facilities, and other features which may affect surrounding property or the public interest. The director of public works shall determine, or cause to be determined, that any building or structure hereafter constructed substantially conforms to the approved development plan prior to the issuance of a building permit. If at any time a major deviation from the approved development plan is proposed, said plan shall be amended and submitted to the commission and the council for approval in the same manner as the original plan.

Publicly owned and operated community buildings.

Temporary real estate sales office, located on property being sold and limited to a period of sale, but not exceeding two (2) years without special permit from the board.

(c) *Conditional Uses:* The following uses shall be permitted in district R-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Buildings and premises for public utility services or public service corporations, whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Cemeteries, which may include mausoleums thereon, for humans.

Home occupations, subject to the criteria listed for home occupations in subsection (b); except that the home occupation may be carried out by occupants of the dwelling unit as well as by one full-time forty-hour individual or two one-half time (twenty hours each) individuals who do not reside in the dwelling unit. In addition, the Board may allow that not more than forty (40) per cent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A conditional use permit for a home occupation shall expire three (3) years from the date of approval, after which a new conditional use permit may be requested.

Private lakes.

Private outdoor swim and tennis clubs.

Private stables.

Reservoirs, wells, water towers, filter beds, water supply plants, or water pumping stations.

Reuse of places of public assembly: Church plants, mosques and synagogues or any property used primarily as a place of public assembly as a permitted use in the R-1 district may be reused as a place of public assembly subject to such restrictions as the board may impose, and provided that:

- (1) The building or structure was constructed and used primarily as a place of public assembly;
- (2) The reuse shall be primarily as a place of public assembly, provided that uses which are ordinarily accessory uses to a place of public assembly may be permitted;
- (3) The reuse shall be for not-for-profit and for noncommercial purposes by a charitable, philanthropic, eleemosynary, or other organization which could be organized as a not-for-profit corporation under state law; and
- (4) The reuse shall not constitute a more burdensome use nor impose a greater adverse impact on the neighborhood than the existing or prior use, and in determining such, the board shall consider:
 - (a) Traffic;
 - (b) Congestion;
 - (c) Parking;
 - (d) Storm drainage; and
 - (e) Neighborhood impact.

(d) *Height and Area Regulations.* In district R-1 any building, portion of a building, or dwelling hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions, see section 29-26 Height and Area Exceptions):

- (1) *Lot size.* Not less than seven thousand (7,000) square feet, provided that where a lot has less area than herein required in separate ownership at the time of the passage of Ordinance No. 9958, but not less than five thousand (5,000) square feet, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than fifteen thousand (15,000) square feet per family.

- (2) *Lot width.* Not less than sixty (60) feet at the building line, provided, that where a lot has less width than herein required, in separate ownership at the time of the passage of Ordinance No. 9958, this regulation will not prohibit the erection of a one-family dwelling.
- (3) *Yards:*
- a. Front--Not less than twenty-five (25) feet in depth, except as provided in section 29-27.
 - b. Rear--Thirty (30) per cent of lot depth, or twenty-five (25) feet, whichever is less.
 - c. Side--Not less than six (6) feet in width each. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side street of not less than fifty (50) per cent of the front yard established for buildings on interior lots on the side street, provided this regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record at the time of passage of Ordinance No. 9958 to less than sixty-five (65) per cent of the total width of such lot, and provided further that the minimum side yard regulations in this section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street, provided this regulation shall not reduce the buildable width to less than twenty (20) feet.
- (4) *Building height.* Not over thirty-five (35) feet except as provided in section 29-26.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign or other structure or no plant growth of a type which would interfere with traffic visibility across the corner, shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Floor area.* Not less than six hundred fifty (650) square feet excluding basements, porches and garages.
- (7) *Parking.* (See section 29-30 Off-Street Parking and Loading.)
(Code 1964, § 19.150; Ord. No. 9958, § 1, 10-3-83; Ord. No. 12211, § 1, 4-17-89; Ord. No. 13169, § 1, 11-18-91; Ord. No. 14940, § 1, 8-19-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 15187, § 1, 4-7-97)

Sec. 29-7. District R-2, two-family dwelling district.

- (a) *Purpose.* This district is intended to provide for one-and two-family residential developments of various types and mixes. The principal land use is one-family or duplex residential dwellings.
- (b) *Permitted uses.* In district R-2, no building or land shall be used, and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment):

All permitted uses in district R-1.

Dwellings, two-family.

(c) *Conditional uses.* The following uses shall be permitted in district R-2 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Buildings and premises for public utility services or public service corporations whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Cemeteries, which may include mausoleums thereon, for humans.

Family day care homes, day care centers, preschool centers, nursery schools, child play care centers, child education centers, child experiment stations or child development institutions.

Home occupations, subject to the criteria listed for home occupations in section 29-6(b); except that the home occupation may be carried out by occupants of the dwelling unit as well as by one full-time forty-hour individual or two one-half time (twenty hours each) individuals who do not reside in the dwelling unit. In addition, the Board may allow that not more than forty (40) per cent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A conditional use permit for a home occupation shall expire three (3) years from the date of approval, after which a new conditional use permit may be requested.

Private lakes.

Private outdoor swim and tennis clubs.

Private stables.

Reservoirs, wells, water towers, filter beds, water supply plants or water pumping stations.

Reuse of places of public assembly, with the same conditions and restrictions as set forth in section 29-6(c), Conditional Uses.

(d) *Height and area regulations.* In district R-2 any building, portion of a building, or dwelling hereafter erected, constructed, reconstructed, or altered shall be subject to the following regulations (for exceptions see section 20-26, Height and Area Exceptions):

(1) *Lot size:*

a. One-family--Not less than five thousand (5,000) square feet.

b. Two-family--Not less than ten thousand (10,000) square feet.

Provided, that where a public or community sewer is not available and in use for disposal of all sanitary sewage, each lot shall provide not less than fifteen thousand (15,000) square feet per family.

- (2) *Lot width.* Not less than sixty (60) feet at the building line, provided that where a lot has less width than herein required, in separate ownership at the time of the passage of Ordinance No. 9958, this regulation will not prohibit the erection of a one-family dwelling.
- (3) *Yards:*
- a. Front--Not less than twenty-five (25) feet in depth, except as provided in section 29-26.
 - b. Rear--Twenty-five (25) per cent of lot depth, or twenty-five (25) feet, whichever is less.
 - c. Side--Not less than six (6) feet in width each. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side street of not less than fifty (50) per cent of the front yard established for buildings on interior lots on the side street, provided this regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record at the time of passage of Ordinance No. 9958, to less than sixty-five (65) per cent of the total width of such lot, and provided further, that the minimum side yard regulations in this section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street, provided this regulation shall not reduce the buildable width to less than twenty (20) feet.
- (4) *Building height.* Not over thirty-five (35) feet except as provided in section 29-26.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner, shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Floor area:*
- a. One-family--Not less than six hundred fifty (650) square feet excluding basements, porches and garages.
 - b. Two-family--Not less than five hundred (500) square feet per dwelling unit excluding basements, porches and garages.
- (7) *Parking.* (See section 29-30, Off-Street Parking and Loading.)
(Code 1964, § 19.151; Ord. No. 9958, § 1, 10-3-83; Ord. No. 14940, § 1, 8-19-96; Ord. No. 15673, § 1, 7-20-98)

Sec. 29-8. District R-3, medium density multiple-family dwelling district.

(a) *Purpose.* This district is intended to provide for medium density multiple-family residential development. It may include a range of residential uses from one-family to fraternity and sorority houses. The principal land use is a residential apartment-type dwelling.

(b) *Permitted Uses.* In district R-3, no building or land shall be used and no building shall be hereafter erected, constructed, reconstructed, or altered, except for one or more of the following uses (For exceptions see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment):

Adult day care home.

All permitted uses in district R-2.

Apartment houses.

Boardinghouses or lodging houses.

Fraternity or sorority houses and dormitories.

Family day care homes, day care centers, pre-school centers, nursery school, child play care centers, child education centers, child experiment stations or child development institutions.

Group care homes for mentally retarded children.

(c) *Conditional Uses.* The following uses shall be permitted in district R-3 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Bed and breakfast establishment, subject to the following additional criteria:

- (1) That not more than five (5) guest rooms shall be allowed.
- (2) That in addition to meeting all parking requirements of section 29-30, there shall be one off-street parking space provided for each guest room.
- (3) That there shall be no individual room cooking facilities used for the bed and breakfast stay.
- (4) That the establishment shall be owner-occupied and managed.
- (5) That the establishment shall comply with all applicable adopted city fire and building codes and shall be inspected for such compliance by the protective inspection division of the city public works department prior to an occupancy permit being granted.
- (6) That only one (1) wall-mounted sign, not exceeding eight (8) square feet in size, shall be allowed.
- (7) That meals may be served only to residents and overnight guests.

Buildings and premises for public utility services or public service corporations, whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Business, professional and governmental offices, subject to the following conditions:

- (1) The office shall be located only in an institutional setting such as on college, university or hospital property.
- (2) The office shall be located on a collector, arterial or local nonresidential street.
- (3) The conditional use permit shall be valid for a period not to exceed two (2) years. Renewal of the conditional use permit shall be treated as a new request for a conditional use permit.

Cemeteries, which may include mausoleums thereon, for humans.

Commercial uses, ancillary. Ancillary commercial uses, whether for-profit or not-for-profit, which are accessory and subordinate in floor area to a permitted use, and are primarily an amenity or service to the occupants and users of the permitted use, subject to the following:

- (1) The commercial use, alone or in combination with other small-scale commercial uses, shall not exceed the lesser of twenty-five (25) percent of the total floor area of the building or five hundred (500) square feet. Where the proposed location of the conditional use is within a unified development of multiple buildings under single ownership and control, or a single building totaling greater than fifty thousand (50,000) square feet, the board of adjustment may consider a larger space for the ancillary commercial use provided it complies with the other standards of this section.
- (2) There shall be no outdoor advertising pertaining to the ancillary commercial use other than a single wall-mounted nameplate not to exceed four (4) square feet of area.
- (3) The commercial use shall not involve the sale of age-restricted products such as alcohol, tobacco and firearms.
- (4) The commercial use shall not generate noise or traffic in excess of the levels expected if the entire premises were used for permitted uses.
- (5) Hours of operation shall be limited to not earlier than 6:00 a.m. nor later than 10:00 p.m. daily.
- (6) There shall be no additional parking required for the ancillary commercial use.

Counseling centers operated by charitable or not-for-profit organizations; excluding any use connected with penal or correctional institutions.

Halfway houses for not more than eight (8) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders.

Home occupations, subject to the criteria listed for home occupations in section 29-6(b); except that the home occupation may be carried out by occupants of the dwelling unit as well as by one (1) full-time

forty-hour individual or two (2) one-half (1/2) time (twenty (20) hours each) individuals who do not reside in the dwelling unit. In addition, the board may allow that not more than forty (40) percent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A conditional use permit for a home occupation shall expire three (3) years from the date of approval, after which a new conditional use permit may be requested.

Private lakes.

Private outdoor swim and tennis clubs.

Private stables.

Reservoirs, wells, water towers, filter beds, water supply plants, or water pumping stations.

Reuse of places of public assembly with the same conditions and restrictions as set forth in section 29-6.

Temporary shelter, subject to the following:

- (1) An application for a conditional use permit for a temporary shelter shall include information about the size and design of the structure, population groups served, length of stay permitted, maximum design capacity and support services provided. These items shall be used to determine if the facility is in conformance with the character of the adjacent area.
- (2) A temporary shelter shall not be located within one thousand (1,000) feet of another temporary shelter.
- (3) The minimum lot area for a temporary shelter shall be seven thousand five hundred (7,500) square feet. If a proposed temporary shelter structure is larger than two thousand five hundred (2,500) square feet of gross floor area there shall be provided an additional one thousand five hundred (1,500) square feet of lot area for each additional five hundred (500) square feet of gross floor area within the structure.
- (4) The shelter shall submit a semi-annual report to the protective inspection division of the public works department, stating maximum monthly occupancy level and support services provided by the shelter.

(d) *Height and Area Regulations.* In district R-3 any building, portion of a building, or dwelling hereafter erected, constructed, reconstructed, or altered shall be subject to the following regulations (for exceptions, see section 29-26, Height and Area Exceptions.):

- (1) *Lot size.* Not less than seven thousand five hundred (7,500) square feet and at least two thousand five hundred (2,500) square feet per family, provided that where a lot has less area than herein required in single ownership but not less than five thousand (5,000) square feet at the time of the passage of Ordinance No. 9958, this regulation shall not prohibit the erection of a one-family dwelling.

- (2) *Lot width.* Not less than sixty (60) feet at the building line, provided that where a lot has less width than herein required, in separate ownership at the time of the passage of Ordinance No. 9958, this regulation will not prohibit the erection of a one-family dwelling.
- (3) *Yards:*
 - a. Front--Not less than twenty-five (25) feet.
 - b. Rear--Not less than twenty-five (25) feet.
 - c. Side--Not less than ten (10) feet, provided at least fifteen (15) feet be provided on the street side of a corner lot.
- (4) *Building height.* Not over thirty-five (35) feet.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Floor area:*
 - a. One-family--Not less than six hundred fifty (650) square feet excluding basements, porches and garages.
 - b. Two-family--Not less than five hundred (500) square feet per dwelling unit excluding basements, porches and garages.
 - c. Multiple-family--Not less than four hundred (400) square feet per dwelling unit, excluding basements, porches and garages.
- (7) *Parking.* (See section 29-30, Off-Street Parking and Loading.)
- (8) *Access to buildings in an apartment complex.* In apartment complexes there shall be a minimum distance between all buildings of twelve (12) feet. An access driveway for ingress and egress with a permanent dust-free paved surface shall be provided for all apartment complexes of thirty-six (36) units or more. Such driveway shall be a minimum of sixteen (16) feet wide. No parking shall be allowed in the driveway. The driveway and all buildings shall be located in such a manner as to provide access to all buildings by emergency vehicles.

(Code 1964, § 19.152; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87; Ord. No. 13526, § 1, 12-7-92; Ord. No. 14777, § 1, 3-4-96; Ord. No. 14940, § 1, 8-19-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 15843, § 1, 12-21-98; Ord. No. 16816, § 1, 3-5-01; Ord. No. 19438, § 1, 3-5-07)

Sec. 29-9. District R-4, high density multiple-family dwelling district.

- (a) *Purpose.* This district is intended to provide for high density multiple-family residential

development. It is primarily for highrise apartments, but allows for all types of residential usage.

(b) *Permitted Uses.* In district R-4, no building or land shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (For exceptions, see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment):

All permitted uses in district R-3.

Bed and breakfast establishment subject to the same criteria as stated in section 29-8(c).

Counseling centers operated by charitable or not-for-profit organizations; excluding any use connected with penal or correctional institutions.

High density apartment dwellings.

Philanthropic or eleemosynary uses primarily of a residential nature.

(c) *Conditional Uses.* The following uses shall be permitted in district R-4 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Buildings and premises for public utility services or public service corporations, whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Cemeteries, which may include mausoleums thereon, for humans.

Commercial uses, ancillary. Ancillary commercial uses, whether for-profit or not-for-profit, which are accessory and subordinate in floor area to a permitted use, and are primarily an amenity or service to the occupants and users of the permitted use, subject to the following:

- (1) The commercial use, alone or in combination with other small-scale commercial uses, shall not exceed the lesser of twenty-five (25) percent of the total floor area of the building or five hundred (500) square feet. Where the proposed location of the conditional use is within a unified development of multiple buildings under single ownership and control, or a single building totaling greater than fifty thousand (50,000) square feet, the board of adjustment may consider a larger space for the ancillary commercial use provided it complies with the other standards of this section.
- (2) There shall be no outdoor advertising pertaining to the ancillary commercial use other than a single wall-mounted nameplate not to exceed four (4) square feet of area.
- (3) The commercial use shall not involve the sale of age-restricted products such as alcohol, tobacco and firearms.
- (4) The commercial use shall not generate noise or traffic in excess of the levels expected if the entire premises were used for permitted uses.

- (5) Hours of operation shall be limited to not earlier than 6:00 a.m. nor later than 10:00 p.m. daily.
- (6) There shall be no additional parking required for the ancillary commercial use.

Halfway houses for not more than eight (8) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders.

Private lakes.

Private outdoor swim and tennis clubs.

Private stables.

Reservoirs, wells, water towers, filter beds, water supply plants or water pumping stations.

Reuse of places of public assembly with the same conditions and restrictions as set forth in section 29-6(c), Conditional Uses.

Temporary shelter, subject to the following:

- (1) An application for a conditional use permit for a temporary shelter shall include information about the size and design of the structure, population groups served, length of stay permitted, maximum design capacity and support services provided. These items shall be used to determine if the facility is in conformance with the character of the adjacent area.
- (2) A temporary shelter shall not be located within one thousand (1,000) feet of another temporary shelter.
- (3) The minimum lot area for a temporary shelter shall be seven thousand five hundred (7,500) square feet. If a proposed temporary shelter structure is larger than two thousand five hundred (2,500) square feet of gross floor area there shall be provided an additional one thousand five hundred (1,500) square feet of lot area for each additional five hundred (500) square feet of gross floor area within the structure.
- (4) The shelter shall submit a semi-annual report to the protective inspection division of the public works department, stating maximum monthly occupancy level and support services provided by the shelter.

(d) *Height and Area Regulations.* In district R-4 any building, portion of a building, or dwelling hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* Not less than seven thousand (7,000) square feet and at least one thousand five hundred (1,500) square feet per family, provided that where a lot has less area than herein required in

single ownership, but not less than five thousand (5,000) square feet at the time of passage of Ordinance No. 9958, this regulation shall not prohibit the erection of a one-family dwelling, and provided that apartment houses hereafter erected to exceed forty-five (45) feet in height and containing a passenger elevator shall provide not less than three hundred fifty (350) square feet per family unit, provided the minimum lot area requirement is met, and provided that dormitories hereafter erected to exceed forty-five (45) feet in height and containing a passenger elevator shall provide not less than one hundred seventy-five (175) square feet per family unit, provided the minimum lot area requirement is met.

- (2) *Lot width.* Not less than sixty (60) feet at the building line, provided that where a lot has less width than herein required, in separate ownership at the time of the passage of Ordinance No. 9958, this regulation will not prohibit the erection of a one-family dwelling.
- (3) *Yards:*
 - a. Front--Not less than twenty-five (25) feet in depth, except as provided in section 29-26.
 - b. Rear--Twenty-five (25) percent of lot depth, or twenty-five (25) feet, whichever is less.
 - c. Side--Not less than ten (10) feet in width each, provided there be at least fifteen (15) feet on the street side of a corner lot.
- (4) *Building height.* Not over forty-five (45) feet unless it contains a passenger elevator, except as provided in section 29-26.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Floor area:*
 - a. One-family--Not less than six hundred fifty (650) square feet excluding basements, porches and garages.
 - b. Two-family--Not less than five hundred (500) square feet per dwelling unit excluding basements, porches and garages.
 - c. Multiple-family--Not less than four hundred (400) square feet per dwelling unit excluding basements, porches and garages.

- (7) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.153; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87; Ord. No. 13526, § 1, 12-7-92; Ord. No. 14777, § 1, 3-4-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 16816, § 1, 3-5-01; Ord. No. 19438, § 1, 3-5-07)

Sec. 29-10. District PUD, planned unit development.

(a) *Purpose.* The purpose of this district is to enable innovation and flexibility in design and to promote environmentally sound and efficient use of land. The major objectives of a planned unit development are:

- (1) To allow for a mixture of housing types and densities located in proximity to each other.
- (2) To provide for more usable and suitably-located common open space and amenities than would otherwise be provided under conventional land development standards.

(b) *Permitted Uses.* In district PUD, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered except for one or more of the uses allowed by the ordinance placing the property in district PUD (for exceptions, see section 29-28, Non-Conforming Uses; and section 29-31, Board of Adjustment) The commission shall recommend and the council, at the time of rezoning, shall designate the use or uses allowed for the applicant's property from the following uses:

One or more or all of the permitted uses in district R-1.

One or more or all of the permitted uses in district R-2.

One or more or all of the permitted uses in district R-3.

Bed and breakfast establishment, subject to the following criteria:

- a. That not more than five (5) guest rooms shall be allowed.
- b. That in addition to meeting all parking requirements of section 29-30, there shall be one off-street parking space provided for each guest room.
- c. That there shall be no individual room cooking facilities used for the bed and breakfast stay.
- d. That the establishment shall be owner-occupied and managed.
- e. That the establishment shall comply with all applicable adopted city fire and building codes and shall be inspected for such compliance by the protective inspection division of the city public works department prior to an occupancy permit being granted.
- f. That only one wall-mounted sign, not exceeding eight (8) square feet in size, shall be allowed.
- g. That meals may be served only to residents and overnight guests.

Dwelling, one-family attached.

Dwelling, villa, subject to the following design criteria:

- (1) Exterior wall materials. Seventy-five percent (75%) of the total net exterior wall area of each building elevation, excluding windows, gables, doors, and related trim, shall be brick, stone, cultured stone, stucco, architectural concrete panels, textured concrete block, fiber-cement siding, or other similar materials. Exterior walls shall be composed of no more than three (3) materials.
- (2) Roof design. Roofs shall be gable, hip, mansard, or gambrel style. Roofs shall have a minimum pitch of 5:12 (i.e., five (5) feet rise in twelve (12) feet of run). There shall be a minimum of two (2) roof breaks per dwelling unit (i.e., roofs that turn a corner or change elevation). Roof materials shall be high quality, durable materials such as, but not limited to wood shake shingles, clay or concrete tiles, and architectural grade shingles.
- (3) Setback variation. The front setback of each one-family attached structure shall be offset a minimum of four (4) feet from that of adjacent structures.
- (4) Elevation variation. Block frontages shall include at least three (3) distinct building elevation models. Homes of the same model shall not occur on adjacent or opposite lots.
- (5) Porches. All dwelling units shall have either a covered porch or a recessed entry. Covered porches shall be a minimum of fifty (50) square feet and five (5) feet deep. Recessed entries shall be a minimum of twenty (20) square feet and four (4) feet deep.
- (6) Garages. Garages shall not protrude more than five (5) feet past the front façade of the habitable portion of the dwelling.
- (7) Architectural elevation renderings for all models of buildings being proposed shall be submitted at the time of PUD development plan application, which specify the following:
 - a. Types of exterior wall materials to be used, and the amount (as a percentage of total wall area) of total exterior wall area that each material is proposed to cover, including all sides of the structure.
 - b. Roof pitch and material.
- (8) Exceptions. The city council may approve exceptions to the above design criteria when alternative design standards are proposed by the applicant, which would either meet or exceed those criteria listed above.

Private lakes.

Private outdoor swim and tennis clubs.

Private stables.

Private golf courses and country clubs. Facilities permitted under this use would be permitted to provide those types of services generally associated with such clubs to their members, including those otherwise permitted only in commercial districts.

Temporary shelter, subject to the following.

- (1) A zoning petition for a temporary shelter shall include information about the size and design of the structure, population groups served, length of stay permitted, maximum design capacity and support services provided. These items shall be used to determine if the facility is appropriate for the neighborhood.
- (2) A temporary shelter shall not be located within one thousand (1,000) feet of another temporary shelter.
- (3) The minimum lot area for a temporary shelter shall be seven thousand five hundred (7,500) square feet. If a proposed temporary shelter structure is larger than two thousand five hundred (2,500) square feet of gross floor area there shall be provided an additional one thousand (1,500) square feet of lot area for each additional five hundred (500) square feet of gross floor area within the structure.
- (4) The shelter shall submit a semi-annual report to the protective inspection division of the public works department stating maximum monthly occupancy level and support services provided by the shelter.

(c) *Conditional Uses.* The following uses shall be permitted in district PUD only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

- (1) Buildings and premises for public utility services or public service corporations whose buildings or uses the board deems reasonably necessary for public convenience or welfare.
- (2) Home occupations, subject to the criteria listed for home occupations in section 29-6(b), except that the home occupation may be carried out by the occupants of the dwelling unit as well as by one (1) full-time (forty (40) hour) individual or two (2) one-half time (twenty (20) hours each) individuals who do not reside in the dwelling unit and not more than forty (40) per cent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A conditional use permit for a home occupation shall expire three (3) years from the date of approval, after which a new conditional use permit may be requested.

(d) *Standards and Criteria.* The following standards and criteria shall apply to all PUD developments:

- (1) *Design characteristics.* The proposed PUD shall be designed to provide for the unified development of the area. The design may provide for one or more dwelling unit types, and may consist of individual lots, or it may have common building sites.
- (2) Open space or common land shall be an essential and major element of the plan.

- (3) *Establishment of PUD.* A PUD may be approved, provided that all the provisions of this section are complied with, but approval is not mandatory, and PUD is not a use of right.
- (4) *Density of development.* The maximum density shall be calculated on the land area that remains after deducting all perimeter street right-of-way requirements as determined by city street standards and the major roadway plan.

The actual density of the PUD shall be determined by conditions specifically applicable to the site such as topography, the character of the surrounding property, traffic movement, or adequacy of public services.

When zoning on property is changed to PUD, the zoning district map shall designate the property as PUD, followed by a number with up to one (1) decimal place (e.g. 5.5) which shall indicate the maximum allowable dwelling units per acre on that particular site.

- (5) *Building height.* Buildings shall not exceed forty-five (45) feet in height, except that the applicant may request or the commission may recommend and the council may approve a greater maximum building height.
- (6) *Lot size.* Lots shall not be less than two thousand five hundred (2,500) square feet for one-family detached dwellings, except that the applicant may request or the commission may recommend and the council may approve a smaller minimum lot size. No minimum lot size requirement for all other housing types.
- (7) *Yards.* There shall be a twenty-five (25) foot setback from all perimeter property lines of the PUD, except the setback from property lines other than street right-of-way shall be ten (10) feet for side yards and twenty (20) feet for rear yards when the PUD or portion thereof consists of one-family, one-family attached or two-family dwellings. The setback is intended to be a landscaped buffer; however, driveways (but not parking) are allowed. The applicant may request or the commission may recommend and the council may approve modifications in the width of or use of the setback when unique conditions warrant such modifications.

Other minimum setback requirements shall be as follows: front yard abutting a perimeter street--twenty-five (25) feet; front yard abutting an interior street--twenty (20) feet for a garage or carport facing the street and fifteen (15) feet for other portions of the building; interior side yard--five (5) feet; exterior side yard on the street side of a corner lot--fifteen (15) feet; interior common wall - zero (0) feet; zero lot line--zero (0) feet on one side and ten (10) feet on the other side; and rear yard--twenty (20) feet. There shall be no setback required from a common area as long as the common area is at least as wide as the required yard. There shall be one (1) additional foot of interior side yard setback required for each additional foot of height for buildings over forty-five (45) feet. The applicant may request or the commission may recommend and the council may approve lesser minimum setbacks.

- (8) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility

across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.

- (9) *Access.* The streets within the proposed development shall be public and within a public right-of-way, except private streets may be permitted under the following conditions:
- a. The streets shall be designed, constructed, and maintained according to any applicable minimum city standards for private streets;
 - b. The streets will serve two (2) or more lots or property in multiple ownership;
 - c. The private streets do not provide the only vehicular access to public streets from other property located outside the PUD;
 - d. The streets shall be located in designated common areas which shall be platted as a separate lot or lots;
 - e. A notation shall be written on the approved plan and recorded plat which reads: "All maintenance of the private streets shown on this plat shall be the responsibility of the homeowners association or abutting property owners. No private streets shall be dedicated to nor accepted by the city for maintenance until they have been improved to minimum city standards for public streets."; and
 - f. The street signs for private streets shall indicate "private street" so as to distinguish them from public streets. Sidewalks shall be required along private streets as they would be required for public streets, except no sidewalks shall be required on the side of a street without any dwellings or driveways.

Other driveways and pedestrian ways shall be adequate to serve the residents and visitors of the PUD.

- (10) *Parking.* The provisions of section 29-30, off-street parking and loading, shall apply, except the applicant may request or the commission may recommend and the council may approve a lesser parking requirement if, after considering the proposed use, the availability of other parking in the area (including parking on public streets) and other relevant factors, it is demonstrated that a lesser requirement is appropriate. The commission may recommend and the council may allow some of the required parking to be deferred. This shall be done by noting such parking spaces on the plan as "future parking if needed". The future parking may be placed within landscaped areas, as long as the landscaped areas are in excess of the minimum area required to be landscaped. The property owners shall establish additional parking spaces in the "future parking" area when directed to do so by the council.
- (11) *Homeowners association.* A homeowners association shall be established when needed, to improve, operate and maintain private common facilities, including but not limited to streets, drives, service areas, parking areas and recreation areas. Homeowners association documents shall be recorded after the final plat is recorded and prior to conveyance of title to any lot.

- (12) *Screening and landscaping.* For PUDs or portions thereof consisting of one-family detached dwellings on individual lots or one-family attached dwellings on individual lots (except as specified below), the provisions of section 29-25 shall not apply; however, this requirement shall be met by depicting the proposed landscaping on a "typical lot".

For all other PUDs or portions thereof and for PUDs or portions thereof consisting of one-family attached dwellings on individual lots which have side or rear property boundaries abutting collector or arterial street right-of-way, compliance with section 29-25 is required. The applicant may request or the commission may recommend and the council may approve modifications in the screening and landscaping requirements, such as openings in screening buffers for pedestrian walkways.

- (13) *Lighting.* The provisions of section 29-30(h)(5) shall apply.

(e) *Procedure for Establishing PUD Zoning.*

- (1) The first step in the approval process should be a concept review to discuss and document the proposal. The concept review is an informal discussion and review between the director of planning and development or his designee and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.
- (2) The second step shall be the submittal of a request for rezoning to PUD. Rezoning shall be done in accordance with section 29-34 of this chapter and shall be accompanied by a statement of intent. The statement of intent shall be a letter, signed by the applicant or his agent, containing the following information about the proposed PUD:
 - a. The uses proposed.
 - b. The type(s) of dwelling units proposed and any accessory buildings proposed.
 - c. The maximum number of dwelling units proposed and the development density.
 - d. The maximum building height proposed.
 - e. The total number of parking spaces proposed and the parking ratio per dwelling unit.
 - f. The minimum percentage of the entire site to be maintained in open space, shown by the per cent in landscaping and the per cent left in existing vegetation.
 - g. Any amenities proposed, such as swimming pools, golf courses, tennis courts, hiking trails or club houses.
 - h. A general description of the plan including minimum lot sizes, if applicable, minimum building setbacks from perimeter and interior streets, other property lines and minimum setbacks between buildings.

The commission and council may require other plans or data as they deem necessary to accompany the statement of intent. The statement of intent shall become part of the ordinance approving the PUD zoning and shall be binding upon the owners, their heirs and assigns until such time as the council shall release such limitations on the use of the subject property under the procedures provided herein. The statement of intent is intended to provide guidance for any future revisions to the PUD development plan.

- (3) The commission shall then hold a public hearing. After the public hearing, the commission shall forward its recommendation to the council.
- (4) The council shall approve, approve with conditions, or disapprove the PUD zoning request. An ordinance placing property in district PUD shall specify the uses allowed. Prior to a vote on an ordinance placing property in district PUD that contains conditions, the applicant shall be given an opportunity to:
 - a. Accept the conditions; or
 - b. Request a modification of the conditions; or
 - c. Request that the application be voted on without conditions; or
 - d. Request that the application be disapproved; or
 - e. Withdraw the application.
- (f) *Procedure for Review and Approval of a PUD Development Plan.*
- (1) After the rezoning to PUD, the applicant shall submit a PUD development plan, which is in conformance with the ordinance approving the PUD zoning, for a public hearing by the commission. The procedures for application, review and public hearing on a PUD development plan shall be the same as for the rezoning. After the public hearing, the commission shall forward the PUD development plan to the council with its recommendations. The council shall take action to approve, approve with conditions, or disapprove the plan.

As an option, the applicant may submit a PUD development plan along with the petition for rezoning to PUD and statement of intent, in order to abbreviate the approval process.

- (2) The PUD development plan submittal shall include the following:
 - a. Name of the PUD.
 - b. A north arrow, scale, small location map, and the size of the site to the nearest one-tenth (0.1) of an acre.
 - c. The names and addresses of the record owners of the land and their agents.

- d. The names of adjacent property owners of unsubdivided land and the names of adjacent subdivisions.
- e. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one-hundred-year floodplain, if applicable.
- f. The location and maximum height of all buildings. In the case of one-family units or one-family attached units on individual lots, this requirement can be met by use of building "envelopes" which show the portion of the lot within which structures may be located.
- g. The location and number of parking spaces, drives, walkways, and the parking ratio.
- h. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way, and recorded easements; and the proposed location, width, name and grade for any new street.
- i. The location of existing and proposed sanitary sewers, water mains, storm sewers and natural gas mains within or adjacent to the site.
- j. The types of dwelling units, other uses, and proposed density of development.
- k. The location and size of all areas to be conveyed, dedicated or reserved as common open space, public parks, pedestrian ways, recreational areas, school sites, and similar public or semipublic uses.
- l. The location and dimension of the perimeter setback and other building setbacks.
- m. Signature blocks for commission and council approvals on all exhibits considered part of the PUD development plan.
- n. A conceptual landscaping plan showing the areas to be landscaped or preserved, the general types of landscaping materials (trees, shrubs, lawn, etc.) proposed for each area, and the per cent of the total site to be landscaped or preserved. A landscaping plan (including any tree preservation areas) which complies with the requirements of section 29-25 and Chapter 12A may be submitted with the PUD development plan or at the time of application for a land disturbance or building permit.
- o. The phasing of structures, streets and amenities within the development.
- p. A conceptual stormwater management plan showing critical environmental areas such as streams, lakes, ponds, and wetlands; proposed stream buffer limits, if applicable; existing streets, utilities and drainage structures; proposed stormwater management facilities and structures; and the location, type and approximate size of any proposed on-site detention and specifying the design storms that will be met. A stormwater management plan which complies with city requirements, including Chapter 12A, may be submitted with the PUD

development plan or at the time of application for a land disturbance or building permit.

- (3) In addition to meeting the requirements stated in paragraph (2) above, the PUD development plan shall adhere to the objectives set forth in paragraph (a), Purpose, and paragraph (d), Standards and Criteria.
- (4) Approval of the PUD development plan shall be deemed as satisfying the requirements of the subdivision regulations for a preliminary plat, provided all those requirements have been met. Any variances to the subdivision regulations proposed as part of the PUD shall be clearly stated on the PUD development plan. Such variances shall be considered along with commission and council review of the plan.
- (5) No building permit shall be issued for any construction in the PUD until a final subdivision plat for the property on which permits are requested has been approved.
- (6) From and after five (5) years following the date of approval of the PUD development plan by the council, the plan shall become null and void, provided construction has not commenced on any portion of the PUD site.

Prior to expiration of the PUD development plan, the council may extend the time for a specified period. A request for a time extension must be made in the form of a letter signed by the property owner or his agent.

- (7) Minor changes to an approved PUD development plan may be authorized by the director of planning and development, but in no case shall the director be obligated to approve such changes. Such changes shall not constitute a substantial deviation from the approved PUD development plan.

In determining whether or not the change is a substantial deviation from the approved PUD development plan, the director shall use, but is not limited to, the following criteria:

- a. Does the revision comply with the original statement of intent?
- b. Is the project density increased in total or in areas of the PUD?
- c. Is the dwelling unit type (attached, detached, multi-family) being altered?
- d. Is there a change in public or private infrastructure?
- e. Is there a change in amenities such as landscaping, open space, common area or recreational facilities?
- f. Is there a rearrangement of buildings?
- g. Is there an increase or decrease in land use intensity such as building height, size or increase in parking area?

h. Is there a change in the use of any structure?

i. Is there a potential increase in traffic?

- (8) Changes, other than those considered minor by the director of planning and development, shall be submitted to the commission for a public hearing. The public hearing shall follow the same procedures outlined herein for a PUD development plan. After the public hearing, the commission may approve the revision to the PUD development plan. If, however, the change is considered by the commission to be a substantial deviation from the PUD development plan or the statement of intent, the commission shall forward the proposal to the council. The council shall approve, approve with conditions, or disapprove the proposed revision.

(g) *Simplified PUD.* An application may be submitted for a simplified PUD district provided the application complies with the following conditions:

- (1) Uses shall be limited to permitted uses in district R-1.
- (2) The height and area regulations in district R-1 shall apply, except that the minimum lot size shall not be less than five thousand (5,000) square feet; the minimum lot width at the building line shall not be less than fifty (50) feet; and the minimum front yard and rear yard setback shall not be less than twenty (20) feet.
- (3) The requirements of subsection (c) are complied with, except as specified above for lot size, lot width and front and rear yard setbacks, and unless a specific exception is requested and approved by the council.

The procedure for establishing PUD district zoning under this subsection shall be the same as herein provided, except that a PUD development plan shall not be required. A preliminary plat and final plat shall be submitted as provided by the subdivision regulations.

(h) *Protest Procedure.* At the time of rezoning, property owners within one hundred eighty-five (185) feet of a proposed planned unit development may present a formal protest in the same manner as provided under section 29-34(b) of this chapter.

(i) *Effect of Amendments to District PUD Regulations.*

- (1) An approved final PUD plan shall not be required to comply with PUD regulations adopted after the plan was approved.
- (2) Buildings constructed in accordance with an approved final PUD plan are lawful conforming uses.
- (3) Proposed revisions to final PUD plans approved under prior regulations shall be reviewed under the procedural provisions of this section.

(Code 1964, § 19.154; Ord. No. 9958, § 1, 10-3-83; Ord. No. 10401, § 1, 1-7-85; Ord. No. 10619, § 1, 6-17-85;

Ord. No. 12821, § 1, 12-17-90; Ord. No. 13058, § 1, 8-19-91; Ord. No. 14334, § 1, 1-3-95; Ord. No. 14963, § 1, 9-3-96; Ord. No. 15591, § 1, 5-4-98; Ord. No. 16816, § 1, 3-5-01; Ord. No. 18464, § 1, 4-4-05; Ord. No. 19343, § 3, 1-2-07; Ord. No. 20181, § 1, 2-2-09; Ord. No. 20237, § 1, 4-20-09)

Sec. 29-11. District RMH, residential manufactured home park district.

(a) *Purpose.* The purpose of this section is to establish standards for the development and operation of residential manufactured home parks. The standards are intended to provide for diverse housing opportunities while promoting neighborhood enhancement and minimizing conflicts with other zoning districts. A residential manufactured home park may provide sites (herein defined as manufactured home spaces) available for lease or rent; or the property may be subdivided in accordance with the requirements of this section and chapter 25.

(b) *Permitted uses.* In district RMH, no building, land or premises shall be used, and no building shall be erected, constructed, reconstructed, located, relocated or altered except in conformance with an approved final development plan and except for one or more of the following uses:

All permitted uses in district R-1, except that not more than two (2) permanent dwelling units will be allowed in each manufactured home park.

Manufactured homes for single-family residential purposes only.

Recreational uses for exclusive use of the occupants of the manufactured home park.

Accessory uses customarily incident to the above uses.

(c) *Conditional uses.* The following uses shall be permitted in district RMH only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

All uses listed as conditional uses in district R-1.

(d) *Standards and criteria.* The following standards and criteria shall apply to all RMH developments:

(1) *Manufactured home park size.* A minimum of five (5) acres of land.

(2) *Building height.* Not over thirty-five (35) feet, except as provided in section 29-26.

(3) *Yards.*

- a. All manufactured homes shall be set back at least twenty-five (25) feet from all perimeter property lines of the RMH district. The setback is intended to be a landscaped open area. Parking, streets, drives, accessory vehicles and accessory uses shall not be allowed within the twenty-five (25) foot setback area. A permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height and, when a fence is used, not to exceed twelve (12) feet in height, shall be required around the perimeter of the site. The required screening shall have an opacity of at least

eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen. The required screening shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature or treated to prevent rapid deterioration. Failure to maintain the required screening shall be considered a violation of this chapter.

- b. Each manufactured home shall be set back at least twenty (20) feet from any public street right-of-way within the RMH development. Parking may be allowed within the twenty (20) foot setback.
 - c. Each manufactured home shall be set back at least ten (10) feet from all (manufactured home space or lot) lot lines which are not abutting a public street right-of-way. This setback shall not apply to parking areas, carports, patios, decks and accessory buildings which are located on spaces or lots which do not border the perimeter of the RMH District.
 - d. There shall be a minimum distance of twenty (20) feet between any two manufactured homes.
 - e. A private outdoor living area, such as a patio or deck, of at least forty (40) square feet shall be provided on each manufactured home space or lot adjoining the manufactured home.
- (4) *Stormwater management.* A stormwater management system shall be designed to minimize the possibility of soil erosion and flood damage on site and downstream.
- (5) *Space or lot area.* Each manufactured home space or lot shall be at least four thousand fifty (4,050) square feet.
- (6) *Space or lot width.* Each manufactured home space or lot shall be at least forty-five (45) feet in width.
- (7) *Streets.* Interior access shall be provided by public streets. Public streets shall be built to city standards and shall have sidewalks on both sides.
- a. On any corner space or lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
 - b. Street connections to adjacent properties may be required when deemed appropriate by the director of planning and development; however, under normal circumstances, RMH developments shall have their only access on perimeter streets.

- (8) *Access.* At least one access point onto a public street shall be provided for each one hundred (100) manufactured home spaces or lots.
- (9) *Parking.* Paved parking shall be provided on each manufactured home space or lot at the rate of two (2) parking spaces per manufactured home.
- (10) *Stands and tie-downs for manufactured homes:*
- a. A stand shall be provided for each manufactured home. Said stand shall be placed on or in the ground in such manner as to provide support and leveling for such manufactured home, and shall be designed in accordance with the building code.
 - b. Anchorage and tie-down shall be provided on each manufactured home space or lot to prevent overturning or uplift of the manufactured home. The anchorage and tie-down shall be adequate to withstand wind forces and uplift as required in the building code.
- (11) *Skirting.* All manufactured homes shall be skirted. The skirting shall be done so that it is compatible with the manufactured home unit's materials and it shall be of a finished nature. Composition building board and raw wood shall not be used as skirting unless finished with a weatherproof and termite proof material.
- (12) *Miscellaneous standards for manufactured home parks:*
- a. A map of the layout of the manufactured home park, of a scale not greater than 1:50, showing the location of individual manufactured home spaces by number, shall be displayed on the park office building, or on the identification sign at the entrance to the manufactured home park.
 - b. Each space for a manufactured home shall be provided with a sewer outlet not less than four (4) inches in diameter, connected to the main sewer system.
 - c. The manufactured home development shall provide storage areas, in addition to automobile parking requirements, for accessory vehicles such as trucks and boats. The minimum area required for such storage shall be one parking space for each ten (10) manufactured homes.
 - d. Storage facilities for tenants may be provided on the manufactured home space or lot or in compounds placed near the manufactured home spaces or lots. Storage facilities shall be constructed of suitable weather resistant materials.
 - e. All yard areas and other open spaces not otherwise paved or occupied by structures shall be landscaped and maintained.
 - f. Any enclosed structure attached to a manufactured home shall be made out of compatible or similar exterior materials and in conformance with city building codes. No structure shall be constructed within ten (10) feet from the boundary of any space or lot which

borders the perimeter of the RMH District.

- g. RMH developments consisting of twenty-five (25) or more manufactured homes shall contain playground facilities. The playground facilities shall be at least one-fourth (1/4) acre in size for each twenty-five (25) manufactured homes proposed.
 - h. No manufactured home constructed prior to 1976 shall be placed within any RMH district established after January 17, 1995, unless a seal issued by the Missouri Public Service Commission is attached to the manufactured home certifying that the manufactured home was brought up to or otherwise meets the requirements of the code of standards relating to manufactured homes adopted by the Public Service Commission.
- (e) *Procedure for review and approval of an RMH plan.*
- (1) The first step in the approval process is a concept review to discuss the proposal. The concept review is an informal discussion and review between the director of planning and development and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.
 - (2) The applicant shall prepare and submit a preliminary RMH development plan. This application shall constitute a petition for rezoning and all procedural requirements for rezoning of land set forth in this chapter shall be followed.
 - (3) The preliminary development plan shall show the following:
 - a. The name of the RMH development.
 - b. A north arrow, scale, and the size of the site to the nearest acre.
 - c. The name of the record owners of the land.
 - d. Existing zoning of the tract and the zoning of all adjacent property.
 - e. The existing topography of the site with contour intervals no greater than five (5) feet.
 - f. The approximate location and arrangement of proposed manufactured home spaces or lots and other buildings on the site.
 - g. The total number of manufactured homes proposed and the density of development.
 - h. The proposed location of parking areas, an estimated parking ratio, and the general arrangement of spaces and drives on the site.
 - i. The approximate location of any existing or proposed right-of-way.
 - j. The approximate location of existing sanitary sewers and water mains within or adjacent

to the site.

- k. Natural and modified drainage ways, proposed culverts, stream buffer limits and detention areas, if applicable, on the site.
 - l. Existing waterways and wooded areas, and the approximate location of the one hundred-year floodplain, if applicable.
 - m. A general description of proposed landscaped areas on the site.
 - n. The stages of development, if applicable.
 - o. Signature blocks for commission and council approvals.
 - p. The following items shall be submitted along with the plan:
 - 1. A fee to cover advertising costs.
 - 2. A legal description of the property.
 - 3. The names and addresses of all property owners within one hundred eighty-five (185) feet of the property.
- (4) After the public hearing, the commission shall forward the preliminary development plan to the council with its recommendation.
- (5) The council may approve, approve conditionally, or deny the preliminary development plan. Approval of the preliminary development plan shall be in the form of an ordinance rezoning the property.
- (6) After council approval of the preliminary development plan, the applicant shall submit a final RMH development plan for review and approval by the commission. After review, the commission shall forward the final development plan to the council with its recommendation.
- (7) The final development plan submittal shall include the following:
- a. The name of the RMH development.
 - b. A north arrow, scale, small location map, and the size of the site to the nearest one-tenth of an acre.
 - c. A survey of the land prepared under the supervision of a registered land surveyor.
 - d. The name and address of the record owners of the land.
 - e. Names of adjacent property owners of unsubdivided land and the names of adjacent

subdivisions.

- f. The location of the boundary lines of the site in relation to any section line or quarter-section line and any corporate boundaries immediately adjacent.
 - g. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one hundred-year floodplain, if applicable.
 - h. The location of all manufactured home spaces or lots, and other proposed buildings on the site.
 - i. The location and number of parking spaces, drives, and the parking ratio.
 - j. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way and recorded easements; and the proposed location, width, name and grade for any new streets.
 - k. The approximate location of proposed sanitary sewers, water mains and storm sewers.
 - l. Signature blocks for commission and council approvals on all exhibits considered part of the final development plan.
 - m. A storm water management plan.
 - n. A landscaping plan including design, location, size and type of materials.
- (8) Approval of the final development plan shall be deemed as satisfying the requirements of the subdivision regulations for a preliminary plat, provided all those requirements have been met.
 - (9) No permits shall be issued until a final plat of the RMH site is approved by the council.
 - (10) From and after two (2) years following the date of approval of a final RMH development plan by the council, the council may, by a majority vote, withdraw approval of such final development plan, provided development has not commenced.
 - (11) Minor adjustments to an approved final RMH development plan may be authorized by the director of planning and development.
 - (12) Changes, other than those considered minor by the director of planning and development, shall be submitted to the commission for its review. If the change is considered to be in substantial compliance with the preliminary development plan, the commission may approve a revision to the final development plan. If the change is a substantial deviation from the intent of the approved preliminary development plan, a revised preliminary development plan shall be required and shall be reviewed as a new proposal.
 - (13) An approved final development plan shall not be required to comply with RMH development

standards and criteria adopted after the plan was approved.

(f) *Application to enlarge existing manufactured home parks.* Application to enlarge manufactured home parks existing on the effective date of this section shall be subject to all provisions of this section relating to requirements for new parks. Such applications shall be accompanied by plans (preliminary and then final) showing both the proposed enlargement and its relationship to the existing RMH development. When a final development plan is approved for an extension of a manufactured home park existing on the effective date of this section, the screening requirements of section 29-11(d)(3) shall apply to the entire manufactured home park.

(g) *Inspection of manufactured home parks.* The building inspector and health officer of the city shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. It shall be the duty of the manufactured home park management to give the health officer or building inspector free access to all spaces or lots under the managements's control for the purpose of inspection.

(h) *Placement of manufactured homes within an RMH district.* No electrical permit shall be granted for a manufactured home located in a manufactured home park with an approved final development plan unless the placement of the manufactured home is in compliance with the approved final development plan. (Code 1964, § 19.155; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11373, §§ 1, 3, 2-16-87; Ord. No. 11702, § 1, 12-7-87; Ord. No. 14347, § 1, 1-17-95; Ord. No. 19343, § 3, 1-2-07; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-12. District O-1, office district.

(a) *Purpose.* This district is intended to provide for professional, administrative, or other offices and related uses primarily. It may serve as a buffer area between residential and more intense nonresidential uses.

(b) *Permitted Uses.* In district O-1, no building or land shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (For exceptions, see section 29-28, Non-Conforming Uses; and section 29-31, Board of Adjustment):

All permitted uses in district R-3 (subject to the height and area regulations of district R-3).

Banks, other financial institutions, and travel agencies.

Counseling centers operated by charitable or not-for-profit organizations; excluding halfway houses or any use connected with penal or correctional institutions.

Hospitals for human beings, medical or dental clinics, sanitariums, and medical laboratories.

Office buildings used for the administrative functions of businesses, professions, companies, corporations; and social, philanthropic, eleemosynary, or governmental organizations or societies.

Offices for professional and business use involving the sale or provision of services, but not the sale or rental of goods, including but not limited to:

- (1) Artists, sculptors, photographers.
- (2) Authors, writers, composers.
- (3) Lawyers, engineers, planners, architects, realtors, accountants, insurance agents, brokers, and other consultants in similar professions.
- (4) Ministers, rabbis, priests, or other clergy members.
- (5) Physicians, dentists, chiropractors, or other licensed medical practitioners.
- (6) Seamstresses, tailors.
- (7) Teachers of private lessons in art, music, or dance.

Residential care facilities.

Schools operated as a business within an enclosed building, except trade schools and schools which offer retail goods or services to the public.

Customary accessory uses subject to the provisions of section 29-27, Accessory Uses.

(c) *Conditional Uses.* The following uses shall be permitted in district O-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Buildings and premises for public utility services or public service corporations, whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Drive-up facilities incidental to any permitted uses.

Funeral homes, with or without a mortuary, provided that:

- (a) Such use shall be conducted within a fully enclosed legally permitted structure.
- (b) Such use shall have fee-simple ownership of the required parking spaces to meet the requirements of section 29-30 (off-street parking and loading) for the intended use. The use of shared parking shall be prohibited, unless approved by the board of adjustment after consideration of the required documentation stated in section 29-30(e).
- (c) No outside storage or display of equipment or merchandise used or customarily sold in conjunction with such use shall be permitted.
- (d) No cremation of the deceased shall be permitted on-site.
- (e) The operator of such use shall be licensed by the State of Missouri, as required.

Halfway houses for not more than fifteen (15) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, single-family residences and other halfway houses.

Hospitals for small animals, if within an enclosed building.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

(d) *Height and Area Regulations.* In district O-1 any building or portion of a building hereafter erected, constructed, reconstructed, or altered shall be subject to the following regulations:

(1) *Lot size.* No minimum requirement.

(2) *Yards:*

a. Front--Not less than twenty-five (25) feet.

b. Rear--Not less than twenty-five (25) feet, except that no rear yard is required where the lot line of the rear yard abuts property in a nonresidential district.

c. Side--No minimum requirement, except that:

1. On corner lots there shall be a side yard adjacent to the side street of not less than fifteen (15) feet; and

2. Where an O-1 district abuts any residential district, there shall be a side yard of not less than ten (10) feet.

(3) *Building height.* Not over forty-five (45) feet except that buildings may be erected to a height not to exceed seventy-five (75) feet, provided that such buildings shall be set back one additional foot on all sides, for each additional foot of building height over forty-five (45) feet.

(4) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.

(5) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.160; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11271, § 1, 11-3-86; Ord. No. 11702, § 1, 12-7-87; Ord. No. 13526, § 1, 12-7-92; Ord. No. 15134, § 1, 2-3-97; Ord. No. 17667, § 1, 5-5-03; Ord. No. 20238, § 1, 4-20-09)

Sec. 29-13. District O-2, special office district.

(a) *Purpose.* This district is intended solely for professional, administrative, or other offices and related uses. It is designed to serve as a buffer area between residential areas and more intense nonresidential areas, and to provide for office development where residential development might not be appropriate.

(b) *Permitted Uses.* In district O-2, no building or land shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions, see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment):

Banks, other financial institutions, and travel agencies.

Medical laboratories.

Office buildings used for the administrative functions of businesses, professions, companies, corporations; and social, philanthropic, eleemosynary or governmental organizations or societies.

Offices for professional and business use involving the sale or provision of services, but not the sale or rental of goods, including but not limited to:

- (1) Artists, sculptors, photographers.
- (2) Authors, writers, composers.
- (3) Lawyers, engineers, planners, architects, realtors, accountants, insurance agents, brokers, and other consultants in similar professions.
- (4) Ministers, rabbis, priests, or other clergy members.
- (5) Physicians, dentists, chiropractors, or other licensed medical practitioners.
- (6) Seamstresses, tailors.
- (7) Teachers of private lessons in art, music or dance.

Schools operated as a business within an enclosed building, except trade schools and schools which offer retail goods and services to the public.

Customary accessory uses subject to the provisions of section 29-27, Accessory Uses.

(c) *Conditional Uses.* The following uses shall be permitted in district O-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Buildings and premises for public utility services or public service corporations, whose buildings or uses the board deems reasonably necessary for public convenience or welfare.

Drive-up facilities incidental to any permitted uses.

Halfway houses for not more than fifteen (15) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, single-family residences and other halfway houses.

Hospitals for small animals, if within an enclosed building.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

(d) *Height and Area Regulations.* In district O-2 any building or portion of a building hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations:

(1) *Lot size.* No minimum requirement.

(2) *Yards:*

a. Front--Not less than twenty-five (25) feet.

b. Rear--Not less than twenty-five (25) feet, except that no rear yard is required where the lot line of the rear yard abuts property in a nonresidential district.

c. Side--No minimum requirement, except that:

1. On corner lots there shall be a side yard adjacent to the side street of not less than fifteen (15) feet; and

2. Where an O-2 district abuts any residential district, there shall be a side yard of not less than ten (10) feet.

(3) *Building height.* Not over forty-five (45) feet, except that buildings may be erected to a height not to exceed seventy-five (75) feet, provided that such buildings shall be set back one additional foot on all sides, for each additional foot of building height over forty-five (45) feet.

(4) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.

(5) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.161; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87; Ord. No. 15134, § 1, 2-3-97; Ord. No. 17667, § 1, 5-5-03)

Sec. 29-13.1. District O-P, planned office district.

(a) *Purpose.* The purpose of this district is to enable innovation and flexibility in design and to

promote environmentally sound and efficient use of land. The major objectives of an O-P district are:

- (1) To allow certain office uses in locations where a broad range of office uses might be inappropriate.
- (2) To encourage development of such scale and character that it will be harmonious with surrounding areas and minimize any adverse impacts .

(b) *Permitted Uses.* In district O-P, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered except for one or more of the uses allowed by the ordinance placing the property in District O-P (for exceptions, see section 29-28, Nonconforming Uses, and section 29-31, Board of Adjustment). The commission shall recommend and the council, at the time of rezoning, shall designate the use or uses allowed for the applicant's property from the following uses:

One or more of the permitted uses in district R-3 (subject to the height and area regulations of district R-3).

Banks, other financial institutions, and travel agencies.

Buildings and premises for public utility services or public service corporations.

Counseling centers operated by charitable or not-for-profit organizations; excluding halfway houses or any use connected with penal or correctional institutions.

Drive-up facilities incidental to any permitted uses.

Funeral homes, with or without a mortuary.

Halfway houses for not more than fifteen (15) occupants, provided that the council finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, single-family residences and other halfway houses. (Property zoned O-P before March 18, 2002, the date on which this use was added to this section, may not be used for a halfway house unless the council passes an ordinance changing the permitted uses of the property to include halfway houses.)

Hospitals for human beings, medical or dental clinics, sanitariums, and medical laboratories.

Hospitals for small animals, if within an enclosed building.

Office buildings used for the administrative functions of businesses, professions, companies, corporations; and social, philanthropic, eleemosynary, or governmental organizations or societies.

Offices for professional and business use involving the sale or provision of services, but not the sale or rental of goods, including, but not limited to:

- (1) Artists, sculptors, photographers.

- (2) Authors, writers, composers.
- (3) Lawyers, engineers, planners, architects, real estate agents, accountants, insurance agents, brokers, and consultants in similar professions.
- (4) Ministers, rabbis, priests, or other clergy members.
- (5) Physicians, dentists, chiropractors, or other licensed medical practitioners.
- (6) Seamstresses, tailors.
- (7) Teachers of private lessons in art, music, or dance.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

Residential care facilities.

Schools operated as a business within an enclosed building, except trade schools and schools which offer retail goods or services to the public.

Temporary shelter, subject to the following.

- (1) A zoning petition for a temporary shelter shall include information about the size and design of the structure, population groups served, length of stay permitted, maximum design capacity and support services provided. These items shall be used to determine if the facility is appropriate for the neighborhood.
- (2) A temporary shelter shall not be located within one thousand (1,000) feet of another temporary shelter.
- (3) The minimum lot area for a temporary shelter shall be seven thousand five hundred (7,500) square feet. If a proposed temporary shelter structure is larger than two thousand five hundred (2,500) square feet of gross floor area there shall be provided an additional one thousand five hundred (1,500) square feet of lot area for each additional five hundred (500) square feet of gross floor area within the structure.
- (4) The shelter shall submit a semi-annual report to the protective inspection division of the public works department stating maximum monthly occupancy level and support services provided by the shelter.

Customary accessory uses subject to the provisions of section 29-27, accessory uses.

The owners of property in district O-P may apply for a change in the permitted uses of their property. Such applications shall be treated as requests for rezoning.

Property in district O-P on September 15, 1996, may be used for any use permitted in district O-P by the provisions of this subsection in effect on September 15, 1996.

(c) *Conditional Uses.* The following uses shall be permitted in district O-P only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Communication antennas and towers, subject to the provisions of section 29-21.3.

(d) *Standards and Criteria.* The following standards and criteria shall apply to all O-P developments:

- (1) *Lot size.* No minimum requirement.
 - (2) *Yards.* Yards shall be provided as follows:
 - a. *Front*--Not less than twenty-five (25) feet from collector and arterial streets and fifteen (15) feet from all other streets.
 - b. *Rear*--None, except not less than ten (10) feet when abutting a residential zoned district.
 - c. *Side*--None, except that:
 1. On corner lots the side yard shall be not less than twenty-five (25) feet adjacent to collector and arterial streets and not less than fifteen (15) feet from all other streets, and
 2. The side yard abutting a residential zoned district shall not be less than ten (10) feet.
- There shall be no setback required from a common area as long as the common area is at least as wide as the required yard. The applicant may request or the commission may recommend and the council may approve a lesser minimum yard.
- (3) *Building height.* No specific maximum; however, there shall be one (1) additional foot of rear yard and interior side yard setback provided above the required minimum for each additional foot of height for buildings over forty-five (45) feet tall abutting a residential zoned district. The applicant may request or the commission may recommend and the council may approve a greater maximum building height.
 - (4) *Vision clearance.* On any corner lot no wall, fence, sign or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
 - (5) *Parking and loading.* The provisions of section 29-30, off-street parking and loading, shall

apply, except that the commission may recommend and the council may approve a lesser parking requirement if, after considering the proposed use, the availability of other parking in the area (including parking on public streets) and other relevant factors, a lesser requirement is deemed appropriate.

The commission may also recommend and the council may allow some of the required parking to be deferred. This shall be done by noting such parking spaces on the plan as "future parking if needed." The future parking spaces may be placed within landscaped areas, as long as the landscaped areas are in excess of the fifteen (15) per cent minimum of the site which is required to be in landscaping. The property owner shall establish additional parking spaces in the "future parking" area when directed to do so by the city council.

- (6) *Screening and landscaping.* The provisions of section 29-25 shall apply. A permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height and, when a fence is used, not to exceed twelve (12) feet in height, shall be required where a lot in this district abuts residentially zoned land. The required screening shall have an opacity of at least eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity and eight-foot minimum height shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen. The required screening and landscaping shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature and treated to prevent rapid deterioration. Failure to maintain the required screening and landscaping shall be considered a violation of this chapter.

The applicant may request or the commission may recommend and the council may approve less stringent screening and landscaping requirements if, after considering topography, surrounding uses and other relevant factors, less stringent screening and landscaping requirements are deemed appropriate.

- (7) *Drainage.* A drainage system shall be designed to minimize the possibility of soil erosion and flood damage.
- (8) *Access and circulation.* The traffic circulation system shall provide for the safe, convenient and efficient movement of goods and people with a minimum of conflict between various modes of travel. The streets within the proposed development shall be public and within a public right-of-way, except private streets may be permitted under the following conditions:
- a. The streets shall be designed, constructed, and maintained according to any applicable minimum city standards for private streets;
 - b. The streets will serve two (2) or more lots or property in multiple ownership;
 - c. The private streets do not provide the only vehicular access to public streets from other property located outside the development;

- d. The streets shall be located in designated common areas which shall be platted as a separate lot or lots;
- e. A notation shall be written on the approved plan and recorded plat which reads: "All maintenance of the private streets shown on this plat shall be the responsibility of the owners association or abutting property owners. No private streets shall be dedicated to nor accepted by the city for maintenance until they have been improved to minimum city standards for public streets."; and
- f. The street signs for private streets shall indicate "private street" so as to distinguish them from public streets.

Provisions shall be made for pedestrian travel within the development and shall connect with existing pedestrian systems or allow for future extensions to activity centers outside the development (i.e., schools, parks, shopping areas, etc.). Sidewalks shall be required along private streets as they would be required for public streets, except no sidewalks shall be required on the side of a street without any buildings or driveways.

- (9) *Signs.* The provisions of Chapter 23 shall apply, except that the requirements pertaining to area, height, placement and number of freestanding signs and on-premise wall, canopy and awning signs shall be as approved by the council as part of the development plan.
- (e) *Procedure for Review and Approval of O-P Zoning.*
 - (1) The first step in the approval process should be a concept review to discuss and document the proposal. The concept review is an informal discussion and review between the director of planning and development and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.
 - (2) The second step shall be the submission of a request for rezoning to O-P. Rezoning shall be done in accordance with section 29-34 and shall be accompanied by a statement of intent. The statement of intent shall be a letter, signed by the applicant or his agent, containing the following information about the proposed O-P development:
 - a. The uses proposed.
 - b. The maximum gross square feet of building floor area proposed.
 - c. The maximum building height proposed.
 - d. The minimum percentage of the site to be maintained in open space.

At the discretion of the applicant, the statement of intent may include other aspects of the proposed development.

The statement of intent shall become part of the ordinance approving the O-P zoning and shall be

binding upon the owners, their heirs and assigns until such time as the council shall release such limitations on the use of the subject property under the procedures provided herein. The statement of intent is also intended to provide guidance for any future revisions to the O-P development plan.

- (3) The commission shall then hold a public hearing. After the public hearing, the commission shall forward its recommendation to the council.
- (4) The council shall approve, approve with conditions, or disapprove the O-P zoning request. An ordinance placing property in district O-P shall specify the uses allowed. Prior to a vote on an ordinance placing property in district O-P that contains conditions, the applicant shall be given an opportunity to:
 - a. Accept the conditions; or
 - b. Request a modification of the conditions; or
 - c. Request that the application be voted on without conditions; or
 - d. Request that the application be disapproved; or
 - e. Withdraw the application.
- (f) *Procedure for Review and Approval of an O-P Development Plan.*
 - (1) After council approval of the rezoning, the applicant shall submit a development plan for review and approval by the commission. The development plan shall be processed in the same manner as a rezoning request. Advertising costs shall be at the applicant's expense. After the public hearing, the commission shall forward the development plan to the council with its recommendation. The council will then take action to approve, approve with conditions, or disapprove the plan.
 - (2) The development plan submittal shall include the following:
 - a. The name of the O-P development.
 - b. A north arrow, scale, small location map, and the size of the site to the nearest one-tenth (0.1) of an acre.
 - c. The name and address of the record owners of the land.
 - d. Names of adjacent property owners of unsubdivided land and the names of adjacent subdivisions and the zoning of adjacent property.
 - e. The location of the boundary lines of the site in relation to any section line or quarter-section line and any corporate boundaries immediately adjacent.

- f. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one-hundred-year floodplain, if applicable.
 - g. The location and height of all buildings. The minimum distance from buildings to perimeter property lines shall be shown or stated on the plan.
 - h. The location and number of parking spaces, drives, walkways, and the parking ratio.
 - i. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way and recorded easements; and the proposed location, width, name and grade for any new street.
 - j. The location and size of existing and proposed sanitary sewers, water mains, storm sewers and natural gas mains within or adjacent to the site and any proposed easements.
 - k. Signature blocks for commission and council approvals on all exhibits considered part of the development plan.
 - l. A conceptual stormwater management plan showing critical environmental areas such as streams, lakes, ponds, and wetlands; proposed stream buffer limits, if applicable; existing streets, utilities and drainage structures; proposed stormwater management facilities and structures; and the location, type and approximate size of any proposed on-site detention and specifying the design storms that will be met. A stormwater management plan which complies with city requirements, including Chapter 12A, may be submitted with the O-P development plan or at the time of application for a land disturbance or building permit.
 - m. A conceptual landscaping plan showing the areas to be landscaped or preserved, the general types of landscaping materials (trees, shrubs, lawn, etc.) proposed for each area, and the per cent of the total site to be landscaped or preserved. A landscaping plan (including any tree preservation areas) which complies with the requirements of section 29-25 and Chapter 12A may be submitted with the O-P development plan or at the time of application for a land disturbance or building permit.
 - n. The proposed location and general description of signs not attached to structures on the site.
 - o. The proposed type and location of all on-site lighting.
- (3) In addition to the above, an O-P development plan submittal shall include a set of design parameters which the director of planning and development shall use as guidance when considering future revisions to an approved O-P development plan. The design parameters shall be in the form of a letter and shall include the following:
- a. The minimum distance between any building and any adjacent property line or street right-of-way.

- b. The minimum distance between the edge of any driveway, parking area, loading area, trash storage area and any adjacent property line or street right-of-way.
- c. The maximum number of freestanding signs on the site, the maximum square footage of sign surface area and maximum height of each.
- d. The minimum percentage of the site to be maintained in landscaping.
- e. The maximum height and number of light poles and type of fixtures.

The design parameters shall become part of the ordinance approving the O-P development plan.

- (4) Approval of the development plan shall be deemed as satisfying the requirements of the subdivision regulations for a preliminary plat, provided all those requirements have been met. Any variances to the subdivision regulations proposed as part of the development plan shall be stated clearly on the development plan. Such variances shall be considered along with commission and council review of the development plan.
- (5) No building permit shall be issued until the development plan is approved by the council.
- (6) No building permit shall be issued until the property has been platted.
- (7) No building or footing and foundation permit shall be issued until the site plan filed with the application for a building permit has been reviewed by the director of planning and development for compliance with the approved development plan.
- (8) From and after two (2) years following the date of approval of a development plan by the council, the council, may, by a majority vote, withdraw approval of such development plan, provided development has not commenced.
- (9) Minor adjustments to a development plan approved prior to November 18, 1996 may be authorized by the director of planning and development at his discretion. The director of planning and development shall notify the commission of any such changes.
- (10) Changes to a development plan approved prior to November 18, 1996, other than those considered minor by the director of planning and development, shall be submitted to the commission for a public hearing. The public hearing shall follow the same procedures outlined herein for a development plan. If, after the public hearing, the change is considered to be in substantial compliance with the approved development plan, the commission may approve the revision. If, however, the change is considered to be a substantial deviation from the approved development plan, the commission may recommend to the council that a revised development plan be required. The council shall then take action on the proposed revision without a public hearing. If the council determines that the proposed change is a substantial deviation from the approved development plan, a revision to the development plan shall be required. This revision shall be processed in the manner herein described for development plans. Advertising costs shall

be at the applicant's expense. The revised plan shall not be approved unless findings determined by the council are reflected on the plan. In determining whether or not the change is a substantial deviation from the approved development plan, the commission and council may use, but are not limited to, the following criteria:

- a. Is there an increase or decrease in land use intensity such as building height, size or increase in parking area?
 - b. Is there a rearrangement of or change in the number of buildings?
 - c. Is there a change in public or private infrastructure?
 - d. Is there a change in amenities being proposed, such as landscaping or open space?
- (11) Changes to a development plan approved after November 18, 1996, may be made to an approved O-P development plan subject to approval by the director of planning and development, provided that any such changes are within the limits set forth in the approved design parameters. Any proposed changes which exceed the limits of the design parameters shall be processed as a new O-P development plan with the required public hearings before the planning and zoning commission.
- (12) The applicant may submit the development plan at the time of rezoning to O-P. Under this option, the development plan will be considered as part of the rezoning request.
- (g) *Simplified O-P Zoning.* An application may be submitted for a simplified O-P district provided the application complies with the following conditions:
- (1) There shall be no new development proposed on the site, including the construction of any new buildings or parking areas, the expansion of any existing buildings or parking areas, or the construction of any new streets, except however, existing signs may be replaced with new signs which comply with the requirements of the O-1 district.
 - (2) The requirements of subsection (d) are met, unless a specific exception is requested and approved by the council.

The procedure for review and approval of O-P zoning shall be the same as herein provided under subsection (e), except that a development plan and design parameters shall not be required.

A preliminary plat or final plat may be required as provided by the subdivision regulations.

- (h) *Effect of Amendments to District O-P Regulations.*
- (1) An approval final O-P plan shall not be required to comply with O-P regulations adopted after the plan was approved.
 - (2) Buildings constructed in accordance with an approved final O-P plan are lawful conforming

uses.

- (3) Proposed revisions to final O-P plans approved under regulations in effect before December 17, 1990, shall be reviewed under the procedural provisions of this section.

(Ord. No. 11236, § 1, 10-6-86; Ord. No. 117-2, § 1, 12-7-87; Ord. No. 12821, § 1, 12-17-90; Ord. No. 13058, § 1, 8-19-91; Ord. No. 14981, § 1, 9-16-96; Ord. No. 15053, § 1, 11-18-96; Ord. No. 15471, § 1, 12-15-97; Ord. No. 16106, § 1, 8-2-99; Ord. No. 16816, § 1, 3-5-01; Ord. No. 17229, § 1, 3-18-02; Ord. No. 17575, § 1, 2-3-03; Ord. No. 17667, § 1, 5-5-03; Ord. No. 18464, § 1, 4-4-05; Ord. No. 19343, § 3, 1-2-07; Ord. No. 20181, § 1, 2-2-09; Ord. No. 20238, § 1, 4-20-09; Ord. No. 20238, § 1, 4-20-09)

Sec. 29-14. District C-1, intermediate business district.

(a) *Purpose.* This district is intended to provide commercial shopping and service facilities in or near a residential neighborhood. The principal land use is a small shopping area with sales and services oriented to the needs of a local population.

(b) *Permitted Uses.* In district C-1, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions, see section 29-28, Nonconforming Uses, and section 29-31, Board of Adjustment):

All permitted uses in district O-1.

Alcoholic beverage sales by the package or as an accessory use to a restaurant.

Alcoholic beverage sales in the original package or by the drink on licensed premises shall be permitted in restaurants or similar places where substantial quantities of food are served, all in compliance with the alcoholic beverage regulations of chapter 4 of this Code.

Barber and beauty shops.

Buildings and premises for public utility services or public service corporations.

Cleaning, pressing and dyeing establishments, provided that no explosive cleaning fluids shall be used.

Laundries, coin-operated.

Pet stores and grooming shops, for small animals.

Photographic service shops and studios.

Physical fitness centers, private gymnasiums and reducing salons.

Printing shops, provided the total mechanical power used in the operation of such printing plant shall not exceed five (5) horsepower.

Radio and television sales and service.

Repair of household appliances.

Restaurants, cafes or cafeterias, which provide no form of entertainment.

Restaurants, cafes or cafeterias which provide live or recorded music, provided that such music is played indoors only and further provided that the music from any such restaurant, cafe or cafeteria shall not be plainly audible at the property line of the property on which the building housing such restaurant, cafe or cafeteria is located.

Schools operated as a business, except trade schools.

Shoe repair shops.

Stores, shops and markets for retail trades, provided merchandise is not displayed, stored or offered for sale on the premises outside a building in the required front yard or in any side or rear yard adjacent to a residential zoning district.

Accessory uses, including drive-up facilities, customarily incidental to any of the above uses.

Customary accessory uses, including drive-up facilities, subject to the provisions of section 29-27 of this chapter.

(c) *Conditional Uses.* The following uses shall be permitted in district C-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Assembly or lodge halls.

Bakeries.

Car washes, coin-operated or attendant-operated.

Halfway houses for not more than fifteen (15) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders for not more than forty (40) occupants.

Halfway houses for young offenders for not more than forty (40) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, halfway houses and other halfway houses for young offenders.

Hospitals for small animals, if within an enclosed building.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

Self-service storage facilities, subject to the following conditions:

- (1) All storage shall be kept within an enclosed building, except recreation or other oversized vehicles, compressed flammable gas tanks, or gasoline containers in excess of two (2) gallons, which shall be stored only in exterior areas screened from the view from any street frontage.
- (2) Where the site is adjacent to residentially-zoned land, a permanent screen shall be required and shall conform to the provisions of section 29-17(d)(6).
- (3) Storage of feed, fertilizer, grain, soil conditioners, pesticides, chemicals, explosives and other hazardous materials, asphalt, brick, cement, gravel, rock, sand and similar construction materials, inoperable vehicles, or bulk storage of fuels shall be prohibited.
- (4) The use of power tools, paint sprayers, or the servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances and other similar equipment shall be prohibited.
- (5) The sale of any item from the facility or the conduct of any type of commercial activity at the facility shall be prohibited.
- (6) Building heights shall be limited to fourteen (14) feet.
- (7) Loading docks shall be prohibited.

Service stations, provided all fuel storage tanks are located underground.

Trade schools.

(d) *Height and Area Regulations.* In district C-1 any building or portions of a building hereafter erected, constructed, reconstructed or altered shall be subject the following regulations (for exceptions see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* No minimum requirement.
- (2) *Yards:*
 - a. Front--Not less than twenty-five (25) feet.
 - b. Rear--Not less than ten (10) feet, except that no rear yard is required where the lot line of the rear yard abuts property in a nonresidential district.
 - c. Side--No minimum requirement, except that:
 1. On corner lots there shall be a side yard adjacent to the side street of not less than fifteen (15) feet; and

2. Where a C-1 district abuts any residential district, there shall be a side yard of not less than ten (10) feet.

(3) *Height.* Not over thirty-five (35) feet.

(4) *Vision.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.

(5) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.162; Ord. No. 9958, § 1, 10-3-83; Ord. No. 10041, § 1, 1-3-84; Ord. No. 11702, § 1, 12-7-87; Ord. No. 13260, § 1, 3-16-92; Ord. No. 13526, § 1, 12-7-92; Ord. No. 13543, § 1, 12-21-92; Ord. No. 14777, § 1, 3-4-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 17667, § 1, 5-5-03)

Sec. 29-15. District C-2, central business district.

(a) *Purpose.* This district is intended to provide for commercial facilities in the central business district. The principal land uses are retail sales, services, offices and public facilities.

(b) *Permitted Uses.* In district C-2, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses (for exceptions, see section 29-28, Nonconforming Uses, and section 29-31, Board of Adjustment):

All permitted uses in district C-1 with the exception that dwelling units shall also be subject to section 29-8(d)(6).

Armories.

Assembly and lodge halls.

Automobile repair facilities, provided that all repair shall take place within an enclosed building.

Bakeries.

Bars, cocktail lounges and nightclubs.

Billiard halls and game arcades.

Bicycle repair shops.

Bus stations.

Car washes, coin-operated or attendant-operated.

Electrical repair shop.

Garment storage facilities.

Government buildings and facilities.

Hospitals for small animals, if within an enclosed building.

Hotels.

Laundries, commercial.

Lumberyards.

Multi-level, underground or covered commercial parking for automobiles and light trucks.

Newspaper publishing plants.

Printing shops.

Restaurants, cafes and cafeterias.

Service stations, provided all fuel storage tanks are located underground.

Shops for custom work, or the manufacture of articles to be sold at retail only on the premises, provided that in such manufacture the total mechanical power shall not exceed five (5) horsepower for the operation of any one shop, and provided that the space occupied by the manufacturing use permitted herein shall not exceed fifty (50) per cent of the total floor area of the entire building or the equivalent of the ground thereof, and provided further that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

Sign painting shops.

Theatres, not including drive-in theatres.

Trade schools.

Wholesale sales offices and sample rooms.

Customary accessory uses, including drive-up facilities, subject to the provisions of section 29-27.

Any retail business or use of a similar character to those listed above, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

(c) *Conditional Uses.* The following uses shall be permitted in district C-2 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Halfway houses for not more than fifteen (15) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders for not more than forty (40) occupants.

Hospitals for human beings, medical or dental clinics, sanitariums, and medical laboratories.

Mortuaries, which may include a crematory.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

Self-service storage facilities, subject to the following conditions:

- (1) The application required by section 29-23 shall include a conceptual design plan that shows:
 - a. The location of the proposed facility in relation to the existing uses of the building.
 - b. The square footage of the total building and area that will be allocated for the proposed facility.
 - c. The means of ingress and egress to the proposed facility.
 - d. The use group or groups that the building is currently permitted for as defined in chapter 6 of this code.
 - e. How the altered building will address parking and loading demands generated by the proposed facility.

The conceptual design plan is not required to be "sealed" by a registered design professional. The plan may be drawn by the applicant. The plan shall be prepared in a manner that all details are legible.

- (2) The facility is incidental to the primary use of the building in which it is located (i.e., a mixed use occupancy building shall be required).
- (3) The facility shall not be used to store flammable gases, aerosols, paints, thinners, feed, fertilizer, soil conditioners, pesticides, chemicals, explosives and other hazardous materials, construction materials, inoperable vehicles, or for bulk storage of any kind.
- (4) The use of power tools, paint sprayers, or servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances and other similar equipment is prohibited in the facility.
- (5) The facility shall be used exclusively for the storage of goods. No individual tenant may convert, use, or otherwise alter a leased or rented unit to sell any stored item from the facility or to

conduct any type of commercial activity at the facility.

- (6) When the facility is located on the first floor of a building, it shall not be located in front of the primary use so that it is the visible storefront of the building.
- (7) When the facility is located in the basement or on any floor higher than the first floor of a building, it may occupy the entire basement or floor only if existing exterior windows remain intact and are "blacked-out" to ensure that stored items are not visible and that the architectural integrity of the building façade is maintained. Building facades on new or renovated construction shall incorporate design elements that break-up the façade so it does not create a blank elevation.
- (8) When the facility is located in an existing or renovated building, loading and unloading activities, on public rights-of-way, shall not occur between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. (Monday thru Friday).
- (9) When the facility is located in a newly constructed building, provision for off-street loading/unloading facilities shall be incorporated into the design of the structure. The facility shall be of adequate depth from the right-of-way so that no blockage of the travel way will occur during loading/unloading activities. When such provision is made, the limitation on hours of loading and unloading, stated in subsection 8, shall not apply. On-site parking requirements shall be governed by the provisions of section 29-30.
- (10) All proposed construction, renovation, or alteration activities necessary to permit the facility to occupy an existing or new structure shall be in accordance with the requirements of chapter 6 and chapter 9 of this code. Activities begun before submission, review and approval of professionally sealed plans and the issuance of a building permit shall be a violation of the conditional use permit conditions and this code.

Uncovered, surface commercial parking for automobiles and light trucks, except for publicly-owned parking facilities.

Uncovered, surface off-street parking areas, except for publicly-owned parking facilities.

(d) *Height and Area Regulations.* In district C-2 any building, portion of a building or dwelling hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions, see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* No minimum requirement.
- (2) *Yards.* No minimum requirement.
- (3) *Building height.* No maximum height.
- (4) *Vision clearance.* No requirement.
- (5) *Floor area.* No minimum requirement.

(6) *Parking.* (See section 29-30, Off-Street Parking and Loading.)
(Code 1964, § 19.163; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87; Ord. No. 12088, § 1, 12-12-88; Ord. No. 13526, § 1, 12-7-92; Ord. No. 14777, § 1, 3-4-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 15471, § 1, 12-15-97; Ord. No. 16105, § 1, 8-2-99; Ord. No. 17667, § 1, 5-5-03; Ord. No. 20285, § 1, 6-1-09)

Sec. 29-16. District C-3, general business district.

(a) *Purpose.* This district is intended to allow for a broad range of commercial activities that may often be oriented toward automobile access and visibility. The principal land uses are sales and service activities.

(b) *Permitted Uses.* In district C-3, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered except for one or more of the following uses (for exceptions, see section 29-28, non-conforming uses, and section 29-31, board of adjustment):

All permitted uses in district C-2 except that dwelling units shall be subject to section 29-8(d).

Bowling alleys.

Car washes.

Commercial greenhouses and plant nurseries.

Commercial parking for automobiles and light trucks.

Commercial swimming pools.

Farm machinery sales and service, provided no repair facilities shall be maintained or used outside the building.

Hospitals, medical or dental clinics, sanitariums, and medical laboratories.

Kennels for the boarding of animals, subject to the following conditions:

- (1) The minimum site size shall be two (2) acres.
- (2) The maximum density shall be fifty (50) animals, cared for at full capacity, per acre.
- (3) Any outside animal run structure, pen or enclosure shall be fully fenced (including overhead).
- (4) A secondary or perimeter fence or wall shall be constructed around all outside animal runs.
- (5) The minimum yard, when the facility abuts residential uses and/or zoning, shall be one hundred (100) feet to an unvoided wall or two hundred (200) feet to outside animal runs.

Miniature golf courses or driving ranges.

Mortuaries, which may include a crematory.

Motels.

Motor vehicle or trailer sales and service, provided no dismantling or storage of parts or inoperable vehicles occurs outside.

Rental services.

Self-service storage facilities, subject to the following conditions:

- (1) All storage shall be kept within an enclosed building, except recreation or other oversized vehicles, compressed flammable gas tanks, or gasoline containers in excess of two (2) gallons, which shall be stored only in exterior areas screened from the view from any street frontage.
- (2) Where the site is adjacent to residentially-zoned land, a permanent screen shall be required and shall conform to the provisions of section 29-17(d)(6).
- (3) Storage of feed, fertilizer, grain, soil conditioners, pesticides, chemicals, explosives and other hazardous materials, asphalt, brick, cement, gravel, rock, sand and similar construction materials, inoperable vehicles, or bulk storage of fuels shall be prohibited.
- (4) The use of power tools, paint sprayers, or the servicing, repair or fabrication of furniture, boats, trailers, motor vehicles, lawn mowers, appliances and other similar equipment shall be prohibited.
- (5) The sale of any item from the facility or the conduct of any type of commercial activity at the facility shall be prohibited.
- (6) Building heights shall be limited to fourteen (14) feet.
- (7) Loading docks shall be prohibited.

Tree trimming and removal services.

Customary accessory uses, including drive-up facilities, subject to the provisions of section 29-23.

Any retail or wholesale business or use of a similar character to those listed above, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

(c) *Conditional uses.* The following uses shall be permitted in district C-3 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Drive-in theaters.

Halfway houses for not more than fifteen (15) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders for not more than forty (40) occupants.

Halfway houses for young offenders for not more than forty (40) occupants, provided that the board finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, halfway houses and other halfway houses for young offenders.

Live adult entertainment businesses, subject to the following:

- (1) Such uses shall not be located within seven hundred fifty (750) feet of any church, mosque, synagogue, school, college, university, park, athletic field, recreational facility for children, residence or residentially zoned district. Such uses shall not be located within one thousand (1,000) feet of any other live adult entertainment business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the live adult entertainment business to the nearest point on the property line of such church, mosque, synagogue, school, college, university, park, athletic field, recreational facility for children, residence, residentially zoned district or other live adult entertainment business.
- (2) Notwithstanding any provision in chapter 23 to the contrary, a live adult entertainment business shall have no more than one (1) on-premise sign which shall be a wall sign approved by the board of adjustment as part of the conditional use permit. The surface area of the sign shall not exceed ten (10) per cent of the area of the wall to which it is attached. The sign shall not be a neon or similar sign. The sign may be illuminated but shall not be a flashing sign. The sign shall not depict any portion of the human anatomy.
- (3) No sign shall be placed in any window.
- (4) No flashing lights or colored lights or string of lights shall be placed on the outside of the building or on the inside of the building so that the lights can be viewed from outside the building.
- (5) The premises of all live adult entertainment businesses shall be constructed to include a partition or other physical barrier on all customer entrances, that will ensure that the interior of the business is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with a partition or other physical barrier shall be covered so as to prevent observation of the interior of the premises from the exterior of the building. No live adult entertainment business shall be conducted in a manner that permits the observation of entertainers, servers or employees from the exterior of the building.
- (6) On-premise advertisement, displays or other promotional materials shall not be shown or

exhibited so as to be visible to the public from the exterior of the building.

- (7) Notwithstanding the provisions of section 29-30(g), required off-street parking for a live adult entertainment business shall be located on the premises of the business.

Machine shops.

Plumbing, heating, air conditioning, and electrical businesses, which may include related customary activities such as contracting, retail and wholesale sales and distribution.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

Testing laboratories.

(d) *Height and Area Regulations.* In district C-3 any building or portion of a building hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* No minimum requirement.
- (2) *Yards.*
 - a. Front--Not less than twenty-five (25) feet.
 - b. Rear--Not less than ten (10) feet, except that no rear yard is required where the rear lot line abuts property in a nonresidential district.
 - c. Side--No minimum requirement, except that:
 1. On corner lots there shall be a side yard adjacent to the side street of not less than fifteen (15) feet; and
 2. Where a C-3 district abuts any residential district, there shall be a side yard of not less than ten (10) feet.
- (3) *Building height.* Not over forty-five (45) feet, except that the height may exceed forty-five (45) feet provided that for each additional foot of height, one additional foot of setback shall be provided for all yards.
- (4) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (5) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.164; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11703, § 1, 12-7-87; Ord. No. 11767, § 2, 2-1-88; Ord. No. 12088, § 2, 12-12-88; Ord. No. 13098, § 1, 9-3-91; Ord. No. 13526, § 1, 12-7-92; Ord. No. 13543, § 1, 12-21-92; Ord. No. 14777, § 1, 3-4-96; Ord. No. 15134, § 1, 2-3-97; Ord. No. 15471, § 1, 12-15-97; Ord. No. 15828, § 2, 12-7-98; Ord. No. 16105, § 1, 8-2-99; Ord. No. 17229, § 1, 3-18-02; Ord. No. 17667, § 1, 5-5-03)

Sec. 29-17. District C-P, planned business district.

(a) *Purpose.* The purpose of this district is to enable innovation and flexibility in design and to promote environmentally sound and efficient use of land. The major objectives of a C-P district are:

- (1) To allow certain commercial uses in locations where a broad range of commercial uses might be inappropriate.
- (2) To encourage development of such scale and character that it will be harmonious with surrounding areas and minimize any adverse impacts.

(b) *Permitted Uses.* In district C-P, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the uses allowed by the ordinance placing the property in district C-P (for exceptions, see section 29-28, Nonconforming Uses, and section 29-31, Board of Adjustment). The commission shall recommend and the council, at the time of rezoning, shall designate the use or uses allowed for the applicant's property from the following uses:

One (1) or more or all of the permitted uses in district C-1.

One (1) or more or all of the permitted uses in district C-3.

Amusement parks, commercial baseball or other athletic fields, race tracks or fairgrounds.

Commercial picnic grounds and fishing lakes.

Commercial stables.

Drive-in theaters.

Gun clubs and skeet, trap or target ranges.

Halfway houses for not more than fifteen (15) occupants, provided that the council finds that the proposed use would not be detrimental to the public interest considering the size and character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, other halfway houses and halfway houses for young offenders for not more than forty (40) occupants. (Property zoned C-P before March 18, 2002, the date on which this use was added to this section, may not be used for a halfway house unless the council passes an ordinance changing the permitted uses of the property to include halfway houses).

Halfway houses for young offenders for not more than forty (40) occupants, provided that the council finds that the proposed use would not be detrimental to the public interest considering the size and

character of the proposed facility and its proximity to schools, churches, mosques, synagogues, residences, halfway houses and other halfway houses for young offenders. (Property zoned C-P before March 18, 2002, the date on which this use was added to this section, may not be used for a halfway house for young offenders unless the council passes an ordinance changing the permitted uses of the property to include halfway houses for young offenders).

Light industrial, subject to the following:

- (1) No use or activity shall result in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere.
- (2) No use or activity shall be conducted in a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious or offensive by reason of the creation of a fire, explosion or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation or fumes.
- (3) No outside storage shall be allowed.

Live/work unit, subject to the following:

- (1) Not more than three (3) people may be engaged in the making, servicing or selling of goods, or provision of personal and professional services, within a single unit.
- (2) At least one (1) person shall reside in the dwelling unit where the nonresidential activity or activities occur.

Machine shops.

Outdoor stage and concert facilities.

Plumbing, heating, air-conditioning, and electrical businesses, which may include related customary activities such as contracting, retail and wholesale sales and distribution.

Research and development laboratories, provided there is minimal/insignificant use of hazardous materials based on a risk assessment.

Temporary shelter, subject to the following.

- (1) A zoning petition for a temporary shelter shall include information about the size and design of the structure, population groups served, length of stay permitted, maximum design capacity and support services provided. These items shall be used to determine if the facility is appropriate for the neighborhood.
- (2) A temporary shelter shall not be located within one thousand (1,000) feet of another temporary shelter.

- (3) The minimum lot area for a temporary shelter shall be seven thousand five hundred (7,500) square feet. If a proposed temporary shelter structure is larger than two thousand five hundred (2,500) square feet of gross floor area there shall be provided an additional one thousand five hundred (1,500) square feet of lot area for each additional five hundred (500) square feet of gross floor area within the structure.
- (4) The shelter shall submit a semi-annual report to the protective inspection division of the public works department stating maximum monthly occupancy level and support services provided by the shelter.

Testing laboratories.

Travel trailer parks.

Warehousing and distribution facilities provided such facilities are ancillary to other allowed uses in the C-P district.

The owner of property zoned C-P may apply for a change in the permitted use or uses of the property. Such application shall be treated as a request for rezoning.

(c) *Conditional Uses.* The following uses shall be permitted in district C-P only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Communication antennas and towers, subject to the provisions of section 29-21.3.

(d) *Standards and Criteria.* The following standards and criteria shall apply to all C-P developments:

- (1) *Lot size.* No minimum requirements.
- (2) *Yards.* Yards shall be provided as follows:
 - a. *Front*--Not less than twenty-five (25) feet from collector and arterial streets and fifteen (15) feet from all other streets.
 - b. *Rear*--None, except not less than ten (10) feet when abutting a residential zoned district.
 - c. *Side*--None, except that:
 1. On corner lots the side yard shall be not less than twenty-five (25) feet adjacent to collector and arterial streets and not less than fifteen (15) feet from all other streets.
 2. The side yard abutting a residential zoned district shall not be less than ten (10) feet.

3. There shall be no setback required from a common area as long as the common area is at least as wide as the required yard.
 4. The applicant may request or the commission may recommend and the council may approve a lesser minimum yard.
- (3) *Building height.* No specific maximum; however, there shall be one (1) additional foot of rear yard and interior side yard setback provided above the required minimum for each additional foot of height for buildings over forty-five (45) feet tall abutting a residential zoned district. The applicant may request or the commission may recommend and the council may approve a lesser building setback.
- (4) *Vision clearance.* On any corner lot no wall, fence, sign or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (5) *Parking and loading.* The provisions of section 29-30, off-street parking and loading, shall apply, except that the commission may recommend and the council may approve a lesser parking requirement if, after considering the proposed use, the availability of other parking in the area (including parking on non-residential public streets) and other relevant factors, a lesser requirement is deemed appropriate.

The commission may also recommend and the council may allow some of the required parking to be deferred. This shall be done by noting such parking spaces on the plan as "future parking if needed." The future parking spaces may be placed within landscaped areas, as long as the landscaped areas are in excess of the fifteen (15) per cent minimum of the site which is required to be in landscaping. The property owner shall establish additional parking spaces in the "future parking" area when directed to do so by the city council.

- (6) *Screening and landscaping.* The provisions of section 29-25 shall apply.

A permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height and, when a fence is used, not to exceed twelve (12) feet in height, shall be required where a lot in this district abuts residentially zoned land. The required screening shall have an opacity of at least eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity and eight-foot minimum height shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen. The required screening and landscaping shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature and treated to prevent rapid deterioration. Failure to maintain the required landscaping and screening shall be considered a violation of this chapter.

The applicant may request or the commission may recommend and the council may approve less

stringent screening and landscaping requirements if, after considering topography, surrounding uses and other relevant factors, less stringent screening and landscaping requirements are deemed appropriate.

- (7) *Drainage.* A drainage system shall be designed to minimize the possibility of soil erosion and flood damage.
- (8) *Access and circulation.* The traffic circulation system shall provide for the safe, convenient and efficient movement of goods and people with a minimum of conflict between various modes of travel. The streets within the proposed development shall be public and within a public right-of-way, except private streets may be permitted under the following conditions:
 - a. The streets shall be designed, constructed, and maintained according to any applicable minimum city standards for private streets;
 - b. The streets will serve two (2) or more lots or property in multiple ownership;
 - c. The private streets do not provide the only vehicular access to public streets from other property located outside the development;
 - d. The streets shall be located in designated common areas which shall be platted as a separate lot or lots;
 - e. A notation shall be written on the approved plan and recorded plat which reads: "All maintenance of the private streets shown on this plat shall be the responsibility of the owners association or abutting property owners. No private streets shall be dedicated to nor accepted by the city for maintenance until they have been improved to minimum city standards for public streets."; and
 - f. The street signs for private streets shall indicate "private street" so as to distinguish them from public streets.

Provisions shall be made for pedestrian travel within the development and shall connect with existing pedestrian systems or allow for future extensions to activity centers outside the development (i.e., schools, parks, shopping areas, etc.). Sidewalks shall be required along private streets as they would be required for public streets, except no sidewalks shall be required on the side of a street without any buildings or driveways.

- (9) *Signs.* The provisions of Chapter 23 shall apply, except that the requirements pertaining to area, height, placement and number of freestanding signs and on-premise wall, canopy and awning signs shall be as approved by the council as part of the development plan.
- (e) *Procedure for Review and Approval of C-P Zoning.*
- (1) The first step in approval process should be a concept review to discuss and document the proposal. The concept review is an informal discussion and review between the director of

planning and development and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.

- (2) The second step shall be the submission of a request for rezoning to C-P. Rezoning shall be done in accordance with section 29-34 and shall be accompanied by a statement of intent. The statement of intent shall be a letter, signed by the applicant or his agent, containing the following information about the proposed C-P development:
 - a. The uses proposed.
 - b. The maximum gross square feet of building floor area proposed.
 - c. The maximum building height proposed.
 - d. The minimum percentage of the site to be maintained in open space.

At the discretion of the applicant, the statement of intent may include other aspects of the proposed development.

The statement of intent shall become part of the ordinance approving the C-P zoning and shall be binding upon the owners, their heirs and assigns until such time as the council shall release such limitations on the use of the subject property under the procedures provided herein. The statement of intent is also intended to provide guidance for any future revisions to the C-P development plan.

- (3) The applicant shall prepare and submit a request for C-P zoning to the commission for its review. The commission shall then hold a public hearing.
- (4) After the public hearing, the commission shall forward its recommendation to the council.
- (5) The council shall approve, approve with conditions, or disapprove the C-P zoning request. An ordinance placing property in district C-P shall specify the uses allowed. Prior to a vote on an ordinance placing property in district C-P that contains conditions, the applicant shall be given an opportunity to:
 - a. Accept the conditions; or
 - b. Request a modification of the conditions; or
 - c. Request that the application be voted on without conditions; or
 - d. Request that the application be disapproved; or
 - e. Withdraw the application.
- (f) *Procedure for Review and Approval of a C-P Development Plan.*

- (1) After council approval of the rezoning, the applicant shall submit a development plan for review and approval by the commission. The development plan shall be processed in the same manner as a rezoning request. Advertising costs shall be at the applicant's expense. After the public hearing, the commission shall forward the development plan to the council with its recommendation. The council will then take action to approve, approve with conditions, or disapprove the plan.
- (2) The development plan submittal shall include the following:
 - a. The name of the C-P development.
 - b. A north arrow, scale, small location map of the site, and the size of the site to the nearest one-tenth (0.1) of an acre.
 - c. The name and address of the record owners of the land.
 - d. Names of adjacent property owners of unsubdivided land and the names of adjacent subdivisions and the zoning of adjacent property.
 - e. The location of any corporate boundaries immediately adjacent.
 - f. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one-hundred-year floodplain, if applicable.
 - g. The location and height of all buildings. The minimum distance from buildings to perimeter property lines shall be shown or stated on the plan.
 - h. The location and number of parking spaces, drives, walkways, and the parking ratio.
 - i. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way and recorded easements; and the proposed location, width, name and grade for any new street.
 - j. The location and size of existing and proposed sanitary sewers, water mains, storm sewers and natural gas mains within or adjacent to the site and any proposed easements.
 - k. A conceptual landscaping plan showing the areas to be landscaped or preserved, the general types of landscaping materials (trees, shrubs, lawn, etc.) proposed for each area, and the per cent of the total site to be landscaped or preserved. A landscaping plan (including any tree preservation areas) which complies with the requirements of section 29-25 and Chapter 12A may be submitted with the C-P development plan or at the time of application for a land disturbance or building permit.
 - l. A conceptual stormwater management plan showing critical environmental areas such as streams, lakes, ponds, and wetlands; proposed stream buffer limits, if applicable; existing

streets, utilities and drainage structures; proposed stormwater management facilities and structures; and the location, type and approximate size of any proposed on-site detention and specifying the design storms that will be met. A stormwater management plan which complies with city requirements, including Chapter 12A, may be submitted with the C-P development plan or at the time of application for a land disturbance or building permit.

- m. Signature blocks for commission and council approvals on all exhibits considered part of the development plan.
 - n. The proposed location and general description of signs not attached to structures on the site.
 - o. The proposed type and location of all on-site lighting.
- (3) In addition to the above, a C-P development plan submittal shall include a set of design parameters which the director of planning and development shall use as guidance when considering future revisions to an approved C-P development plan. The design parameters shall be in the form of a letter and shall include the following:
- a. The minimum distance between any building and any adjacent property line or street right-of-way.
 - b. The minimum distance between the edge of any driveway, parking area, loading area, trash storage area and any adjacent property line or street right-of-way.
 - c. The maximum number of freestanding signs on the site, the maximum square footage of sign surface area and maximum height of each.
 - d. The minimum percentage of the site to be maintained in open space shown by the per cent in landscaping and the per cent left in existing vegetation.
 - e. The maximum height and number of light poles and type of fixtures.

The design parameters shall become part of the ordinance approving the C-P development plan.

- (4) Approval of the development plan shall be deemed as satisfying the requirements of the subdivision regulations for a preliminary plat, provided all those requirements have been met. Any variances to the subdivision regulations, proposed as part of the development plan shall be stated clearly on the development plan. Such variances shall be considered along with commission and council review of the development plan.
- (5) No building permit shall be issued until the development plan is approved by the council.
- (6) No building permit shall be issued until the property has been platted.
- (7) No building or footing and foundation permit shall be issued until the site plan filed with the

application for a building permit has been reviewed by the director of planning and development for compliance with the approved development plan.

- (8) From and after two (2) years following the date of approval of a development plan by the council, the council, may, by a majority vote, withdraw approval of such development plan, provided development has not commenced.
- (9) Minor adjustments to a development plan approved prior to November 18, 1996, may be authorized by the director of planning and development at his discretion. The director of planning and development shall notify the commission of any such changes.
- (10) Changes to a development plan approved prior to November 18, 1996, other than those considered minor by the director of planning and development, shall be submitted to the commission for a public hearing. The public hearing shall follow the same procedures outlined herein for a development plan. If, after the public hearing, the change is considered to be in substantial compliance with the approved development plan, the commission may approve the revision. If, however, the change is considered to be a substantial deviation from the approved development plan, the commission may recommend to the council that a revised development plan be required. The council shall then take action on the proposed revision without a public hearing. If the council determines that the proposed change is a substantial deviation from the approved development plan, a revision to the development plan shall be required. This revision shall be processed in the manner herein described for development plans. Advertising costs shall be at the applicant's expense. The revised plan shall not be approved unless findings determined by the council are reflected on the plan.

In determining whether or not the change is a substantial deviation from the approved development plan, the commission and council may use, but are not limited to, the following criteria:

- a. Is there an increase or decrease in land use intensity such as building height, size or increase in parking area?
 - b. Is there a rearrangement of or change in the number of buildings?
 - c. Is there a change in public or private infrastructure?
 - d. Is there a change in amenities being proposed, such as landscaping or open space?
- (11) Changes to a development plan approved after November 18, 1996, may be made to an approved C-P development plan subject to approval by the director of planning and development, provided that any such changes are within the limits set forth in the approved statement of intent and design parameters. Any proposed changes which exceed the limits of the statement of intent or the design parameters shall be processed as a new C-P development plan with the required public hearings before the planning and zoning commission.
 - (12) The applicant may submit the development plan at the time of rezoning to C-P. Under this

option, the development plan will be considered as part of the rezoning request.

(g) *Simplified C-P Zoning.* An application may be submitted for a simplified C-P district provided the application complies with the following conditions:

- (1) There shall be no new development proposed on the site, including the construction of any new buildings or parking areas, the expansion of any existing buildings or parking areas, or the construction of any new streets, except however, existing signs may be replaced with new signs which comply with the requirements of the C-3 district.
- (2) The requirements of subsection (d) are met, unless a specific exception is requested and approved by the council.

The procedure for review and approval of C-P zoning shall be the same as herein provided under subsection (e), except that a development plan and design parameters shall not be required.

A preliminary plat or final plat may be required as provided by the subdivision regulations.

(h) *Effect of Amendments to District C-P Regulations.*

- (1) An approved final C-P plan shall not be required to comply with C-P regulations adopted after the plan was approved.
- (2) Buildings constructed in accordance with an approved final C-P plan are lawful conforming uses.
- (3) Proposed revisions to final C-P plans approved under regulations in effect before December 17, 1990, shall be reviewed under the procedural provisions of this section.

(Code 1964, § 19.165; Ord. No. 9958, § 1, 10-3-83; Ord. No. 10513, § 1, 4-1-85; Ord. No. 11767, § 2, 2-1-88; Ord. No. 12821, § 1, 12-17-90; Ord. No. 12781, § 1, 2-18-91; Ord. No. 13058, § 1, 8-19-91; Ord. No. 13098, § 1, 9-3-91; Ord. No. 13543, § 1, 12-21-92; Ord. No. 15053, § 1, 11-18-96; Ord. No. 15448, § 1, 12-1-97; Ord. No. 15471, § 1, 12-15-97; Ord. No. 16106, § 1, 8-2-99; Ord. No. 16816, § 1, 3-5-01; Ord. No. 17116, § 1, 12-17-01; Ord. No. 17229, § 1, 3-18-02; Ord. No. 17575, § 1, 2-3-03; Ord. No. 17667, § 1, 5-5-03; Ord. No. 18464, § 1, 4-4-05; Ord. No. 19343, § 3, 1-2-07; Ord. No. 19748, § 1, 12-3-07; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-18. District M-R, research, development and office park district.

(a) *Purpose.* The purpose of this M-R district is to enable innovation and flexibility in design and to promote environmentally sound and efficient use of land. The major objectives of an M-R district are:

- (1) To allow certain research, development and office park uses in locations where a broad range of uses might be inappropriate.
- (2) To encourage development of such scale and character that it will be harmonious with surrounding areas and minimize any adverse impacts.

(b) *Permitted Uses.* In district M-R, no building, land or premises shall be used and no building shall

hereafter be erected, constructed, reconstructed or altered except for one or more of the following uses allowed by the ordinance placing the property in district M-R (for exceptions, see section 29-28, nonconforming uses, and section 29-31, board of adjustment). The commission shall recommend and the council, at the time of rezoning, shall designate the use or uses allowed for the applicant's property from the following uses:

One or more or all of the permitted uses in district M-C.

One or more or all of the permitted uses in district C-1.

All uses and processes shall be conducted entirely within enclosed buildings.

(c) *Conditional Uses.* The following uses shall be permitted in district M-R only after issuance of a conditional use permit pursuant to the provisions of section 29-23:

Churches, mosques, and synagogues, subject to the following conditions:

- (1) The conditional use permit shall be valid for a period not to exceed five (5) years. Renewal of the conditional use permit shall be treated as a new request for a conditional use permit.
- (2) A site plan shall accompany the conditional use permit application, showing that parking will be provided for the church and any other associated uses in accordance with section 29-30.

(d) *Standards and Criteria.* The following standards and criteria shall apply to all M-R developments:

- (1) *Lot size.* No minimum requirements.
- (2) *Yards.* Yards shall be provided as follows:
 - a. *Front*--Not less than twenty-five (25) feet from collector and arterial streets and fifteen (15) feet from all other streets.
 - b. *Rear*--None, except not less than ten (10) feet when abutting a residential zoned district.
 - c. *Side*--None, except that:
 1. On corner lots the side yard shall be not less than twenty-five (25) feet adjacent to collector and arterial streets and not less than fifteen (15) feet from all other streets, and
 2. The side yard abutting a residential zoned district shall not be less than ten (10) feet.
- (3) *Building height.* No specific maximum; however, there shall be one (1) additional foot of rear yard and interior side yard setback provided above the required minimum for each additional foot of height for buildings over forty-five (45) feet tall abutting a residential zoned district. The

applicant may request or the commission may recommend and the council may approve a greater maximum building height.

- (4) *Vision clearance.* On any corner lot no wall, fence, sign or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (5) *Parking and loading.* The provisions of section 29-30, off-street parking and loading, shall apply, except that the commission may approve a lesser parking requirement if, after considering the proposed use, the availability of other parking in the area (including parking on public streets) and other relevant factors, a lesser requirement is deemed appropriate.

The commission may also recommend and the council may allow some of the required parking to be deferred. This shall be done by noting such parking spaces on the plan as "future parking if needed." The future parking spaces may be placed within landscaped areas, as long as the landscaped areas are in excess of the fifteen (15) per cent minimum of the site which is required to be in landscaping. The property owner shall establish additional parking spaces in the "future parking" area when directed to do so by the city council.

- (6) *Screening and landscaping.* The provisions of section 29-25 shall apply.
 - a. A permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height and, when a fence is used, not to exceed eight (8) feet in height, shall be required where a lot in this district abuts residentially zoned land. The required screening shall have an opacity of at least eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity and eight-foot minimum height shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen. The required screening and landscaping shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature and treated to prevent rapid deterioration. Failure to maintain the required landscaping and screening shall be considered a violation of this chapter.
 - b. All exterior storage areas shall be enclosed by a permanent screen at least eight (8) feet in height above the ground surface of the storage area. In the event that an eight-foot screen is inadequate to screen such an area, additional screening may be required in such a manner and of such materials as necessary to adequately screen such from public view. However, in no event shall the screen exceed twelve (12) feet in height, except for landscape materials. In no event shall the stored or stacked materials or finished products exceed the height of the required screening. The required screening shall have an opacity of at least eighty (80) per cent year around, and if landscaping is used, the eighty (80) per cent opacity shall be achieved within four (4) full growing seasons. When a solid wall, or any solid fence is used for screening, ornamental landscaping shall be placed between the fence and the adjacent property lines. The required screening shall be maintained in good

order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature or treated to prevent rapid deterioration. Failure to maintain the required screening shall be considered a violation of this chapter.

- c. Exterior storage areas shall have a permanently dust-free surface.
 - d. The applicant may request or the commission may approve less stringent screening and landscaping requirements if, after considering topography, surrounding uses and other relevant factors, less stringent screening and landscaping requirements are deemed appropriate.
- (7) *Access and circulation.* The traffic circulation system shall provide for the safe, convenient and efficient movement of goods and people with a minimum of conflict between various modes of travel. The streets within the proposed development shall be public and within a public right-of-way, except private streets may be permitted under the following conditions:
- a. The streets shall be designed, constructed, and maintained according to any applicable minimum city standards for private streets;
 - b. The streets will serve two (2) or more lots or property in multiple ownership;
 - c. The private streets do not provide the only vehicular access to public streets from other property located outside the development;
 - d. The streets shall be located in designated common areas which shall be platted as a separate lot or lots;
 - e. A notation shall be written on the approved plan and recorded plat which reads: "All maintenance of the private streets shown on this plat shall be the responsibility of the owners association or abutting property owners. No private streets shall be dedicated to nor accepted by the city for maintenance until they have been improved to minimum city standards for public streets."; and
 - f. The street signs for private streets shall indicate "private street" so as to distinguish them from public streets.

Provisions shall be made for pedestrian travel within the development and shall connect with existing pedestrian systems or allow for future extensions to activity centers outside the development (i.e., schools, parks, shopping areas, etc.). Sidewalks shall be required along private streets as they would be required for public streets, except no sidewalks shall be required on the side of a street without any buildings or driveways.

- (8) *Signs.* The provisions of Chapter 23 shall apply, except that the requirements pertaining to area, height, placement and number of freestanding signs and on-premise wall, canopy and awning signs shall be as approved by the council as part of the development plan.

- (e) *Procedure for Review and Approval of M-R Zoning.*
- (1) The first step in approval process should be a concept review to discuss and document the proposal. The concept review is an informal discussion and review between the director of planning and development and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.
 - (2) The second step shall be the submission of a request for rezoning to M-R. Rezoning shall be done in accordance with section 29-34 and shall be accompanied by a statement of intent. The statement of intent shall be a letter, signed by the applicant or his agent, containing the following information about the proposed M-R development:
 - a. The uses proposed.
 - b. The maximum gross square feet of building floor area proposed.
 - c. The maximum building height proposed.
 - d. The minimum percentage of the site to be maintained in open space.

At the discretion of the applicant, the statement of intent may include other aspects of the proposed development.

The statement of intent shall become part of the ordinance approving the M-R zoning and shall be binding upon the owners, their heirs and assigns until such time as the council shall release such limitations on the use of the subject property under the procedures provided herein. The statement of intent is also intended to provide guidance for any future revisions to the M-R development.

- (3) The commission shall then hold a public hearing. After the public hearing, the commission shall forward its recommendation to the council.
- (4) The council shall approve, approve with conditions, or disapprove the M-R zoning request. An ordinance placing property in district M-R shall specify the uses allowed. Prior to a vote on an ordinance placing property in district M-R that contains conditions, the applicant shall be given an opportunity to:
 - a. Accept the conditions; or
 - b. Request a modification of the conditions; or
 - c. Request that the application be voted on without conditions; or
 - d. Request that the application be disapproved; or
 - e. Withdraw the application.

(f) *Procedure for Review and Approval of an M-R Development Plan.*

(1) After council approval of the rezoning, the applicant shall submit a development plan for review and approval by the commission. The development plan shall be processed in the same manner as a rezoning request. Advertising costs shall be at the applicant's expense. After the public hearing, the commission shall take action on the plan. If the commission does not approve the development plan, the applicant may appeal the commission's decision to the council. The council will then take action to approve, approve with conditions, or disapprove the plan.

(2) The development plan submittal shall include the following:

- a. The name of the M-R development.
- b. A north arrow, scale, small location map of the site, and the size of the site to the nearest one-tenth (0.1) of an acre.
- c. The name and address of the record owners of the land.
- d. Names of adjacent property owners of unsubdivided land and the names of adjacent subdivisions and the zoning of adjacent property.
- e. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one-hundred-year floodplain, if applicable.
- f. The location and height of all buildings. The minimum distance from buildings to perimeter property lines shall be shown or stated on the plan.
- g. The location and number of parking spaces, drives, walkways, and the parking ratio.
- h. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way and recorded easements; and the proposed location, width, name and grade for any new street.
- i. The location and size of existing and proposed sanitary sewers, water mains, storm sewers and natural gas mains within or adjacent to the site and any proposed easements.
- j. A conceptual landscaping plan showing the areas to be landscaped or preserved, the general types of landscaping materials (trees, shrubs, lawn, etc.) proposed for each area, and the per cent of the total site to be landscaped or preserved. A landscaping plan (including any tree preservation areas) which complies with the requirements of section 29-25 and Chapter 12A may be submitted with the M-R development plan or at the time of application for a land disturbance or building permit.
- k. A conceptual stormwater management plan showing critical environmental areas such as streams, lakes, ponds, and wetlands; proposed stream buffer limits, if applicable; existing

streets, utilities and drainage structures; proposed stormwater management facilities and structures; and the location, type and approximate size of any proposed on-site detention and specifying the design storms that will be met. A stormwater management plan which complies with city requirements, including Chapter 12A, may be submitted with the M-R development plan or at the time of application for a land disturbance or building permit.

- l. Signature blocks for commission approval on all exhibits considered part of the development plan.
 - m. The proposed location and general description of wall signs and signs not attached to structures on the site.
 - n. The proposed type and location of all on-site lighting.
- (3) In addition to the above, a M-R development plan submittal shall include a set of design parameters which the director of planning and development shall use as guidance when considering future revisions to an approved M-R development plan. The design parameters shall be in the form of a letter and shall include the following:
- a. The minimum distance between any building and any adjacent property line or street right-of-way.
 - b. The minimum distance between the edge of any driveway, parking area, loading area, trash storage area and any adjacent property line or street right-of-way.
 - c. The maximum number of freestanding signs on the site, the maximum square footage of sign surface area and maximum height of each.
 - d. The maximum height and number of light poles and type of fixtures.
- The design parameters shall become part of the ordinance approving the M-R development plan.
- (4) No building permit shall be issued until the development plan is approved by the council.
 - (5) No building permit shall be issued until the property has been platted.
 - (6) No building or footing and foundation permit shall be issued until the site plan filed with the application for a building permit has been reviewed by the director of planning and development for compliance with the approved development plan.
 - (7) Changes may be made to an approved M-R development plan subject to approval by the director of planning and development, provided that any such changes are within the limits set forth in the approved design parameters. Any proposed changes which exceed the limits of the design parameters shall be processed as a new M-R development plan with required public hearing before the planning and zoning commission.

- (8) The applicant may submit the development plan at the time of rezoning to M-R. Under this option, the development plan will be considered by the commission and the council as part of the rezoning request.

(g) *Simplified M-R Zoning.* An application may be submitted for a simplified M-R District provided the application complies with the following conditions:

- (1) There shall be no new development proposed on the site, including the construction of any new buildings or parking areas, the expansion of any existing buildings or parking areas, or the construction of any new streets, except, however, existing signs may be replaced with new signs which comply with the requirements of the M-C district.
- (2) The requirements of subsection (d) are met, unless a specific exception is requested and approved by the council.

The procedure for review and approval of M-R zoning shall be the same as herein provided under subsection (e), except that a development plan and design parameters shall not be required.

A preliminary plat or final plat may be required as provided by the subdivision regulations.

- (h) *Effect of Amendments to District M-R Regulations.*

- (1) Buildings constructed in accordance with an approved final M-R plan are lawful conforming uses.

- (2) Proposed revisions to final M-R plans approved under regulations in effect before August 16, 1999 shall be reviewed under the procedural provisions of this section.

(Code 1964, § 19.170; Ord. No. 9958, § 1, 10-3-83; Ord. No. 13058, § 1, 8-19-91; Ord. No. 14514, § 1, 6-19-95; Ord. No. 14677, § 1, 11-6-95; Ord. No. 15134, § 1, 2-3-97; Ord. No. 16126, § 1, 8-16-99; Ord. No. 16181, § 1, 9-20-99; Ord. No. 17575, § 1, 2-3-03; Ord. No. 18464, § 1, 4-4-05; Ord. No. 19343, § 3, 1-2-07; Ord. No. 19748, § 1, 12-3-07; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-19. District M-C, controlled industrial district.

(a) *Purpose.* This district is intended to allow for manufacturing, warehousing and office activities in an industrial park-like setting. The principal land use is a light industrial facility.

(b) *Permitted Uses.* In district M-C, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses, provided such use shall be conducted entirely within an enclosed building, except that exterior storage may be allowed as herein provided:

Administrative, professional and research offices and uses.

Automobile repair facilities, provided that all repair shall take place within an enclosed building; and, provided that all customer vehicles shall be screened in accordance with paragraph (e)(2)c. of this

section.

Commercial storage and wholesale distribution warehouses for all materials and products, except for feed, fertilizer, grain, soil conditioners, hazardous materials, asphalt, brick, cement, gravel, rock, sand, and similar construction materials, or fuels.

Freight terminals (rail or truck for loading or storage) or sidings.

Mechanical and construction contractors and trade shops.

Physical fitness centers, private gymnasiums and reducing salons.

Plants and facilities for the assembly, compounding, manufacture, packaging, processing, repairing or treatment of equipment, materials, merchandise or products; except for the following:

- (1) Bone, fat, meat or tallow rendering plants; fish, meat or poultry packing houses; and slaughterhouses.
- (2) Foundries or mills for sand casting, forging, primary or secondary processing, reduction, reprocessing or electroplating ferrous or nonferrous metal.
- (3) Manufacture, milling or processing of feed, fertilizer, grain or soil conditioners.
- (4) Manufacture, compounding or processing of hazardous materials.
- (5) Manufacture, milling, mixing or processing of asphalt, brick, cement, gravel, rock, sand, and similar construction materials.
- (6) Manufacture, processing or refining of fuels.

Public utility buildings and service facilities, electric transmission and distribution substations, and public utility service centers.

Rental services.

Research and development laboratories.

Restaurants.

Sports and recreational facilities, including accessory retail and concession sales.

Structures and uses clearly accessory and necessary to the normal operation of the above uses.

Testing laboratories.

Tree trimming and removal services provided that all related service vehicles shall be screened in

accordance with paragraph (e)(2)(c) of this section.

(c) *Conditional Uses.* The following uses shall be permitted in district M-C only after issuance of a conditional use permit pursuant to the provisions of section 29-23:

Churches and synagogues, subject to the following conditions:

- (1) The conditional use permit shall be valid for a period not to exceed five (5) years. Renewal of the conditional use permit shall be treated as a new request for a conditional use permit.
- (2) A site plan shall accompany the conditional use permit application, showing that parking will be provided for the church and any other associated uses in accordance with section 29-30.

Retail establishments provided such establishments are ancillary to a manufacturing, warehousing or distribution facility.

(d) *Height and Area Regulations.* In district M-C any building or portion of a building hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions, see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* Not less than twenty-two thousand (22,000) square feet, excluding private on-site streets.
- (2) *Lot width.* Not less than one hundred (100) feet at the building line.
- (3) *Yards:*
 - a. Front--Not less than thirty (30) feet.
 - b. Rear--Not less than thirty (30) feet.
 - c. Side--Not less than fifteen (15) feet each.
- (4) *Building height.* No maximum height.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner, shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Parking.* (See section 29-30, off-street parking and loading.)
- (e) *Performance and Landscaping Requirements:*
 - (1) *Performance standards.* No use shall be permitted or so operated as to produce or emit:

- a. Smoke or particulate matter in violation of the standards of the ordinances of the city.
- b. Dust, fly ash, radiation, gases, heat, glare, or other effects which are obviously injurious to humans at the property line.
- c. Vibration or concussion perceptible without instruments at the property line.
- d. The noise level at any point along the property line shall not exceed:

Octave Band	Decibels
0-- 75 CPS	55
75--1,200 CPS	40
1,200--4,800 CPS	25
Above 4,800 CPS	22

- e. Industrial wastes of such quantity and nature as to overburden the public sewage disposal facilities or to cause odor and unsanitary effects beyond the property line.

(2) *Landscaping:*

- a. At least twenty (20) per cent of land in each lot shall be devoted to open space and maintained with landscaping.
- b. Screening buffer adjacent to residential zone:
 - 1. Permanent screening consisting of a masonry wall, earth berm, wood fence, landscape materials, or combination thereof, at least eight (8) feet in height and not to exceed twelve (12) feet in height shall be required where a lot in this district abuts residentially zoned land. The required screening shall have an opacity of at least eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, ornamental landscaping shall be placed between the wall or fence and the property line. The required screen shall be placed within five (5) feet of the property line. In the front yard, the required screen shall not exceed three (3) feet in height.
 - 2. Required walls, fences or landscaping shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature or treated to prevent rapid deterioration.
 - 3. Where exterior storage screening is located (as required by this chapter), adjacent to residentially zoned land and no other improvement exists, including parking, between the required exterior storage screening and the common property line with the residentially zoned land, the screening buffer adjacent to a residential zone may be waived by the commission. However, the commission shall not waive this requirement unless provisions are made at the time of approval of the

screening plan that a continuous screen be provided where the tract abuts the residentially zoned land.

c. Screening requirements for exterior storage.

1. All exterior storage areas shall be enclosed by a permanent screen at least eight (8) feet in height above the ground surface of the storage area. Required screening shall be constructed in such a manner and with such materials as may be approved by the commission. In the event that an eight-foot screen is inadequate to screen such an area, the commission may require additional screening in such a manner and of such materials as may be reasonably necessary to adequately screen such from public view. However, in no event shall the screen exceed twelve (12) feet in height, except for landscape materials. In no event shall the stored or stacked materials or finished products exceed the height of the required screening. The required screening shall have an opacity of at least eighty (80) per cent year around, and if landscaping is used, the eighty (80) per cent opacity shall be achieved within four (4) full growing seasons. When a solid wall, or any solid fence is used for screening, ornamental landscaping shall be placed between the fence and the adjacent property lines.
2. Exterior storage areas shall have a permanently dust-free surface.
3. No exterior storage of materials or finished products on property subject to this section is permitted except pursuant to and in compliance with a screening plan approved by the commission. Such plan shall state the location of buildings, proposed storage areas and proposed screening, setback dimensions from property lines, elevation(s) of proposed screening including building materials; and shall state colors, height, and any other information the commission may require.
4. The required screening shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature or treated to prevent rapid deterioration. Failure to maintain the required screening shall be considered a violation of this chapter.

(Code 1964, § 19.171; Ord. No. 9958, § 1, 10-3-83; Ord. No. 13812, § 1, 9-20-93; Ord. No. 14312, § 1, 12-5-94; Ord. No. 15448, § 1, 12-1-97; Ord. No. 15471, § 1, 12-15-97; Ord. No. 17006, § 1, 9-4-01; Ord. No. 17116, § 1, 12-17-01; Ord. No. 17229, § 1, 3-18-02; Ord. No. 17667, § 1, 5-5-03; Ord. No. 17911, § 1, 12-1-03)

Sec. 29-19.1. District M-P, Planned general industrial district.

(a) *Purpose.* The purpose of this M-P district is intended to enable innovation and flexibility in design and to promote environmentally sound and efficient use of land. The major objectives of the M-P district are:

- (1) To allow certain industrial uses in locations where a broad range of industrial uses might be inappropriate.

- (2) To encourage development of such scale and character that it will be harmonious with surrounding areas and minimize any adverse impacts.

(b) *Permitted Uses.* In district M-P, no building, land or premises shall be used and no building shall hereafter be erected, constructed, reconstructed or altered except for one (1) or more of the uses allowed by the ordinance placing the property in district M-P (for exceptions, see section 29-28, Non-Conforming Uses, and section 29-31, Board of Adjustment). The commission shall recommend and the council, at the time of rezoning, shall designate the use or uses allowed for the applicant's property from the following uses:

- (1) One (1) or more or all of the permitted uses in districts M-R, M-C, M-1 and C-3 (except those uses permitted in district R-3).

(c) *Conditional Uses.* The following uses shall be permitted in district M-P only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

Communication antennas and towers, subject to the provisions of section 29-21.3.

(d) *Standards and Criteria.* The following standards and criteria shall apply to all M-P developments:

- (1) *Lot size.* No minimum requirements.
- (2) *Yards.* Yards shall be provided as follows:
 - a. *Front--*Not less than twenty-five (25) feet from collector and arterial streets and fifteen (15) feet from all other streets.
 - b. *Rear--*None, except not less than ten (10) feet when abutting a residential zoned district.
 - c. *Side--*None, except that:
 1. On corner lots the side yard shall be not less than twenty-five (25) feet adjacent to collector and arterial streets and not less than fifteen (15) feet from all other streets, and
 2. The side yard abutting a residential zoned district shall not be less than ten (10) feet.

There shall be no setback required from a common area as long as the common area is at least as wide as the required yard. The applicant may request or the commission may recommend and the council may approve a lesser minimum yard.

- (3) *Building height.* No specific maximum height, however, there shall be one (1) additional foot of rear yard and interior side yard setback provided above the required minimum for each additional foot of height for buildings over forty-five (45) feet tall abutting a residential zoned district. The applicant may request or the commission may recommend and the council may approve a greater

maximum building height.

- (4) *Vision clearance.* On any corner lot no wall, fence, sign or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (5) *Parking and loading.* The provisions of section 29-30, off-street parking and loading, shall apply, except that the commission may approve a lesser parking requirement if, after considering the proposed use, the availability of other parking in the area (including parking on public streets) and other relevant factors, a lesser requirement is deemed appropriate.

The commission may also recommend and the council may allow some of the required parking to be deferred. This shall be done by noting such parking spaces on the plan as "future parking if needed." The future parking spaces may be placed within landscaped areas, as long as the landscaped areas are in excess of the fifteen (15) per cent minimum of the site which is required to be in landscaping. The property owner shall establish additional parking spaces in the "future parking" area when directed to do so by the city council.

- (6) *Screening and landscaping.* The provisions of section 29-25 shall apply.
 - a. A permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height and, when a fence is used, not to exceed twelve (12) feet in height, shall be required where a lot in this district abuts residentially zoned land. The required screening shall have an opacity of at least eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity and eight-foot minimum height shall be achieved within four (4) full growing seasons. In the event a masonry wall or wood fence is used, landscaping shall be placed between the wall or fence and the property line to form an ornamental screen. The required screening and landscaping shall be maintained in good order and not allowed to exist in a state of disrepair or death. If wood fencing is used, it shall be durable in nature and treated to prevent rapid deterioration. Failure to maintain the required landscaping and screening shall be considered a violation of this chapter.
 - b. The applicant may request or the commission may recommend and the council may approve less stringent or more stringent screening and landscaping requirements if, after considering topography, surrounding uses and other relevant factors, less stringent or more stringent screening and landscaping requirements are deemed appropriate.
 - c. The commission may recommend and the council may approve screening requirements for any lot in district M-P that abuts land that is not residentially zoned after considering the possible uses of the lot and the abutting property. The screening requirements shall be the same as in subsection (d)(6)a. and shall be subject to the provisions of subsection (d)(6)b.
- (7) *Drainage.* A drainage system shall be designed to minimize the possibility of soil erosion and

flood damage.

- (8) *Access and circulation.* The traffic circulation system shall provide for the safe, convenient and efficient movement of goods and people with a minimum of conflict between various modes of travel. The streets within the proposed development shall be public and within a public right-of-way, except private streets may be permitted under the following conditions:
- a. The streets shall be designed, constructed, and maintained according to any applicable minimum city standards for private streets;
 - b. The streets will serve two (2) or more lots or property in multiple ownership;
 - c. The private streets do not provide the only vehicular access to public streets from other property located outside the development;
 - d. The streets shall be located in designated common areas which shall be platted as a separate lot or lots;
 - e. A notation shall be written on the approved plan and recorded plat which reads: "All maintenance of the private streets shown on this plat shall be the responsibility of the owners association or abutting property owners. No private streets shall be dedicated to nor accepted by the city for maintenance until they have been improved to minimum city standards for public streets."; and
 - f. The street signs for private streets shall indicate "private street" so as to distinguish them from public streets.

Provisions shall be made for pedestrian travel within the development and shall connect with existing pedestrian systems or allow for future extensions to activity centers (i.e., schools, parks, shopping areas, etc.). Sidewalks shall be required along private streets as they would be required for public streets, except no sidewalks shall be required on the side of a street without any buildings or driveways.

- (9) *Signs.* The provisions of Chapter 23 shall apply, except that the requirements pertaining to area, height, placement and number of freestanding signs and on-premise wall, canopy and awning signs shall be as approved by the council as part of the development plan.
- (e) *Procedure for Review and Approval of M-P Zoning and the Development Plan.*
- (1) The first step in approval process should be a concept review to discuss and document the proposal. The concept review is an informal discussion and review between the director of planning and development and the developer to discuss land use and development concepts, applicable regulations, and other concerns that may be raised.
 - (2) The second step shall be the submission of a request for rezoning to M-P. Rezoning shall be done in accordance with section 29-34 of this chapter and shall be accompanied by a statement of

intent. The statement of intent shall be a letter, signed by the applicant or his agent, containing the following information about the proposed M-P development:

- a. The uses proposed.
- b. The maximum gross square feet of building floor area proposed.
- c. The maximum building height proposed.
- d. The minimum percentage of the site to be maintained in open space.

At the discretion of the applicant, the statement of intent may include other aspects of the proposed development.

The statement of intent shall become part of the ordinance approving the M-P zoning and shall be binding upon the owners, their heirs and assigns until such time as the council shall release such limitations on the use of the subject property under the procedures provided herein. The statement of intent is also intended to provide guidance for any future revisions to the M-P development.

- (3) The commission shall then hold a public hearing. After the public hearing, the commission shall forward its recommendation to the council.
- (4) The council shall approve, approve with conditions, or disapprove the M-P zoning request. An ordinance placing property in district M-P shall specify the uses allowed. Prior to a vote on an ordinance placing property in district M-P that contains conditions, the applicant shall be given an opportunity to:
 - a. Accept the conditions; or
 - b. Request a modification of the conditions; or
 - c. Request that the application be voted on without conditions; or
 - d. Request that the application be disapproved; or
 - e. Withdraw the application.
- (f) *Procedure for Review and Approval of an M-P Development Plan.*
 - (1) After council approval of the rezoning, the applicant shall submit a development plan for review and approval by the commission. The development plan shall be processed in the same manner as a rezoning request. Advertising costs shall be at the applicant's expense. After the public hearing, the commission shall forward the development plan to the council with its recommendation. The council will then take action to approve, approve with conditions, or disapprove the plan.

- (2) The development plan submittal shall include the following:
- a. The name of the M-P development.
 - b. A north arrow, scale, small location map of the site, and the size of the site to the nearest one-tenth (0.1) of an acre.
 - c. The name and address of the record owners of the land.
 - d. Names of adjacent property owners of unsubdivided land and the names of adjacent subdivisions and the zoning of adjacent property.
 - e. The existing topography of the site with contour intervals no greater than five (5) feet, and the specific location of the one-hundred-year floodplain, if applicable.
 - f. The location and height of all buildings. The minimum distance from buildings to perimeter property lines shall be shown or stated on the plan.
 - g. The location and number of parking spaces, drives, walkways, and the parking ratio.
 - h. The location and width of existing street rights-of-way, alleys, roads, railroad rights-of-way and recorded easements; and, the proposed location, width, name and grade for any new street.
 - i. The location and size of existing and proposed sanitary sewers, water mains, storm sewers and natural gas mains within or adjacent to the site and any proposed easements.
 - j. A conceptual landscaping plan showing the areas to be landscaped or preserved, the general types of landscaping materials (trees, shrubs, lawn, etc.) proposed for each area, and the per cent of the total site to be landscaped or preserved. A landscaping plan (including any tree preservation areas) which complies with the requirements of section 29-25 and chapter 12A may be submitted with the M-P development plan or at the time of application for a land disturbance or building permit.
 - k. A conceptual stormwater management plan showing critical environmental areas such as streams, lakes, ponds, and wetlands; proposed stream buffer limits, if applicable; existing streets, utilities and drainage structures; proposed stormwater management facilities and structures; and the location, type and approximate size of any proposed on-site detention and specifying the design storms that will be met. A stormwater management plan which complies with city requirements, including Chapter 12A, may be submitted with the M-P development plan or at the time of application for a land disturbance or building permit.
 - l. Signature blocks for commission and council approval on all exhibits considered part of the development plan.

- m. The proposed location and general description of wall signs and signs not attached to structures on the site
 - n. The proposed type and location of all on-site lighting.
- (3) In addition to the above, a M-P development plan submittal shall include a set of design parameters which the director of planning and development shall use as guidance when considering future revisions to an approved M-P development plan. The design parameters shall be in the form of a letter and shall include the following:
- a. The minimum distance between any building and any adjacent property line or street right-of-way.
 - b. The minimum distance between the edge of any driveway, parking area, loading area, trash storage area and any adjacent property line or street right-of-way.
 - c. The maximum number of freestanding signs on the site, the maximum square footage of sign surface area and maximum height of each.
 - d. The minimum percentage of the site to be maintained in open space shown by the per cent in landscaping and the per cent left in vegetation.
 - e. The maximum height and number of light poles and type of fixtures.

The design parameters shall become part of the ordinance approving the M-P development plan.

- (4) Approval of the development plan shall be deemed as satisfying the requirements of the subdivision regulations for a preliminary plat, provided all those requirements have been met. Any variances to the subdivision regulations, proposed as part of the development plan shall be stated clearly on the development plan. Such variances shall be considered along with commission and council review of the development plan.
- (5) No building permit shall be issued until the development plan is approved by the council.
- (6) No building permit shall be issued until the property has been platted.
- (7) No building or footing and foundation permit shall be issued until the site plan filed with the application for a building permit has been reviewed by the director of planning and development for compliance with the approved development plan.
- (8) From and after two (2) years following the date of approval of a development plan by the council, the council, may, by a majority vote, withdraw approval of such development plan, provided development has not commenced.

(g) *Simplified M-P Zoning.* An application may be submitted for a simplified M-P district provided the application complies with the following conditions:

- (1) There shall be no new development proposed on the site, including the construction of any new buildings or parking areas, the expansion of any existing buildings or parking areas, or the construction of any new streets, except however, existing signs may be replaced with new signs which comply with the requirements of the M-1 district.
- (2) The requirements of subsection (d) are met, unless a specific exception is requested and approved by the council.

The procedure for review and approval of M-P zoning shall be the same as herein provided under subsection (e), except that a development plan and design parameters shall not be required.

A preliminary plat or final plat may be required as provided by the subdivision regulations.

- (3) Changes may be made to an approved M-P development plan subject to approval by the director of planning and development, provided that any such changes are within the limits set forth in the approved design parameters. Any proposed changes which exceed the limits of the design parameters shall be processed as a new M-P development plan with the required public hearing before the planning and zoning commission.
- (4) The applicant may submit the development plan at the time of rezoning to M-P. Under this option, the development plan will be considered by the commission and the council as part of the rezoning request.

(Ord. No. 17370, § 1, 7-15-02; Ord. No. 17575, § 1, 2-3-03; Ord. No. 18464, § 1, 4-4-05; Ord. No. 19343, § 3, 1-2-07; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-20. District M-1, General industrial district.

- (a) *Purpose.* This district is intended to allow a wide range of industrial and associated uses.

(b) *Permitted Uses.* In district M-1, no building, land or premises shall be used and no building shall hereafter be erected, constructed or altered except for one or more of the following uses, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise:

All permitted uses in districts M-R, M-C and C-3 (except those uses permitted in district R-3).

Automobile repair facilities.

Automobile wrecking and junkyards, if enclosed by a solid fence or wall at least ten (10) feet in height.

Blacksmith shops.

Bottling plants.

Busbarns or lots.

Canning or preserving factories.

Carpenter, cabinet or pattern shops.

Chemical laboratories not producing noxious fumes or odors.

Chick hatcheries.

Crematories.

Distribution of bottled and canned beverages.

Flour mills, feed mills, and grain elevators and processing.

Ice plants.

Machine shops.

Manufacturing and processing.

Mechanical and construction contractors and trade shops.

Monument or dimension stone works.

Motor vehicle or trailer sales and service.

Moving, transfer or storage plants.

Photo engraving plants.

Planing mills.

Plumbing and sheet metal shops.

Pounds, kennels and veterinary hospitals where domesticated animals or fowl are treated, kept, cared for, bred or boarded, under the following conditions:

- (1) Minimum site size shall be two (2) acres.
- (2) The maximum density shall be fifty (50) animals, cared for at full capacity, per acre.
- (3) Any outside animal run structure, pen or enclosure shall be fully fenced (including overhead).
- (4) A secondary or perimeter fence or wall shall be constructed around all outside animal runs.
- (5) The minimum yard, when the facility abuts residential uses or zoning, shall be one hundred (100)

feet to an unvoided wall or two hundred (200) feet to outside animal runs.

Sales rooms, yards and service for machinery and equipment.

Warehousing and distribution.

Any industrial facility or use similar to those listed above, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, gas, or otherwise.

Customary accessory uses, including drive-up facilities, subject to the provisions of section 29-23.

(c) *Conditional Uses.*

- (1) The following uses shall be permitted in district M-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23 and only if the criteria listed in this subsection are met:

Asphaltic concrete plants.

Concrete plants.

Electroplating works.

Forges.

Galvanizing works.

Manufacture, compounding or processing of hazardous materials.

Mines and quarries.

Slaughterhouses.

- a. Such uses shall be located more than two thousand (2,000) feet from any hospital, school, city park, residentially-zoned area, or platted county residential subdivision. In addition, when such uses are located in a direction of 135° to 225° azimuth (based on geodetic north and hereby determined to be the direction of origin of the prevailing wind) from any hospital, school, city park, residentially-zoned area, or platted county residential subdivision, such uses shall be located more than two thousand five hundred (2,500) feet from those hospitals, schools, city parks, residentially-zoned areas, or platted county residential subdivisions. In addition, such use shall be located more than four hundred (400) feet from any occupied building, or one thousand (1,000) feet from any occupied building affected by the above-determined prevailing wind.
- b. Such uses shall not be in operation between the hours of 8:00 p.m. and 7:00 a.m.

- c. Such uses shall be located only on sites which front on or have direct access to a designated arterial street which is built to city or state standards.
 - d. The emission of odorous matter in such a quantity as to be readily detectable at any point along lot lines, or as to produce a public nuisance or hazard beyond lot lines, is prohibited. Such odorous matter shall not exceed the odor threshold concentration defined in the American Society for Testing and Materials Method D1391-78, "Standard Method for Measurement of Odor in Atmospheres."
- (2) Churches and synagogues shall be permitted in district M-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23 and only if the criteria listed in this subsection are met:
- a. The conditional use permit shall be valid for a period not to exceed five (5) years. Renewal of the conditional use permit shall be treated as a new request for a conditional use permit.
 - b. A site plan shall accompany the conditional use permit application, showing that parking will be provided for the church and any other associated uses in accordance with section 29-30.
- (3) Live adult entertainment businesses shall be permitted in district M-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23 and subject to the following:
- a. Such uses shall not be located within seven hundred fifty (750) feet of any church, mosque, synagogue, school, college, university, park, athletic field, recreational facility for children, residence or residentially zoned district. Such uses shall not be located within one thousand (1,000) feet of any other live adult entertainment business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the live adult entertainment business to the nearest point on the property line of such church, mosque, synagogue, school, college, university, park, athletic field, recreational facility for children, residence, residentially zoned district or other live adult entertainment business.
 - b. Notwithstanding any provision in chapter 23 to the contrary, a live adult entertainment business shall have no more than one (1) on-premise sign which shall be a wall sign approved by the board of adjustment as part of the conditional use permit. The surface area of the sign shall not exceed ten (10) per cent of the area of the wall to which it is attached. The sign shall not be a neon or similar sign. The sign may be illuminated but shall not be a flashing sign. The sign shall not depict any portion of the human anatomy.
 - c. No sign shall be placed in any window.
 - d. No flashing lights or colored lights or string of lights shall be placed on the outside of the building or on the inside of the building so that the lights can be viewed from outside the building.

- e. The premises of all live adult entertainment businesses shall be constructed to include a partition or other physical barrier on all customer entrances, that will ensure that the interior of the business is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with a partition or other physical barrier shall be covered so as to prevent observation of the interior of the premises from the exterior of the building. No live adult entertainment business shall be conducted in a manner that permits the observation of entertainers, servers or employees from the exterior of the building.
- f. On-premise advertisement, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from the exterior of the building.
- g. Notwithstanding the provisions of section 29-30(g), required off-street parking for a live adult entertainment business shall be located on the premises of the business.

(d) *Height and Area Regulations.* In district M-1, any building or portion of a building hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions see section 29-26, Height and Area Exceptions):

(1) *Lot size.* No minimum requirement.

(2) *Yards.*

- a. Front--Not less than twenty-five (25) feet.
- b. Rear--Not less than ten (10) feet, except that no rear yard is required where the rear lot line abuts property in a nonresidential district.
- c. Side--No requirement, except that on corner lots and where a M-1 district abuts any residential district, there shall be a side yard of not less than ten (10) feet.

(3) *Building height.* No maximum height.

(4) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.

(5) *Parking.* (See section 29-30, Off-Street Parking and Loading.)

(Code 1964, § 19.172; Ord. No. 9958, § 1, 10-3-83; Ord. No. 13098, § 1, 9-3-91; Ord. No. 13527, § 1, 12-7-92; Ord. No. 14514, § 1, 6-19-95; Ord. No. 15471, § 1, 12-15-97; Ord. No. 15828, § 2, 12-7-98)

Sec. 29-20.1. District M-U, Underground space.

(a) *Definition.* Underground space is hereby defined as the entire cavern resulting from the extraction of subsurface-located material in such a manner that the surface area of the property is not disturbed except in the vicinity of the entrances and easements servicing the development.

(b) *Purpose.* District M-U is established for the following purposes:

- (1) To accommodate and permit the use of underground space; and
- (2) To protect any other properties and persons from adverse effects caused by activities in underground space; and
- (3) To protect the health, safety and welfare of persons in or around underground facilities.

(c) *Conditions for Establishing District M-U.*

- (1) District M-U shall be permitted only where the primary entrance is located in district M-1 or M-C, and:
 - a. Where usable underground space exists; or
 - b. Where material intended to be extracted exists adjoining an existing district M-U, M-1 or M-C.
- (2) Any application for a change in zoning to district M-U shall include a certified survey map showing the extent of existing underground mining and all points of access to the surface whether they be vehicle entrances or other entrances for ventilation or utility purposes.

(d) *Permitted Uses.* In district M-U, no building, land or premises shall be used and no building or structure shall hereafter be erected, constructed or altered except for one or more of the following uses:

- (1) All permitted uses in the zoning district controlling the surface property at the primary entrance to district M-U. The primary entrance is determined to be that having the most intensive traffic.
- (2) Extraction of limestone or other subsurface materials.

(e) *Standards and Requirements.* Underground space in district M-U is authorized to develop in accordance with the provisions herein, subject to the following standards and requirements:

- (1) *Location.* Underground development districts shall apply only to the subsurface of property under the same ownership as the surface property, and will not affect the zoning district or districts designated for the surface above district M-U.
- (2) *Access.* The access to all districts M-U shall be through property owned or controlled by the owners or operators of the underground space.
- (3) *Building permits.* Where applicable, underground space must have a building permit to develop a

habitable underground building and to qualify for a certificate of occupancy.

- (4) *Safety.* The owners or operators of underground space shall file with the department of public works a certificate by a registered professional engineer as to the structural integrity of the underground space. Such certificate may provide for exceptions or conditions which must be adhered to as a condition of building permit approval. Such certificate shall be valid for newly added, or mined-out areas, if it is so described in the certificate. Such certificate must have been dated within the past ten (10) years to be valid for its application to new areas.
- (5) *Surface zoning exclusion.* With the exceptions as noted herein, all districts M-U as they are created are separated from the provisions of the surface zoning districts, even though they may underlie them.
- (6) *Surface and special easements.* Penetrations from district M-U to the surface property above it shall be permitted without regard to the provisions of the surface zoning district, provided that such penetrations are for the purpose of connecting utilities or to contain safety, relief or life-support systems to the underground. All penetrations must be contained within a public easement to assure perpetuity and continued service to the underground development.

(Ord. No. 10847, § 1, 1-6-86)

Sec. 29-21. District A-1, Agricultural district.

(a) *Purpose.* This district is intended to provide for any land-intensive agricultural uses contained within the city, certain public uses, and facilities or activities best located in a more isolated area. The principal land use is an agricultural area or public facility.

(b) *Permitted Uses.* In district A-1, no building, land or premises shall be used and no building shall be hereafter erected, constructed, reconstructed or altered except for one or more of the following uses (for exceptions, see section 29-28, Non--Conforming Uses, and section 29-31, Board of Adjustment):

All permitted uses in district R-1.

Agricultural uses which shall include any use of land consisting of at least two and one-half (2 1/2) acres for the purpose of crops, grazing animals, orchards, trees or forest lands, and any other use pertaining to farming or agricultural research. Such uses shall allow all the types of structures normally associated with these uses, including one dwelling unit (not to include a mobile home), storage bins, barns, sheds, tool houses, garages, and any other use or facility ancillary to farming or open land.

Buildings and premises for public utility services or public service corporations.

Cemeteries which may include mausoleums thereon.

Greenhouses and plant nurseries for wholesaling only.

(c) *Conditional Uses.* The following uses shall be permitted in district A-1 only after the issuance of a conditional use permit pursuant to the provisions of section 29-23:

A second dwelling unit on lots of two and five tenths (2.5) acres or more (not to include a manufactured home).

Aviation fields or airports.

Mines and quarries.

Reservoirs, wells, water towers, filter beds, water supply stations or pumping stations.

Sanitary landfills.

(d) *Height and Area Regulations.* In district A-1 any building, portion of a building or dwelling hereafter erected, constructed, reconstructed or altered shall be subject to the following regulations (for exceptions, see section 29-26, Height and Area Exceptions):

- (1) *Lot size.* Not less than two and one-half (2 1/2) acres or seven thousand (7,000) square feet for non-agricultural uses.
- (2) *Lot width.* No minimum requirement.
- (3) *Yards.*
 - a. Front--Not less than twenty-five (25) feet.
 - b. Rear--Not less than twenty-five (25) feet.
 - c. Side--Not less than twenty-five (25) feet.
- (4) *Building height.* Not over thirty-five (35) feet.
- (5) *Vision clearance.* On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure or no plant growth of a type which would interfere with traffic visibility across the corner shall be permitted or maintained higher than three (3) feet above the curb level, within fifteen (15) feet of the intersection of the street right-of-way lines.
- (6) *Floor area.* Not less than six hundred fifty (650) square feet in a dwelling unit excluding basements, porches and garages.

(7) *Parking.* (See section 29-30, Off-Street Parking and Loading.)
(Code 1964, § 19.190; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87)

Sec. 29-21.1. District UC, urban conservation overlay district.

(a) *Purposes of the Urban Conservation District.* The UC Urban Conservation District is intended to promote the health, safety, and general welfare of the public by encouraging the conservation and enhancement

of the urban environment. The purposes of the district are:

- (1) To maintain neighborhood character and integrity by focusing special attention on the maintenance of the physical environment; the enhancement of physical, social and economic resources and the accommodation of desirable change;
- (2) To promote the efficient use of urban lands including the encouragement of compatible infill development on vacant and passed-over parcels;
- (3) To encourage and to support rehabilitation of the physical environment and programs for the conservation of urban areas; and
- (4) To foster the harmonious, orderly, and efficient growth, development, and redevelopment of Columbia.
- (5) To recognize and protect specific property, neighborhoods and roadway corridors of special historic, architectural or scenic qualities.

(b) *Definitions.* For purposes of this section the following definitions shall apply:

Conservation shall mean the sustained use and appearance of a structure or area.

Conversion shall mean the alteration of a structure to accommodate uses for which it was not originally constructed, but which maintain the structure's general character.

Designation Ordinance shall mean the official zoning document which the City Council enacts specifying a certain area as an Urban Conservation District.

Infill Development shall mean new construction or redevelopment or to replace blighted or deteriorated structures.

Rehabilitation shall mean the process of returning a structure to a state of efficiency or soundness by repair or alteration designed to encourage its continued use but without noticeably changing the exterior appearance of the resource.

Renovation shall mean the process of altering or repairing a structure and its facilities so it conforms to minimum standards of sanitation, fire and life safety.

Stabilization shall mean the process of applying measures designed to halt deterioration and to establish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

Urban Conservation shall mean public and private efforts to maintain and enhance older urban areas through stabilization, rehabilitation, protection, revitalization, conversion, infill development or redevelopment.

(c) *General Provisions.*

- (1) *Description of the Urban Conservation District.* Urban Conservation District overlay zoning may be placed in conjunction with any zoning district within the City in accordance with the provisions of this section. All regulations of the underlying zoning district shall apply to property within the Urban Conservation District except where modified by the designation ordinance.
- (2) Areas, tracts, or sites within the UC District shall be identified on the official zoning map and in other official writings by the suffix "UC."
- (d) *Designation Procedure.*
 - (1) The City of Columbia may designate areas, tracts or sites for inclusion within an Urban Conservation District in the same manner prescribed for the designation of other zoning districts by this chapter and subject to compliance with this section.
 - (2) The initiation of a proposal of designation may be made by:
 - a. The City Council; or
 - b. Property owners or Council recognized neighborhood organizations of the area, tract or site to be designated, provided the application includes:
 1. A petition signed by the owners of fifty (50) per cent or more of the parcels of land within the boundaries of the proposed district; and
 2. A statement documenting the conditions justifying an Urban Conservation designation and setting forth the purposes and intent of such a designation.
 - (3) Upon the drafting of an ordinance of UC designation for an area, a public hearing shall be held and notice given to all owners of affected property in accordance with the requirements of this chapter.
 - (4) The Planning and Zoning Commission may solicit and present expert testimony or documented evidence regarding the importance and effects of urban conservation within the proposed district. Testimony from neighborhood organizations affected shall be directly solicited and considered by the Commission.
- (e) *Designation Ordinance.*
 - (1) If the Planning and Zoning Commission finds that the area meets the criteria found in this section, a designation ordinance shall be proposed.
 - (2) The designation ordinance shall identify the district boundaries, which shall be compact, contiguous and uniform. The designation ordinance may include provisions governing:
 - a. The use of land.

- b. Density or intensity of land use such as minimum lot size, maximum floor area, floor area ratios, number of dwelling units per acre, minimum lot area per dwelling unit and other related provisions;
- c. Area and bulk restrictions including setbacks, maximum lot coverage, height controls, open space requirements and other related provisions;
- d. Parking regulations such as the number of required spaces per type of use, the location and design of parking areas, lighting, and other related provisions;
- e. Landscaping and screening;
- f. Sign regulations;
- g. Measures to allow for preservation or conversion of buildings of unique historic or architectural character. These measures shall not be used until programs dealing with historic preservation, which may include a landmarks commission, are in place; or, until it is determined by the council that such programs are not needed.
- h. Measures to allow for preservation of scenic roads. These measures shall not be used until programs dealing with scenic roads are in place or until it is determined by the council that such programs are not needed.

- (3) The Planning and Zoning Commission shall forward the designation ordinance and its recommendations to the City Council for the Council's consideration.

(f) *Designation Criteria.* When determining a district's potential for Urban Conservation designation, the Planning and Zoning Commission and City Council shall ensure that one or more of the following criteria are satisfied:

- (1) The need for coordinated action or treatment because of physical, social, or economic relationships; the presence of unifying elements and cohesiveness within the district; similar land uses, densities, intensities, and related factors;
- (2) Evidence of structural deterioration, encroachment of incompatible land uses, or other factors contributing to the decline of the district;
- (3) The area exhibits revitalization potential;
- (4) District property owners, residents or tenants desire and support urban conservation efforts;
- (5) District designation conforms to City plans and policies; or
- (6) Evidence that urban conservation designation would be an appropriate and effective method for conserving the area.

(g) *Amendments.* Unless otherwise provided for in the designation ordinance, an amendment to a designation ordinance may be initiated either by the city council or by the submission of a petition to the director of planning and development signed by the owners of fifty (50) per cent or more of the parcels of land within the boundaries of the urban conservation district.
(Ord. No. 14410 § 1, 3-20-95; Ord. No. 17626, § 1, 3-17-03; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-21.2. District S-R, scenic roadway area overlay.

(a) *Purposes of the Scenic Roadway Area.* The S-R scenic roadway area is intended to promote the health, safety and general welfare of the public by encouraging the conservation, preservation and enhancement of the scenic qualities and landscape of scenic roadway areas. The purposes of the district are:

- (1) To preserve the scenic character of designated roadways and, where possible, preserve scenic views from the roadways.
- (2) To maintain the natural beauty of the landscape as it currently exists along designated roadways.
- (3) To encourage development which is compatible with and, where possible, enhances such natural beauty.
- (4) To encourage safe and efficient traffic flow along designated scenic roadways for all modes of travel.

(b) *General Provisions.* The minimum lot width at the right-of-way line of a designated scenic road for R-3, R-4 and nonresidential zoning districts shall be three hundred (300) feet.

(c) *Site Development Regulations.* All land and buildings within a scenic roadway area shall comply with all regulations of the underlying zoning district and applicable sign regulations, as well as the following:

- (1) *Underground utilities.* All on-site utilities shall be located underground unless required by the utility to be otherwise located.
- (2) *Vegetative buffer.* The vegetative buffer is hereby defined as the portion of the site:
 - a. Within seventy-five (75) feet of the centerline of a local residential street;
 - b. Within eighty-three (83) feet of the centerline of a collector street; or
 - c. Within one hundred (100) feet of the centerline of an arterial street.

Except for the following, no clearing of vegetation shall be permitted within the vegetative buffer:

- a. Street or sidewalk construction or reconstruction.

- b. Clearing necessary to provide and maintain natural or man-made drainage features, utilities, street lights, traffic control devices, street name signs, required sight clearance and access to the site.
- c. Mowing, maintenance or the removal of dead or dying trees.
- d. Agricultural activities.

Installed landscaping may be added to the vegetative buffer area to meet screening requirements defined elsewhere in this chapter. Where building addressing requirements of chapter 24 cannot be met due to the vegetative buffer or a building's distance from the roadway, the address or addresses shall be clearly marked at the roadway's edge by the property owner in a manner acceptable to the director of public works.

- (3) *Signs.* The sign regulations of chapter 23 of this Code shall apply, except where modified as follows. Only monument signs are allowed. A monument sign is a sign attached directly to the ground or a base attached directly to the ground and not supported by poles, uprights or braces. Internal lighting of signs, neon or flashing signs, display signs and roof signs shall not be permitted. All spotlights and exterior lighting shall be oriented away from adjacent properties and the scenic roadways.
- (4) *Building floodlighting.* Building floodlighting is not permitted in nonresidential zoning districts within the scenic roadway area.
- (5) *Minimum driveway spacing.* The minimum distance between the center of driveways onto a designated scenic roadway must be two hundred twenty (220) feet for any tract, lot or parcel. No tract, lot or parcel shall have more than two (2) driveways.
- (d) *Designation Criteria.* The following criteria shall be substantially met before a street is designated as a scenic roadway:
 - (1) The street affords the opportunity for the public to enjoy the natural beauty of hills, valleys, creek bottoms or vegetation;
 - (2) The street is adjacent to significant natural landscape elements such as undisturbed native tree associations, rock formations and old growth trees;
 - (3) The street offers scenic views or vistas from the roadway;
 - (4) The street traverses or is adjacent to environmentally sensitive areas such as wetlands, woodlands, park land or private conservation areas.
 - (5) In all instances, the proposed scenic roadway shall be comprised of contiguous roadway sections and have readily identifiable termini such as creeks, bridges, arterial streets or other prominent physical landmarks.

(e) *Designation Procedure.* The following procedure shall be followed in designating scenic roadways:

- (1) A proposal to designate a scenic roadway may be made by:
 - a. The city council;
 - b. An application to the city council from interested citizens, citizen groups or a recognized neighborhood organization; or
 - c. An application or petition to the city council signed by owners of fifty (50) per cent or more of all parcels of land with frontage along the proposed scenic roadway segment.
- (2) The city council action or citizen petitions must include a statement identifying the criteria set forth in subsection (d) of this section, which support the scenic roadway designation and setting forth the purposes and intent of such a designation.
- (3) City staff shall prepare a report for the planning and zoning commission. The commission shall hold a public hearing on the scenic roadway designation request. The recommendations of the planning and zoning commission and the staff report shall be forwarded to the city council, which will conduct a public hearing to take action on the proposed designation.

(f) *Nonconforming Uses.* Any structure, including fences, which was made nonconforming by its location in an area designated a scenic roadway area, if damaged or destroyed, may be rebuilt or replaced, providing such replacement does not exceed the size or height existing when the scenic roadway area designation became effective. Any rebuilding or replacement shall be done in accordance with all current city standards.

(Ord. No. 15180, § 1, 3-17-97; Ord. No. 15489, § 1, 1-20-98)

Sec. 29-21.3. Communication antennas and towers.

- (a) *Purpose.* The purpose of this section is to:
 - (1) Provide for the appropriate location and development of communications facilities and systems to serve the citizens and businesses of the city.
 - (2) Minimize adverse visual impacts of communications antennas and towers through careful design, siting, landscape screening and innovative camouflaging techniques.
 - (3) Protect residential areas/land uses from potential adverse impacts of towers.
 - (4) Maximize the use of existing and new towers so as to minimize the need to construct new or additional facilities.
 - (5) Maximize and encourage the use of disguised support structures and antenna support structures so as to ensure the architectural integrity of designated areas within the city and the scenic

quality of protected natural habitats.

- (6) To promote and encourage shared use/co-location of towers as a primary option rather than construction of additional towers.

(b) *Definitions.* As used in this section, the following terms shall have the meanings and usages indicated:

Antenna. Any device that transmits or receives radio frequency signals for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications. The term shall exclude satellite earth station antennas less than six (6) feet in diameter and any receive-only home television antennas.

Antenna support structure. Any building or other structure such as a water tower, other than a tower or a disguised support structure as herein defined, which can be used for the location of telecommunications facilities.

Communications equipment cabinet. A structure for the protection and security of communications equipment associated with one or more antennas where direct access to equipment is provided from the exterior.

Communications equipment shelter. A building for the protection and security of communications equipment associated with one (1) or more antennas and where access to equipment is gained from the interior of the building.

Disguised support structure. Any freestanding, man made structure used for the support of communications antennas, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles and artificial trees.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

Height. The vertical distance measured from the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

Tower. A structure designed for the support of one (1) or more antennas including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or antenna support structures as herein defined. The term shall not include any support structure owned and operated by an amateur radio operator licensed by the Federal Communications Commission.

(c) *Permitted Uses.* The following uses shall be permitted in any zoning district subject to the issuance of a building permit by the public works department, provided that drawings and other documentation are submitted showing compliance with paragraph (f) of this section:

- (1) The attachment of additional or replacement antennas to any tower; or, the addition of

communications equipment shelters or cabinets to any tower site existing on December 15, 1997 or subsequently approved in accordance with these regulations.

- (2) The mounting of antennas on any existing antenna support structure. This shall not include the mounting of antennas on signs.
- (3) The installation of antennas or towers on structures or land owned by the city, following approval by the city council.
- (4) The one-time replacement or modification (on the same site) of any tower existing on December 15, 1997 so long as the purpose of the replacement is to accommodate shared use of the tower or to eliminate a safety hazard. The height of the new tower may exceed that of the original by not more than twenty (20) feet.

The following use shall be permitted in any zoning district other than zoning districts A-1, R-1, R-2, R-3, R-4, RMH and PUD subject to the issuance of a building permit by the public works department, provided that drawings and other documentation are submitted showing compliance with paragraph (f) of this section:

- (1) The construction of a disguised support structure provided that all related equipment shall be placed underground or concealed within the structure.

The requirements of this section shall take precedence over those of the underlying zoning district.

(d) *Appeals.* Appeals from the denial of a building permit, by the director of public works, under subsection (c), when the denial is based on failure to comply with the provisions of this section, shall be made to the board of adjustment. Any decision of the board of adjustment upholding a decision to deny a building permit under subsection (c) shall be in writing and supported by substantial evidence contained in the written record.

(e) *Conditional Uses.* It is the policy of the city to minimize the number of towers and to encourage the co-location of antennas of more than one (1) wireless communications service provider on a single tower.

Construction of new communications towers or any alteration of a communications tower not covered under subsection (c) above shall be allowed in all zoning districts except for A-1, R-1, R-2, R-3, R-4, RM and PUD only after the issuance of a conditional use permit.

Construction of disguised support structures shall be allowed in zoning districts A-1, R-1, R-2, R-3, R-4, RMH and PUD only after the issuance of a conditional use permit.

- (1) Applications for conditional use permits shall be filed and processed in the manner established in section 29-23. In addition, the application shall also include the following:
 - a. The names, addresses and telephone numbers of all owners (including the applicant) of other towers or disguised support structures which are capable of providing a location to construct the telecommunications facilities that are planned to be housed or located on

the tower within the city and within one-half (1/2) mile of the city limits of the City of Columbia.

- b. Written documentation that the applicant made diligent but unsuccessful efforts for permission to install or co-locate the applicant's telecommunications facilities on city-owned towers or antenna support structures.
- c. Written documentation that the applicant made diligent but unsuccessful efforts to install or co-locate the applicant's telecommunications facilities on towers of useable antenna support structures owned by other persons.
- d. Written documentation stating whether the applicant's telecommunications facilities are technically capable of being installed or co-located on another person's tower or support structure.
- e. If the applicant asserts that its antennas or other facilities are technically infeasible of being installed or co-located on another persons' tower or support structure, a written statement from the applicant setting forth in detail the reason(s) with regard to each person contacted, why such installation or co-location is technically or economically infeasible.
- f. If the tower is designed to accommodate one (1) or more additional carriers, the application shall designate the nature of the co-location that will be accommodated.
- g. A site plan drawn to scale specifying the location of the tower or disguised support structure, its planned height, guy anchors (if any), equipment shelters and cabinets, parking layout, landscaping, screening and the zoning designation of the site.

Items a. through g. above shall be certified as to accuracy by a professional engineer.

- (2) In rendering its decision on a conditional use permit request, the board of adjustment shall consider the following:
 - a. Whether or not existing towers are located within the geographic area necessary to meet the applicant's engineering requirements.
 - b. Whether or not existing towers, structures or buildings within the applicant's required geographic area are of sufficient height to meet system engineering requirements.
 - c. Whether or not existing towers or structures have sufficient structural strength to support the applicant's proposed antennas.
 - d. Whether or not the fees, costs, or other contractual terms required by the owner(s) of existing tower(s), structure(s) or building(s) within the required geographic area of the applicant or to retrofit the existing tower(s) or structure(s) are reasonable.

- e. Whether or not there are other limiting conditions that render existing towers, structures or buildings within the applicant's required geographic area unsuitable.
- f. Whether or not the proposal minimizes the number and size of towers or structures that will be required in the area.
- g. Whether or not the applicant has previously failed to take advantage of available shared use opportunities provided by this section or otherwise.
- h. Whether or not the applicant has provided sufficient evidence indicating that the tower will be made available for use by others, subject to reasonable technical limitations and reasonable financial terms.

(3) Written record. Any decision to deny a request to construct or alter a tower shall be in writing and supported by substantial evidence contained in the written record.

(f) *General requirements.* The requirements set forth in this section shall be applicable to all antenna towers installed, built or altered after December 15, 1997 to the full extent permitted by law.

(1) *Regulatory compliance.* All antennas and towers shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennas and towers. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency.

(2) *Security.* All antennas and towers shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or alter antennas or towers. Additional measures may be required as deemed necessary by the board of adjustment in the case of a conditional use permit.

(3) *Lighting.* Antennas and towers shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or alter the antenna or tower. Strobe lights shall not be used unless required by the FAA or other state or federal agency with authority to regulate.

(4) *Advertising.* Placement of advertising on structures regulated by this section is prohibited.

(5) *Height.* The height of a tower shall be governed by the underlying zoning district; however, when rendering its decision on a conditional use permit for a new tower, the board of adjustment may allow an increase in height as it deems appropriate.

(6) *Design.*

- a. Towers shall maintain a galvanized steel finish or, subject to the requirements of the FAA or any applicable state or federal agency, be painted a neutral color consistent with the

natural or built environment of the site.

- b. Equipment shelters, cabinets and guy anchors shall be screened from view by a permanent screen consisting of a masonry wall, wood fence, landscaping material, or combination thereof, at least eight (8) feet in height. The required screening shall have an opacity of eighty (80) per cent year around and, if landscaping is used, the eighty (80) per cent opacity and eight-foot minimum height shall be achieved within four (4) full growing seasons.
- c. All towers shall meet the setback and yard requirements of the applicable zoning district. In addition, all towers shall be separate from any off-site residential structure, or the boundary of any residentially zoned property, a distance equal to the height of the tower.
- d. Ground anchors of all guyed towers shall be located on the same parcel as the tower and meet the setbacks of the applicable zoning district.
- e. On-site parking for periodic maintenance and service shall be provided at all tower locations (except for district C-2).
- f. The horizontal dimensions of a communication equipment cabinet shall not exceed four (4) feet by six (6) feet.
- g. Materials or equipment which is not in direct support of an antenna shall not be stored in a shelter.

(g) *Obsolete tower structures and antennas.* Any tower or disguised support structure which is not occupied by active antennas for a period of twelve (12) months or any antenna which is not used for a period of twelve (12) months shall be removed at the owner's expense. The director of public works is authorized to order the owner of any private property to remove any unused tower or antenna on the owner's property within a reasonable time specified by the director. The order shall require the tower or antenna to be removed unless the owner, within ten (10) days of receipt of the order, appeals the matter to the board of adjustment pursuant to section 29-31. If the board finds that a tower has not been occupied by active antennas for twelve (12) months or an antenna has not been used for twelve (12) months, it shall order the tower or antenna to be removed within a specified time.

If the unused tower or antenna is not removed as specified in an unappealed order of the director of public works or as specified by the board of adjustment, the director of public works may cause the tower or antenna to be removed. The director of public works shall submit the actual cost of such removal to the owner of the property. If the owner does not pay the cost within thirty (30) days of receipt, the director of public works shall certify the cost to the director of finance who shall cause a special tax bill against the property to be prepared and collected. The tax bill shall be due and payable from the date of issuance and shall be a lien on the property from the date of issuance until paid. Tax bills issued pursuant to this section shall bear interest from the date of issuance at the rate of nine (9) per cent per annum.

(h) *Commercial operation of unlawful towers or antennas.* Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect

or operate for any private commercial purpose any new antenna, tower or disguised support structure in violation of any provision of this section regardless of whether such antenna or structure is located on land belonging to a governmental entity.

(Ord. No. 15471, § 1, 1-5-98)

Sec. 29-21.4. District HP, historic preservation overlay.

(a) *Purpose.* The purpose of this section is to promote the economic, cultural, educational and general welfare of the city by:

- (1) Conserving and improving the value of property within district HP;
- (2) Protecting and enhancing the attractiveness of the city to home buyers, home owners, residents, tourists, visitors, and shoppers, thereby supporting and promoting business, commerce, industry, and providing economic benefit to the city;
- (3) Providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of the city;
- (4) Fostering civic pride in the aesthetics and cultural accomplishments of the past as represented in the city's landmarks and historic areas;
- (5) Fostering and encouraging preservation, restoration, and rehabilitation of structures, areas and neighborhoods;
- (6) Promoting the use of landmarks and historic areas for the education, pleasure, and welfare of the people of the city;

(b) *Definitions.* The following definitions apply to this section:

Alteration. Any act that changes one or more of the historic or architectural features identified in an ordinance placing property in district HP.

Certificate of appropriateness. A certificate issued by the historic preservation commission indicating its approval of the architectural appropriateness of plans for construction, alteration, removal or demolition of a landmark or of a structure within an historic district.

Construction. The act of adding an addition to an existing structure or the erection of a new principal or accessory structure.

Demolition. Any act which destroys in part or in whole a landmark or a structure within an historic district.

Historic district. An area placed in district HP and designated as an historic district by ordinance and which may contain one or more landmarks and which may have within its boundaries other properties or structures which, while not of such historic or architectural significance to be designated as landmarks,

nevertheless contribute to the overall visual characteristics and historical significance of the historic district.

Landmark. A property or structure placed in district HP and designated as a landmark by ordinance, which is worthy of rehabilitation, restoration, and preservation because of its historic or architectural significance.

Removal. Any relocation of a structure on its site or to another site.

Repair. Any change that is not construction, removal or alteration.

(c) *Historic preservation commission.*

- (1) The historic preservation commission is hereby established. The historic preservation commission shall consist of seven (7) members appointed by the city council. Members shall serve without compensation. Every attempt should be made to establish a balance of representation among members, and all commissioners should have a demonstrated interest in historic preservation. Of the seven (7) members, there should be one with background and expertise in historic preservation and one with background and expertise as a real estate investor. The other five (5) members should include representatives from such disciplines as: architecture, design, law, real estate appraisal, and construction/general contracting, as well as a lay person active in historic preservation.
- (2) Two (2) of the initial members shall serve terms of one year, two (2) shall serve terms of two (2) years and three (3) shall serve terms of three (3) years. Thereafter, the terms of office for members of the historic preservation commission shall be three (3) years. Vacancies shall be filled for the unexpired terms only.
- (3) The historic preservation commission shall elect from its members a chair, a vice-chair and a secretary. Officers shall serve for one (1) year and shall be eligible for reelection. The chair shall preside over all meetings. In the absence of the chair, the vice-chair shall preside. The secretary shall prepare minutes and other necessary records of historic preservation commission meetings.
- (4) The historic preservation commission shall meet regularly and at the call of the chair. A quorum shall consist of four (4) members. The chair of the commission is authorized to excuse any member from attendance at a commission meeting; provided, that the member requested to be excused before the meeting. Any member who is absent, without being excused, from twenty-five (25) per cent of the regular commission meetings held in a calendar year shall automatically forfeit the office. Any member who is absent, without being excused, from three (3) consecutive regular meetings shall automatically forfeit the office. It shall be the duty of the chair to promptly notify the city council of the vacancy. The commission shall act upon all completed applications for certificates of appropriateness and economic hardship at the meeting.

(d) *Powers and duties.* The historic preservation commission shall have the following powers and duties:

- (1) To adopt its own by-laws and procedural regulations, provided that such regulations are

consistent with this chapter, other ordinances of the city, and the Revised Statutes of the State of Missouri.

- (2) To conduct an ongoing survey for the identification of historically, archaeologically and architecturally significant properties, structures, sites and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state or city; and to maintain the research information in an inventory accessible to the public (except for archaeological site locations, which shall be restricted).
- (3) To investigate and recommend to the planning and zoning commission and city council the adoption of ordinances designating for protection areas as having special cultural, historic, archaeological, community or architectural value as "notable property."
- (4) To investigate and recommend to the planning and zoning commission and the city council the adoption of ordinances designating for protection properties or structures having special cultural, historic, archaeological, community or architectural value as "landmarks."
- (5) To investigate and recommend to the planning and zoning commission and the city council the adoption of ordinances designating for protection areas as having special cultural, historic, archaeological, community or architectural value as "historic districts."
- (6) To keep a register of all properties and structures which have been designated as "notable properties," "landmarks" or "historic districts," including all information required for each designation.
- (7) To confer recognition upon the owners of "notable properties," "landmarks" and property or structures within "historic districts" by means of certificates, plaques or markers; and to make recommendations for the design and implementation of specific markings of the streets and routes leading from one "notable property," "landmark" or "historic district" to another.
- (8) To advise and assist owners of historically significant property or structures on physical and financial aspects of preservation, renovation, rehabilitation and reuse.
- (9) To nominate "notable properties," "landmarks" and "historic districts" to the National Register of Historic Places, and to review and comment on any nominations to the National Register of Historic Places.
- (10) To inform and educate the citizens of the City of Columbia concerning the historic, archaeological and architectural heritage of the city through publication or sponsorship of maps, newsletters, brochures, pamphlets, programs and seminars by the city, the historic preservation commission or other appropriate parties.
- (11) To review applications for construction, alteration, removal or demolition affecting historically significant property. To hold public hearings on proposed or designated "landmarks" or structures within "historic districts" and issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications and

other information as may be necessary to make decisions.

- (12) To hold public hearings on each proposed nomination of a National Register Landmark and of a "historic district" and on the guidelines developed for each nomination.
- (13) To recommend that the director of public works issue a stop work order for any construction, alteration, removal or demolition which would require a certificate of appropriateness for which a certificate has not been issued or to stop work that violates the conditions of a certificate.
- (14) To consider applications for certificates of economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied.
- (15) To develop specific design guidelines based on the Secretary of the Interior's Standards for Rehabilitation for the alteration, construction or removal of designated "landmarks" or property and structures within historic preservation overlay districts.
- (16) To review and comment on proposed zoning amendments, applications for special use permits or applications for zoning variances that affect historically significant property, including but not limited to proposed or designated "notable properties," proposed or designated "landmarks" or "historic districts."
- (17) To call upon available city staff members as well as other experts for technical advice.
- (18) To advise the city council on the need to retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time.
- (19) To testify before all boards and commissions, including the planning and zoning commission and the board of adjustment, on any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas.
- (20) To review any proposed change of zoning, zoning variance or any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas, upon referral from the planning and zoning commission or city council.
- (21) To make recommendations to the city council concerning budgetary appropriations to further the general purposes of this ordinance.
- (22) To develop a preservation component in the Comprehensive Plan of the City of Columbia and to recommend it to the planning and zoning commission and to the city council.
- (23) To periodically review the City of Columbia Zoning Ordinances and to recommend to the planning and zoning commission and the city council any amendments appropriate for the protection and continued use of historically significant property, "notable property," "landmarks" or property, sites and structures within "historic districts."
- (24) To review and comment on applications for demolition permits referred to the commission by

the building official pursuant to the Building Code of Columbia, Missouri. The commission may advise the property owner of any historical significance of the building to be demolished and recommend alternatives. The commission may document historic resources to be demolished. The commission shall have no authority to deny an application for a demolition permit.

(e) *Landmark and historic district designation procedure.*

- (1) A petition to designate a landmark may be made only by the owner(s) of the proposed landmark. A petition to designate an historic district may be made only by the owners of at least 60 per cent of the Boone County tax map parcels in the proposed historic district. If a tax map parcel has more than one owner, all such owners must sign any petition mentioned in this section before the parcel shall be counted as supporting the petition and the parcel shall receive only one vote, regardless of the number of owners.
- (2) A petition to designate a landmark or historic district shall be on a form provided by the director of planning and development and approved by the historic preservation commission. The petition shall clearly identify all historic and architectural features proposed for regulation. The petition shall identify the facts which support a determination that the proposed landmark or historic district meets the criteria for designation set forth in this section. The petition shall be filed with the director of planning and development. Except as otherwise provided in this section, the petition shall be handled in the same manner as a petition for rezoning. Prior to setting a date for a public hearing before the planning and zoning commission, the director of planning and development shall forward a copy of the petition to the historic preservation commission for its review. The historic preservation commission shall prepare a report to the planning and zoning commission and the city council setting forth its recommendation on whether the proposed landmark or historic district meets the criteria for designation set forth in this section.
- (3) The ordinance placing property within overlay district HP shall designate the property as a landmark or as an historic district. The ordinance may designate a structure within an historic district as a landmark. The ordinance shall identify all historical and architectural features that shall be subject to regulation. No interior features shall be identified in any structure in an historic district unless the structure is designated as a landmark.
- (4) Overall boundaries for local historic districts shall be determined by the same standards used by the National Register of Historic Places, as laid out in Defining Boundaries for National Register Properties: National Register Bulletin 21 (Washington D.C.: U.S. Department of the Interior, 1995). Gerrymandering which has the apparent effect of overwhelming significant areas of opposition is prohibited.

(f) *Criteria for designation.* In order to be designated as a landmark or historic district, a structure or district must have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration and it must meet one or more of the following criteria:

- (1) It has character, interest, or value as part of the development, heritage, or cultural characteristics of Columbia, Boone County, Missouri, or the United States.

- (2) It is the site of a significant local, county, state or national event.
- (3) It is identified with a person or persons who significantly contributed to the development of Columbia, Boone County, Missouri, or the United States.
- (4) It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials.
- (5) It is the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of Columbia, Boone County, Missouri, or the United States.
- (6) It contains elements of design, detailing, materials, or craftsmanship which renders it architecturally significant.
- (7) It contains design elements that are structurally or architecturally innovative.
- (8) Its unique location or physical characteristics make it an established or familiar visual feature of the neighborhood or city.
- (9) It has yielded or may likely yield information important in prehistory or history.
- (10) Its character as a particularly fine or unique example of a utilitarian structure, with a high level of integrity or architectural significance.
- (11) Its suitability for preservation or restoration.
- (12) It is at least fifty (50) years old or of most unusual historical significance.

(g) *Certificate of appropriateness; when required.* A certificate of appropriateness shall not be required for interior construction or alteration of any structure in an historic district unless the structure has been designated a landmark. A certificate of appropriateness shall be required before the following actions affecting any historic or architectural feature identified in the ordinance placing the property in district HP may be undertaken:

- (1) Any construction, alteration, removal, or any demolition in whole or in part regardless of whether a permit from the city is required.
 - (2) Any construction, alteration, removal or demolition, in whole or in part, proposed by the city, for a city-owned landmark or structure within an historic district.
- (h) *Certificate of appropriateness; procedure.*
- (1) An application for a certificate of appropriateness shall be made on forms provided by the director of planning and development and approved by the historic preservation commission. The application shall identify the facts which support a determination that the proposed actions

meet the standards for review and design guidelines set forth in this section.

- (2) After determining that the application for certificate of appropriateness is complete, the director of planning and development shall schedule the application for consideration by the historic preservation commission within a reasonable time. If a fully completed application for a certificate of appropriateness has not been acted upon within forty (40) days after the date the application was filed with the director of planning and development, it shall be deemed approved, unless tabled or continued with the consent of the applicant. No motion to table or continue shall be made without the consent of the applicant. The director of planning and development shall conspicuously place a sign on the property giving public notice of the meeting at which the application shall be considered. The sign shall be placed at least seven (7) days prior to the meeting.
- (3) Any person aggrieved by the decision of the historic preservation commission may appeal to the board of adjustment by filing a notice of appeal with the city clerk within thirty (30) days of the decision of the historic preservation commission. Notice of the historic preservation commission's decision shall be mailed to the applicant unless the applicant or the applicant's agent was present at the meeting at which the decision was made. The board of adjustment shall provide a hearing and render a decision in accordance with the provisions of RSMo chapter 536.

(i) *Certificate of appropriateness; standards for review and design guidelines.* In considering an application for a certificate of appropriateness, the historic preservation commission shall be guided by the following standards, and design guidelines in addition to any area-specific design guidelines included in the ordinance designating the landmark or historic district.

- (1) Reasonable efforts shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) Building alterations that have no historical basis and which seek to create an earlier appearance shall not be allowed.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. When these changes have acquired significance in their own right, they shall be treated the same as if they were part of the original structure.
- (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be preserved when possible.
- (6) Deteriorated architectural features shall be repaired, rather than replaced, whenever practicable. If replacement is necessary, the new material should match the material being replaced in design,

color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based upon accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
- (9) Contemporary design for alterations and additions to existing properties and for new construction may be permitted when such alterations, additions or new construction do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, material and character of the property, neighborhood or environment.
- (10) Whenever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- (11) The height of any proposed alteration or construction shall be compatible with the style and character of the landmark and with surrounding structures.
- (12) The proportions and relationships between doors and windows shall be compatible with the architectural style and character of the landmark, and with surrounding structures.
- (13) The relationship of a structure to the open space between it and adjoining structures should be compatible.
- (14) The design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures.
- (15) The scale of the structure after alteration, construction or partial demolition should be compatible with its architectural style and character and with surrounding structures.
- (16) Facades should blend with other structures with regard to directional expression. Structures should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a landmark after alteration, construction or partial demolition should be compatible with its original architectural style and character.
- (17) Architectural details including materials and textures should be treated so as to make a landmark compatible with its original character or significant architectural style and to preserve and enhance the landmark or historic district.
- (j) *Certificate of economic hardship.*

- (1) A person whose application for a certificate of appropriateness has been denied or granted conditionally may apply for a certificate of economic hardship. Alternatively, an application for a certificate of economic hardship may be filed with the application for certificate of appropriateness. Application shall be made on forms provided by the director of planning and development and approved by the historic preservation commission. If a fully completed application for a certificate of economic hardship has not been acted upon within forty (40) days after the date the application was filed with the director of planning and development, it shall be deemed approved, unless tabled or continued with the consent of the applicant. No motion to table or continue shall be made without the consent of the applicant. The application shall identify facts which support a determination that denial of the application will deprive the owner of the property of reasonable use of or a reasonable economic return on the property.
- (2) An application for certificate of economic hardship may include the following information:
 - a. Estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the historic preservation commission for changes necessary for the issuance of a certificate of appropriateness.
 - b. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 - c. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the historic preservation commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 - d. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 - e. Applicant may demonstrate with factual data/evidence that the hardship is not self-created. If the property is income producing, the applicant may provide detailed annual income and expense reports for the property for the last two (2) years, rent rates and capitalization rates for the property and comparable properties, and any other pertinent information that would substantiate the applicant's claim concerning economic hardship.
 - f. Appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.
 - g. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.

- h. Assessed value of the property.
- i. Real estate taxes.
- j. Form of ownership or operation of the property, whether sole proprietorship, for profit or not for profit corporation, limited partnership, joint venture, or other.

- (3) An application for a certificate of economic hardship, if not filed with the application for certificate of appropriateness, must be made within sixty (60) days of a decision on the application for certificate of appropriateness. The director of planning and development shall schedule the application for consideration by the historic preservation commission within a reasonable time. The director of planning and development shall conspicuously place a sign on the property giving public notice of the meeting at which the application shall be considered. The sign shall be placed at least seven (7) days prior to the meeting.
- (4) Any person aggrieved by the decision of the historic preservation commission may appeal to the board of adjustment by filing a notice of appeal with the city clerk within thirty (30) days of the decision of the historic preservation commission. Notice of the historic preservation commission's decision shall be mailed to the applicant unless the applicant or the applicant's agent was present at the meeting at which the decision was made. The board of adjustment shall provide a hearing and render a decision in accordance with the provisions of RSMo chapter 536.

(k) *Continuing validity of certificates.* Certificates of appropriateness and certificates of economic hardship shall become void if the work authorized by the certificate is not commenced within six (6) months of the date of issuance. Certificates of appropriateness and certificates of economic hardship shall be issued for a period of eighteen (18) months and are renewable.

(l) *Stop work orders.* The director of public works is authorized to issue a stop work order under the procedures set forth in the building code adopted in chapter 6 of this Code when any work on any structure requiring a certificate of appropriateness is being performed without a certificate of appropriateness or a certificate of economic hardship or in violation of the terms of a certificate of appropriateness or a certificate of economic hardship.

(m) *Signs.* Signs in district HP are subject to the general sign regulations of the code of ordinances. In addition, all signs for a landmark or structures in a historic district not specified in the application for landmark or historic district designation must receive a certificate of appropriateness from the historic preservation commission, which shall review the proposed sign in accordance with the following general guidelines:

- (1) Additional sign restrictions included in the ordinance which designates a landmark or historic district.
- (2) Signs shall be designed and placed so as to appear an integral part of the building design, and to respect the neighboring properties and the district in general. Signs shall be designed with appropriateness relative to the services of the establishment served.

Nothing contained in this section shall prevent the use of normal "for rent" and "for sale" signs as permitted by the general sign regulations of the code of ordinances. Any owner offering property for sale or any realtor listing property for sale which is located within district HP is required to advise potential purchasers that the property is located within district HP. Any person violating this subsection shall be deemed guilty of an infraction and shall be fined as provided for in chapter 16 of the code of ordinances.

(n) *City property.* Proposed improvements, alterations, demolition or clearance to a building, site, structure, or object owned by the city which has been designated a landmark or is within a historic district shall be approved according to the procedures and regulations of this section.

(o) *Property owned by public agencies.* To accomplish the purposes of this ordinance, the city may enter into agreements with other units of government. The historic preservation commission may recommend and the city council may authorize such agreements. Such agreements may address:

- (1) Designation of landmarks and historic districts;
- (2) Administration of historic preservation fund resources;
- (3) Improvements to landmarks, properties in historic districts, and properties adjacent to landmarks and historic districts; and
- (4) Other mutually acceptable provisions.

(p) *Churches.* Churches, mosques and synagogues in current use as houses of worship are exempt from the provisions of this section and such houses of worship may not voluntarily submit to the provisions of this section.

(q) *Variances.* The historic preservation commission may make recommendations to the board of adjustment to allow variances for standard parking and lot line requirements for property in district HP, where such variances will aid in the retention of the property's historic character and appearance. The historic preservation commission shall also make recommendations to allow designated properties to be utilized for noncomplying uses if such use would serve to perpetuate the viable contemporary utilization of the historic structure.

(r) *Violations.* In addition to the penalties provided for in this chapter, any person who undertakes or causes an alteration, construction, demolition or removal of any designated landmark or property within a historic district in violation of this section shall be required to return the landmark or property to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the city.

(s) *Review.* District boundaries and designation status may be reviewed after no less than ten (10) years, at the request of either the historic preservation commission or the petition of the owners of at least sixty (60) of the Boone County tax parcels in the district. After the initial ten (10) year period, district boundaries and designation status may be reviewed no more often than once every five (5) years.

(t) *Petition.* Not less than sixty (60) days prior to the circulation of any petition herein within a district or to create a district, affected Boone County tax parcel owners must be notified by certified mail of the

nomination or other matter on which a petition is to be circulated, and all proposed regulations shall be clearly identified. Proof of such mailing shall be made to the historic preservation commission at the time it considers the petition, and the cost of the mailing shall be borne by the person or organization sponsoring or otherwise promoting the petition.

(u) *Prior permits.* Nothing contained in this section shall affect any building permit, demolition permit or land disturbance permit issued for property which becomes part of district HP if the permit was issued prior to such designation.
(Ord. No. 15651, § 1, 7-6-98; Ord. No. 17658, § 1, 4-21-03; Ord. No. 19763, § 1, 12-17-07; Ord. No. 20124, § 2, 12-1-08)

Sec. 29-22. District F-1, floodplain overlay district.

(a) *Authority, findings of fact and purposes.*

(1) *Authority.* The city council of the City of Columbia, Missouri enacts these floodplain management regulations under its authority to adopt zoning regulations designed to protect the health, safety and general welfare which authority was granted to the City of Columbia as a home rule charter city by the people of the State of Missouri in Article VI, Section 19(a) of the Missouri Constitution and by the General Assembly of the State of Missouri in Chapter 89 of the Missouri Revised Statutes.

(2) *Findings of fact.*

- a. Flood losses resulting from periodic inundation. The flood hazard areas of Columbia, Missouri, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
- b. General causes of these flood losses. These flood losses are caused by (1) The cumulative effect of obstructions in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
- c. Methods used to analyze flood hazards. This section uses a reasonable method of analyzing flood hazards which consists of the following series of interrelated steps:
 1. Selection of regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The regulatory flood selected for this section is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this section. It is in the general order of a flood which could be expected to have a one (1) per cent chance of occurrence in any one (1) year, as delineated by the Federal Insurance Administration's Flood Insurance Study, and illustrative

materials dated August 16, 1995, as amended, and any future revisions thereto.

2. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
3. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
5. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

(3) *Purpose.* The purpose of the floodplain overlay district is to promote the public health, safety, and general welfare and to minimize those losses described in subsection (a)(2)a. to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations 59.22(a)(3), and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this section to:

- a. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- b. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- c. Protect individuals from buying lands that are unsuited for intended purposes because of flood hazard.

(b) *General provisions.*

(1) *Lands to which ordinance applies.* This section shall apply to all lands within the jurisdiction of the City of Columbia identified on the flood insurance rate map (FIRM) as numbered and unnumbered A zones (including AE, AO and AH zones) dated August 16, 1995 as amended and any future revisions thereto, and that portion of the B zone which is in the upper square mile of a flood drainage area. In all areas covered by this section, no development shall be permitted except upon the issuance of a floodplain permit to develop granted by the director of public works under such safeguards and restriction as the director of public works may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community and where specifically noted in this section.

(2) *The enforcement officer.* The director of public works is hereby designated as the duly designated Local Floodplain Administrator under this section.

(3) *Rules for interpretation of district boundaries.* The boundaries of the floodway, flood fringe, and

flood drainage area shall be determined by scaling distances on the official zoning map or on the flood insurance rate map or floodway map. Where interpretation is needed to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the director of public works shall make the necessary interpretation. In such cases where the interpretation is contested, the board of adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence, if he so desires.

- (4) *Compliance.* No development within known flood hazard areas of the City of Columbia shall be located, extended, converted or structurally altered without full compliance with the terms of this section and other applicable regulations.
- (5) *Abrogation and greater restrictions.* It is not intended by this section to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.
- (6) *Interpretation.* In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- (7) *Warning and disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside of the floodway, flood fringe, and flood drainage area boundaries or land uses permitted within such areas will be free from flooding or flood damage. This section shall not create liability on the part of the City of Columbia or any officer or employee thereof for any flood damages that may result from reliance on this section or any administrative decision lawfully made thereunder.
- (8) *Severability.* If any subsection, clause, provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.
- (9) *Appeal.* Where a request for a floodplain development permit to develop or for a variance is denied by the director of public works the applicant may apply for such floodplain development permit or variance to these regulations directly to the board of adjustment.
- (c) *Administration.*
 - (1) *Permit required.* No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for development as defined in subsection (h).

(2) *Administration.*

- a. The director of public works is hereby appointed to administer and implement the provisions of this section.
- b. Duties of the director of public works shall include, but not be limited to:
 - 1. Review all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this section have been satisfied.
 - 2. Review all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - 3. Issue floodplain development permits for approved applications.
 - 4. Notify adjacent communities, the State of Missouri Emergency Management Agency, the Missouri Clean Water Commission, and the Department of Natural Resources prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
 - 5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - 6. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - 7. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been floodproofed.
 - 8. When floodproofing is utilized for a particular non-residential structure, the director of public works shall be presented certification from a registered professional engineer or architect.

(3) *Application for permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- a. Identify and describe the work to be covered by the floodplain development permit.
- b. Describe the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the

proposed building or work.

- c. Indicate the use or occupancy for which the proposed work is intended.
- d. Be accompanied by plans and specifications for proposed construction.
- e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- f. Give such other information as reasonably may be required by the director of public works.

(d) *Provisions for flood hazard reduction.*

(1) *General standards.*

- a. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO and AH zones) and that portion of the B zone which is in the upper square mile of a flood drainage area, unless the conditions of this subsection are satisfied.
- b. All areas identified as unnumbered A zones and B zones on the FIRM are subject to inundation of the one hundred-year flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this section. If flood insurance study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.
- c. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 2. New or replacement water supply systems and sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems be located so as to avoid impairment or contamination.
 - 3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damage, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
5. That until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30, AE and the flood drainage area (Zone B - upper square mile) on the city's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the one hundred-year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the flood insurance rate study incorporated by reference: subsection (a)(2)c.1. of this section.
6. Storage of material and equipment:
 - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (1) all such proposals are consistent with the need to minimize flood damage, (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (3) adequate drainage is provided so as to reduce exposure to flood hazards, and (4) proposals for development (including proposals for manufactured home parks) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

(2) *Specific standards.* In all areas of special flood hazard where base flood elevation data have been provided as set forth in subsection (a)(2)c., the following provisions are required:

- a. Residential construction. New construction or substantial improvements of any residential building or manufactured home shall have the lowest floor, including basement, elevated to at least two (2) feet above base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (d)(2)c.
- b. Nonresidential construction. New construction or substantial improvements of any

commercial, industrial, or nonresidential building or manufactured home shall have the lowest floor, including basement, elevated to at least two (2) feet above base flood elevation. Buildings located in all A-zones may be floodproofed in lieu of being elevated provided that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in subsection (c)(2)b.7.

- c. Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - 1. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - a. Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - 2. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used on connection with the premises (standard exterior door) or entry to the living area (stairways or elevator); and
 - 3. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (3) *AH zones.* Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (4) *Manufactured homes.*
- a. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors

are used, the following specific requirements (or their equivalent) shall be met:

Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one additional tie per side;

Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

Any additions to the manufactured home be similarly anchored.

- b. All manufactured homes to be placed within Zones A1-30, AH, AE and B on Columbia's FIRM on sites:
 - 1. outside of a manufactured home park or subdivision,
 - 2. in a new manufactured home park or subdivision,
 - 3. in an expansion to an existing manufactured home park or subdivision, or
 - 4. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least two (2) feet above the base flood elevation; and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (d)(4)a.

- c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE and B on Columbia's FIRM that are not subject to the provisions of subsection (d)(4)a. shall be elevated so that either:
 - 1. The lowest floor of the manufactured home is at least two (2) feet above the base flood elevation, or
 - 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (d)(4)a.

- (5) *Recreational vehicles.* All recreational vehicles placed on sites within the identified floodplain on Columbia's FIRM shall either be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use or meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this section. A recreational vehicle is ready for highway use if it is on its wheels or its jacking system, is attached to the site only by quick disconnect type utilities and security devices and it has no permanently attached additions.
- (6) *AO zones.* Located within the areas of special flood hazard established in section (b)(1) are areas designed as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two (2) feet above the depth number specified in feet on Columbia's FIRM (at least three (3) feet if no depth number is specified).
 - b. All new construction and substantial improvements of nonresidential structures shall:

Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two (2) feet above the depth number specified in feet on Columbia's FIRM (at least three (3) feet if no depth number is specified), or

Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in subsection (c)(2)b.7.
 - c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (7) *Floodway overlay district.*
- a. Permitted uses. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless a "no-rise" certification statement by a professional registered engineer or architect is provided. A "no-rise" certification statement shall be accompanied by supporting documentation which shall adequately demonstrate that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of

subsection (d). The following are recommended uses for the floodway district.

1. Agricultural uses such as general farming, pasture, nurseries, forestry.
 2. Residential uses such as lawns, gardens, parking and play areas.
 3. Nonresidential areas such as loading areas, parking and airport landing strips.
 4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
- b. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or section (d)(1)c.7. of this section, in meeting the standards of this subsection.
- (e) *Variance procedures.*
- (1) The board of adjustment shall hear and decide appeals and requests for variances from the requirements of this section.
 - (2) The board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the director of public works in the enforcement or administration of this section.
 - (3) Any person aggrieved by the decision of the board or any taxpayer may appeal such decision to the circuit court of Boone County.
 - (4) In passing upon such applications, the board shall consider all technical evaluation, all relevant factors, standards specified in other subsections of this section, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) *Conditions for variances.*

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items b. through f. below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this subsection.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(f) *Penalties for violation.* Violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars

(\$1,000.00) and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Columbia or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(g) *Amendments.* The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city of Columbia. At least fifteen (15) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII of the Federal Emergency Management Agency. The regulations of this section are in compliance with the National Flood Insurance Program regulations.

(h) *Definitions.* Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. These definitions are for the purpose of this section only and may differ from those in section 29-2.

100-year flood. see "base flood."

Accessory structure means the same as appurtenant structure.

Actuarial or risk premium rates means those rates established by the administrator of the National Flood Insurance Program pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the act and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency.

Agricultural commodities means agricultural commodities and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities.

Appeal means a request for a review of the interpretation of the director of public works of any provision of this section or a request for a variance.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of shallow flooding means a designated AO or AH zone on the flood insurance rate map (FIRM) with a one (1) per cent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is

characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain subject to one (1) per cent or greater chance of flooding in any given year.

Base flood means the flood having one (1) per cent chance of being equalled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building. See "structure."

Chief executive officer or chief elected official means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means a non-basement building:

- (1) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D to have the top of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of water, and
- (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

This also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Eligible community or participating community means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

Existing construction means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was complete before October 1, 1973.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of a stream.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood drainage areas (less than one square mile). Areas designated within the one hundred-year floodplain by the December 1, 1981 flood insurance study, but containing a drainage area less than one square mile. The December 1, 1981 flood insurance study did not establish the base flood elevation or delineate the floodway and flood fringe for these areas; rather the base flood elevation and one hundred-year floodplain were and are established by the January 16, 1976 flood insurance study and amendments thereto. The flood drainage areas generally include small streams or the upper reaches of major streams.

Flood elevation determination means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one per cent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood fringe is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one per cent chance of flood occurrence in any one year).

Flood hazard boundary map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special hazards have been designated as zones A.

Flood insurance rate map (FIRM) means an official map of a community, on which the flood insurance study has delineated both the special flood hazard boundaries and the zones establishing insurance rates applicable to the community.

Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see "flooding").

Floodplain management means the operation of an overlay program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion

control ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include recreational vehicle, park trailer, travel trailer, and other similar vehicles.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after December 31, 1974 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after October 1, 1973 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after October 1, 1973.

Participating community. See "eligible community."

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state and local governments and agencies.

Principally above ground means that at least fifty-one (51) per cent of the actual cash value of the structure, less land value, is above ground.

Overlay district is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory flood. See "base flood."

Regulatory floodway. See "floodway."

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations.

Sheet flow area. See "area of shallow flooding."

Special flood hazard area. See "area of special flood hazard."

Special hazard area means an area having special flood hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH or B.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means the agency of the state, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program in that state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) per cent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) per cent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

Variance means a grant of relief by the community from the terms of a floodplain management regulation. Floodplain insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

Violation means the failure of a structure or other development to be fully compliant with Columbia's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine area.

(Ord. No. 14964, § 1, 9-3-96; Ord. No. 18432, § 1, 3-7-05)

Sec. 29-23. Conditional use permits.

(a) *Purpose.* It is the purpose of this section to provide for conditional use permits which may be granted only for uses expressly listed in the conditional use subsections of the zoning districts established in this

chapter.

(b) *Application.* Application for a conditional use permit shall be made to the board of adjustment and shall be accompanied by the following: (1) A completed application form.

(2) A deposit to cover legal advertising costs.

(3) An accurate legal description of the subject property.

(4) Plans or other evidence, as appropriate, that support the conclusions set forth in subsection (c).

(c) *Procedure:*

(1) The applicant shall submit all necessary information and materials to the city clerk. The city clerk shall then refer the application to the director of planning and development who shall review the request to determine its compliance with the provisions of this chapter. A report on the proposal shall be made to the board of adjustment at the time the application is to be considered. The city clerk shall handle all notification procedures.

(2) The board shall hold a public hearing on the application.

(3) After giving due consideration to the following standards, the board may grant a conditional use permit stipulating any conditions deemed necessary to carry out the provisions and intent of this chapter:

- a. The proposed conditional use is in compliance with all regulations of the applicable zoning district.
- b. The proposed conditional use will be in conformance with the character of the adjacent area, within the same zoning district, in which it is located. In making such a determination, consideration may be given to the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site.
- c. Off-street parking and loading areas are provided in accordance with the standards set forth in section 29-30.
- d. Adequate utilities, drainage, and other such facilities are provided.
- e. Adequate access is provided and is designed to prevent traffic hazards and minimize traffic congestion.

(d) *Duty to comply with other laws.* Approval and issuance of such permit shall not be deemed to relieve the permittee of the duty to comply with the provisions of other laws and ordinances.

(e) *Violation.* The violation of any condition imposed by the conditional use permit shall constitute a violation of this chapter.

(f) *Tenure of permit.* The granting of a conditional use permit is to allow that use on the specific site. If the use is not substantially altered, it shall be allowed on the site regardless of ownership. A conditional use permit may not be transferred to any other site.

(g) *Amendment.* Amendment or addition to any conditional use permit is subject to the same procedures as those which apply to a new application. Minor adjustments to an approved conditional use permit may be authorized by the director of planning and development at his discretion.
(Code 1964, § 19.200; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-24. Repealed by Ord. No. 13543 § 2, 12-21-92.

Sec. 29-25. Screening and landscaping requirements.

(a) *Purpose.* The intent of this section is to:

- (1) Establish healthy environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, erosion control, and noise, glare and heat abatement.
- (2) Provide visual buffering from streets, to buffer potentially incompatible land uses and to generally enhance the quality and appearance of a development site, and the city in total.
- (3) Encourage the preservation of existing trees and vegetation.
- (4) Supplement the land disturbance permit requirements.

(b) *Authority.* The director of public works is hereby designated as the enforcement officer under this section.

(c) *Lands to which this section applies.* The landscaping and screening requirements of this section shall apply to all land public and private located in the City of Columbia, Missouri, except the following:

- (1) Land within zoning districts A-1; R-1; R-2 (except for those R-2 zoned developments having lots which contain attached residences and which have side or rear property boundaries abutting collector or arterial street right-of-way); RMH; M-C; M-U; F-1; and PUD or portions thereof consisting of one-family detached dwellings on individual lots and one-family attached dwellings on individual lots (except for one-family attached developments having lots which have side or rear property boundaries abutting collector or arterial street right-of-way). Notwithstanding this exception, parking areas and loading/unloading areas in any zoning district shall be subject to the provisions contained in this section. Buildings or additions to buildings in district C-2 shall be exempt from the provisions of this section; however, any parking areas associated with buildings or additions to buildings in district C-2 shall not be exempt from the provisions of this section.
- (2) Development existing or approved by the City of Columbia in the form of building permit

issuance or final development plan approval, prior to August 19, 1991.

- (3) An existing single-family detached dwelling unit.

(d) *Landscape plan requirements.* A landscaping plan, prepared by an individual who can demonstrate knowledge of landscape design, shall be required as specified in Chapter 12-A, the Land Preservation Act. In addition to those requirements, approval of a landscape plan shall be required prior to the issuance of building permits and prior to the development of any parking area or loading/unloading area.

(e) *Screening and landscaping requirements.* In addition to the requirements and purpose of the Land Preservation Act:

- (1) A minimum of fifteen (15) per cent of the total land area of any tract, parcel or lot shall be landscaped. Landscaping shall be reasonably distributed throughout the site.
- (2) No new buildings or additions to existing buildings shall be permitted unless additional landscaping is provided on the tract, parcel or lot in an area equal to at least fifteen (15) per cent of the land area occupied by the new building or addition. This subsection shall not apply to any land which meets the minimum requirement of subsection (e)(1).
- (3) All paved areas with more than fifty (50) feet of length within twenty (20) feet of a street right-of-way shall have a six (6) feet wide street yard landscaping strip within private yards separating parking areas from abutting street rights-of-way containing no less than four (4) of the categories of planting materials listed in paragraph (f) of this section. The street yard landscaping strip shall contain one tree per fifty (50) feet of street frontage. Such trees may be clustered or arranged within the area and need not be placed at even intervals. The street yard landscaping strip may contain driveways.

No parking areas shall contain more than one hundred fifty (150) spaces. If a greater number is required, separate parking areas of not more than one hundred fifty (150) spaces shall be provided and shall be separated by a landscaped area of at least ten (10) feet in width. The ten (10) feet wide landscaped area shall contain four (4) of the categories of planting materials listed in paragraph (f) of this section. In addition, trees shall be planted within the ten (10) feet wide landscaped area at the rate of one tree for each fifty (50) lineal feet. Appropriately placed connections between parking areas are permitted.

No less than fifty (50) per cent of the linear street frontage forming the perimeter of parking areas described above, exclusive of driveways and entrances, shall contain screening materials. These materials may consist of plantings from the tree and shrub categories, or ornamental fences or walls, or earthen berms, or some combination thereof. This screening shall extend to a minimum of three (3) feet above the grade of the parking lot.

- (4) In addition to the above, paved areas developed after August 19, 1991, and additions to paved areas which were developed prior to August 19, 1991, exceeding four thousand five hundred (4,500) square feet in area shall contain a minimum of one (1) tree for every four thousand five hundred (4,500) square feet of paved area. All required trees planted to achieve compliance are

to be distributed in a configuration which shades the paved areas within the site. In a case where the location of trees within the site interferes with the loading and unloading of large vehicles, the required trees may be placed at the perimeter of the paved areas or in other suitable locations on the site. All required trees planted to achieve compliance must be a locally adapted species, approved for the site by the director of public works. The director of public works is authorized to adopt and maintain a list of approved species to be used for planting required by this section. When a site, in the opinion of the director of public works, is configured in a manner that makes planting of required trees impractical or unsafe, shrubs and ground cover may be substituted for trees. Existing trees saved on the site within the parking area may be credited toward minimum tree requirements only if it is demonstrated that they have been properly protected during and following development and if they meet the size requirements of chapter 12A.

- (5) Paved areas containing more than one thousand five hundred (1,500) square feet within fifty (50) feet of a residential use or residential zoning district or any motor vehicle loading/unloading areas within fifty (50) feet of a residential use or residential zoning district, but not separated by street right-of-way, shall be screened from view of the adjoining residential use or residential zoning district, by landscaping materials, ornamental fence and walls in combination with plant materials, properly stabilized earthen berms, or a combination of any of these methods. Screening shall be so designed that at least eighty (80) per cent opacity is achieved, viewed horizontally, in the space between one foot and five (5) feet above grade at the screen line, at the time of installation; provided, that where plant materials are used for screening, these shall be selected and placed to achieve the same objective within four (4) full growing seasons following planting. All screening material, including plant material, shall be continuously maintained in good condition, to the above standards.
- (6) Landscaping and screening shall not be allowed to obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard or condition dangerous to the public safety upon any such street.
- (7) Of the combined total number of trees required to be planted in the six (6) feet wide street yard landscaping strip and in the interior parking lot, no less than thirty (30) per cent shall be of a species of medium to large shade trees.
- (8) Lots which contain attached residences and which have side or rear property boundaries abutting collector or arterial street right of way shall have screening either along such boundaries or around any patios on the lot which are visible from the right of way. The screening shall consist of landscape materials, ornamental fences or walls in combination with plant materials, properly stabilized earthen berms, or a combination of these methods. Screening shall be so designed that at least 50 per cent opacity is achieved, viewed horizontally, in the space between one foot and five feet above grade at the screening line, at the time of installation; provided that where plant materials are used for screening, these shall be selected and placed to achieve the same objective within four (4) full growing seasons following planting. Screening shall be placed on private property. All screening material, including plant material, shall be continuously maintained in good condition to the above standards.
- (f) *Planting requirements.* The categories of planting material and the minimum planting sizes for

planting materials, where applicable, shall be as follows:

- (1) *Medium and large deciduous shade trees:* Two (2) inch caliper, as measured six (6) inches above the ground, as specified by the American Association of Nurserymen.
- (2) *Small deciduous or ornamental trees:* Four (4) feet in height as specified by the American Association of Nurserymen, with the exception of true dwarf species.
- (3) *Conifers:* Six (6) feet in height.
- (4) *Upright evergreen trees:* Four (4) feet in height as specified by the American Association of Nurserymen, except for true dwarf species.
- (5) Deciduous shrubs (minimum two (2) gallon size).
- (6) Evergreen shrubs (minimum two (2) gallon size).
- (7) *Ground cover plants (Crowns, plugs, containers):* In a number as appropriate by species to provide fifty (50) per cent surface coverage after two (2) growing seasons.
- (8) *Grass seeding or sod:* As appropriate to provide complete coverage within the first growing season.
- (9) Perennial flowers.
- (10) Ornamental grass.
- (g) *Installation, maintenance and enforcement.*
- (1) Required landscaping shall not be installed until all street yard landscaping strips, setbacks, tree planting sizes and locations, screening locations and overall planting configurations are inspected and approved by the city. Deviations from the approved plans shall be corrected to conform to the approved plan. If, in the opinion of the director of public works, compliance is not achievable due to unforeseen circumstances, the landscaping plan may be amended, but in all cases must comply with the requirements of the landscaping requirements for the zoning district in which the site is located.
- (2) All landscaping called for in the approved landscape plan, living and non-living, shall be in place and approved by the city prior to issuance of certificates of occupancy. It shall be unlawful to occupy any structure, or to represent to any person that the structure may be occupied, prior to the final approval of the landscaping. If, at the time of request for the certificate, the required landscaping would be jeopardized by weather conditions, the developer shall comply with applicable provisions of chapter 12A.
- (3) The trees, shrubs, fences, walls and other landscaping materials depicted on approved plans shall be considered as elements of the project in the same manner as parking, building materials and

other elements. The developer, his successor and subsequent owners and their agents who are authorized to maintain the property, shall be responsible for the continued maintenance. Plant material which exhibits evidence of insect pest disease or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season. All landscaping will be subject to periodic inspection by the city to ensure compliance.

- (4) A minimum one hundred seventy (170) square feet pervious growing area per medium to large tree shall be provided. A minimum seventy-five (75) square feet pervious growing area shall be provided for ornamental trees.

(h) *Alternative methods of compliance.* Although certain material or a particular method of construction is specifically prescribed by this section, this section is not intended, especially whenever a stream, natural rock formation or other physiographic condition exists, to prevent the use of a material or method of construction not prescribed specifically by this section; provided, any such alternate material or method has been approved in writing or in plan and its use authorized by the director of public works. The director may approve in writing or in plan any such alternate material or method of construction; provided, it is found that the proposed alternate is for the purpose intended, and is at least the equivalent of that specifically prescribed by this section in quality, effectiveness, durability, hardness, and performance.

(i) *Exceptions.* The following uses are exempt from the requirements of subsection (e)(3) and (4) above:

Motor vehicles or trailer sales and service;

Farm machinery sales and service;

except that paved areas of such exempted uses with more than fifty (50) feet of length within twenty (20) feet of a street right-of-way shall have a six (6) feet wide street yard landscaping strip within private yards separating such areas from abutting street rights-of-way containing no less than four (4) of the categories of planting materials listed in paragraph (f) of this section. Such landscaping strip shall not be subject to the tree or screening requirements imposed by subsection (e)(3); except that the required landscaped areas shall include not less than one (1) ornamental or other type of tree for each four thousand five hundred (4,500) square feet of paved area, provided however, that one (1) large shrub or two (2) medium shrubs may be substituted for each required tree. A large shrub is defined as one that reaches at least six (6) feet in height in four (4) growing seasons, and a medium shrub is defined as one that reaches at least thirty (30) inches in height in three (3) growing seasons. Shrubs which may be grouped together or planted individually, should be from the deciduous woody ornamental or evergreen families (minimum of five (5) gallon size); and except that when a use listed above has been abandoned, and trees and screening have not been installed in accordance with the provisions of this section, such tree planting and screening shall then be required prior to occupancy for any other use.

(j) As used in this section, "paved area" means open areas used or occupied by motor vehicles including parking areas, loading areas and driveways. "Paved area" does not include areas under the roof of a building, sidewalks or pedways.

(Ord. No. 13058, § 1, 8-19-91; Ord. No. 14334 § 1, 1-3-95; Ord. No. 14963, § 1, 9-3-96; Ord. No. 15474, § 1, 1-5-98; Ord. No. 15640, § 1, 6-15-98; Ord. No. 16126, § 1, 8-16-99; Ord. No. 16798, § 1, 3-5-01; Ord. No. 17584, § 1, 2-17-03; Ord. No. 18464, § 1, 4-4-05; Ord. No. 20237, § 1, 4-20-09)

Editors Note: Ord. No. 11767, § 1, adopted Feb. 1, 1988, repealed § 29-25, pertaining to design standards for travel trailer

parks, which derived from Code 1964, § 19.202; Ord. No. 9958, § 1, adopted Oct. 3, 1983 and Ord. No. 11702, § 1, adopted Dec. 7, 1987.

Sec. 29-26. Height and area exceptions.

The regulations and requirements as to height of buildings and area of lot which may be occupied by buildings, side yards, front yards and rear yards; and other regulations and requirements as established in the sections of this chapter, shall be subject to the following exceptions and additional regulations:

(a) *Height:*

(1) a.

In districts R-1, R-2 and R-3, where public or semi-public buildings, such as schools, museums, libraries, public administration buildings, etc., either public or private, are permitted, such buildings may be erected to a height not exceeding seventy-five (75) feet, unless a greater height is allowed, provided that such buildings shall be set back one additional foot on all sides for each additional foot that such buildings exceed the specified height limits as established by the regulations of the district in which such building is situated.

b. In the R-3 district only, schools may be constructed to a height of one hundred (100) feet without additional setback requirements.

- (2) Dwellings in districts R-1 and R-2 may be increased in height, not exceeding ten (10) feet, in addition to the limitation prescribed in such districts, provided that two (2) side yards of not less than fifteen (15) feet in width each, are provided.
- (3) Parapet walls, false mansards, flagpoles, chimneys, finial cooling towers, elevator bulkheads, penthouses, stacks, cupolas, antennas (as defined in section 29-21.3) and spires shall not extend more than six (6) feet above the height limit.
- (4) On through lots one hundred twenty-five (125) feet or less in depth, the height of a building may be measured from the curb elevation of either street. On through lots of more than one hundred twenty-five (125) feet in depth, the greater height shall apply to a depth of not more than one hundred twenty-five (125) feet from the higher street.
- (5) In district A-1, such items as silos, windmills, barns, and other structures normally associated with agricultural use of the land, may not exceed seventy-five (75) feet in height.
- (6) In districts R-1, R-2 and R-3, private noncommercial radio and television antennae may be permitted to be constructed to a height in excess of thirty-five (35) feet, but none shall be greater than forty-five (45) feet in height. Such antennae shall not be located in the front yard area of any lot, and shall be in compliance with all applicable laws and ordinances of the city.

(b) *Yard Exceptions:*

- (1) In districts R-1, R-2, R-3 and R-4, where lots composing forty per cent (40%) or more of the frontage, on the same side of a street between two (2) intersecting streets (excluding reverse

corner lots), are developed with buildings, the median of the front yards of such buildings shall establish the minimum front yard depth for the entire frontage. Where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this chapter, yet is less than the established setback for the block as provided above, such setback line shall apply.

- (2) Where an official plan line has been established for future widening or opening of a street upon which a lot abuts, the depth or width of a yard shall be measured from such official plan line to the nearest line of the building.
- (3) Every part of a required yard or court shall be open from its lowest point to the sky, unobstructed except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, solar energy systems, ornamental features, and eaves. None of the above projections shall extend into a court more than six (6) inches nor into a minimum yard more than twenty-four (24) inches; and provided further, that canopies or open porches having a roof area not exceeding sixty (60) square feet may project a maximum of six (6) feet into the required front yard. Open paved terraces may project not more than ten (10) feet into a front or rear yard, and existing open porches extending into a required yard shall not be enclosed.
- (4) An open fire escape may project into a required side yard, but not more than half the width of such yard, and not more than four (4) feet from the building. Fire escapes, solid floored balconies, and enclosed outside stairways may project not more than four (4) feet into a rear yard.
- (5) A terrace garage in a district R-1 to R-3 inclusive, may be located in a front or side yard, provided that it is completely recessed into the terrace, and that the height of the terrace is sufficient to cover and conceal the structure from above, and further that the doors, when open, shall not project beyond any property line, and that the structure be set back at least four (4) feet from the front property line.
- (6) In any residential district, a detached accessory building shall not:
 - a. Exceed twenty-four (24) feet in height;
 - b. Be higher than the main building; or
 - c. Occupy more than thirty (30) per cent of a rear yard.

A detached accessory building may be connected with the main building by a lightly constructed, covered passage, open on each side, not more than six (6) feet wide inside, the roof of which is not more than twelve (12) feet high at its highest point, and is not an extension of the roof of the main building.

- (7) No rear yard shall be required in any nonresidential district on any lot of which the rear line adjoins a railway right-of-way or which has a rear railway track connection.
- (8) In computing the depth of a rear yard for any building where such yard abuts an alley, one-half

of such alley may be assumed to be a portion of the rear yard.

- (9) Buildings constructed on the campus of an institution of higher learning, and which buildings have been included as part of a development plan approved by the council, need not comply with the yard requirements of the district in which they are located, but shall comply with the following requirements:
 - a. Minimum distance to a street line--twenty-five (25) feet, except that where there is a building existing at the time of the passage of this section, with less than a twenty-foot setback on the same side of the street and within one hundred (100) feet on either side of the proposed building, such building may be located not less than twenty (20) feet from the street line.
 - b. Minimum distance to a property line other than a street--fifteen (15) feet for buildings thirty-five (35) feet in height, and five (5) additional feet for each additional ten (10) feet in height.
- (c) Balcony projections over property lines in district C-2:
 - (1) In district C-2, balconies on new, renovated or retrofitted construction may project into the public right-of-way only if:
 - a. The improvement complies with section 24-2(c) of this code; and
 - b. The balcony projects only over a public sidewalk. No balcony shall project over the travel lanes of any public street or alley; and
 - c. The maximum projection and minimum height above the public sidewalk shall be governed by the Building Code of Columbia, Missouri, adopted in chapter 6 of this code; and
 - d. The proposed balcony meets all applicable design standards contained in this code and other ordinances passed by the city council.

(Code 1964, § 19.210; Ord. No. 9958, § 1, 10-3-83; Ord. No. 15471, § 1, 12-15-97; Ord. No. 20284, § 3, 6-1-09)

Sec. 29-27. Accessory uses.

(a) A driveway to provide access to premises in commercial or industrial districts shall not be permitted through residential districts. Buildings or uses which are accessory to the use permitted in one district shall not be permitted in a more restrictive district.

(b) In hospitals, sanitariums or clinics, the necessary use of a pharmacy shall be permitted, provided that such pharmacy is incident and subordinate to the main use, and is an integral part of the main building; is operated only during the hours of operation of the main building, and not before 7:00 a.m., nor after 6:00 p.m., and further provided that no retail sales are made or completed therein other than the sale of drugs and

medicines prescribed by a physician or surgeon, or that are listed in the latest edition of "The United States Pharmacopoeia."

(c) In hospitals, sanitariums or clinics, the accessory use of an orthopedic outfitting service may be permitted, provided that such service is incident and subordinate to the main use, is an integral part of the main building, is operated only during the hours of operation of the main building, and not before 7:00 a.m., nor after 6:00 p.m., and further provided that no retail sales are made or completed therein other than the sale or outfitting of orthopedic or surgical appliances or orthopedic shoes which have been prescribed in writing by a physician or surgeon.

(d) For any dwelling there shall be permitted one private garage with space for not more than one motor vehicle for each two thousand (2,000) square feet of lot area. Such garage shall be located not less than sixty (60) feet from the front lot line, nor less than three (3) feet from any side lot line, nor less than one foot from any alley line. When the rear lot line is common to a side or rear lot line of another lot, such garage must be located a minimum of three (3) feet from such rear lot line and for corner lots, not less than the distance required for residences from side streets. A garage may be constructed across a common lot line by mutual agreement between property owners. A garage constructed as an integral part of the main building shall be subject to the regulations affecting the main building, except that on a corner lot, a private garage, when attached to the main building and not exceeding the height of the main building, may extend into the required rear yard to a point not less than eighteen (18) feet from the rear lot line, and shall not occupy more than thirty (30) per cent of the required rear yard. No part of a detached accessory building shall be closer than ten (10) feet to the main building.

(e) For any dwelling there shall be permitted a private swimming pool(s) and/or tennis court(s). Such use shall be located not less than sixty (60) feet from the front lot line, nor less than three (3) feet from any side lot line, nor less than one foot from any alley line. When the rear lot line is common to a side or rear lot line of another lot, such use must be located a minimum of three (3) feet from such rear lot line and for corner lots, not less than the distance required for residences from side streets. Such use may be constructed across a common lot line by mutual agreement between property owners. Such use constructed as an integral part of the main building shall be subject to the regulations affecting the main building, except that on a corner lot, such use, when attached to the main building and not exceeding the height of the main building, may extend into the required rear yard to a point not less than eighteen (18) feet from the rear lot line, and shall not occupy more than thirty (30) per cent of the required rear yard. No part of such use shall be closer than ten (10) feet to the main building.

(f) Amusement game machines shall be permitted in commercial business establishments, provided no more than three (3) machines are located on the premises.
(Code 1964, § 19.220; Ord. No. 9958, § 1, 10-3-83; Ord. No. 14747, § 1, 2-5-96)

Sec. 29-28. Nonconforming uses.

(a) The lawful use of land existing at the time of passage of Ordinance No. 9958, or annexation, although such use does not conform to the provisions hereof, may be continued. The nonconforming use of land shall not be extended or enlarged, either on the same or adjoining property. If such nonconforming use is discontinued, any future use of such premises shall be in conformity with the provisions of this chapter.

(b) The lawful use of a building existing at the time of the passage of this article may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made therein. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(c) A nonconforming use of land or buildings, if changed to a conforming use or more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. If any property is hereafter transferred to a more restrictive district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive or of a higher classification by amendment to this chapter, the provisions of this chapter relating to the nonconforming use of buildings or premises existing at the time of passage of this chapter shall apply to buildings or premises occupied or used at the time of the passage of such an amendment.

(d) Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extensions shall be made, except those required by law or ordinance, unless the building is changed to a conforming use, provided that the board, by special permit in the case of evident hardship, may grant an extension of a nonconforming use not exceeding twenty-five (25) per cent of the first floor. (Code 1964, § 19.230; Ord. No. 9958, § 1, 10-3-83; Ord. No. 15533, § 1, 3-2-98)

Sec. 29-29. Completion and restoration of existing buildings.

(a) Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, and plans for which are on file with the director of public works at the time of the passage of Ordinance No. 9958 and the construction of which, in either case, shall have been diligently prosecuted within one year of the date of such permit; and the ground story framework of which, including the second tier of beams, shall have been completed within such year, and which entire building shall be completed according to such plans, as filed, within two (2) years from the date of passage of Ordinance No. 9958.

(b) Nothing in this article shall prevent the restoration of a nonconforming building partly destroyed by fire, explosion, act of God, or act of the public enemy, subsequent to the passage of this chapter or prevent the continuance of the use of such building or part thereof, as such use existed at the time of such destruction of such buildings or part thereof, or prevent a change of such existing use under the limitations provided herein, provided such building is not destroyed to the extent of more than seventy-five (75) per cent of its reasonable valuation, exclusive of foundations. This chapter shall prevent the restoration of such nonconforming building so damaged for more than seventy-five (75) per cent of the reasonable valuation, and shall prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, and shall prevent a change of such existing use under the limitations provided by this chapter.

(c) The provisions of this chapter shall not apply to prevent the extension of any building, existing in any district at the time of annexation, or the adoption of Ordinance No. 9958, to the height which the walls, foundation and framework of such existing building originally were intended, designed and constructed to carry; provided that the actual construction of the extensions in height permitted by this paragraph shall have been duly commenced within ten (10) years from the date of the adoption of Ordinance No. 9958. (Code 1964, § 19.240; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-30. Off-street parking and loading regulations.

- (a) *General Requirements.*
 - (1) Except in district C-2 and except as provided in subsection (a)(2), all uses established and all buildings erected, constructed, reconstructed, or expanded after November 19, 2001 shall be provided with off-street parking spaces, either in the form of parking garages or open parking areas for the parking of motor passenger vehicles, as specified herein.
 - (2) Exceptions to off-street parking and loading regulations.
 - a. Subject to the provisions of subsections (a)(3), (4) and (5), the off-street parking requirements of this section that were in effect on November 18, 2001 shall apply to:
 - 1. Any use or building for which a building permit was issued before November 20, 2001; provided, that construction on the building is begun within one hundred eighty (180) days of issuance of the building permit and completed within two (2) years of issuance of the building permit.
 - 2. Any use or building for which plans were submitted to the city and were under review by city staff on November 19, 2001; provided, that the plans were in substantial compliance with all city ordinances and regulations, the plans are approved by the city, building permits are issued for the structures shown on the plans and construction on the structures is begun within one hundred eighty (180) days of issuance of the building permit and completed within two (2) years of issuance of the building permit.
 - b. The off-street parking requirements of this section shall not apply to property that is located in a planned zoning district and that is subject to a site plan or development plan approved before November 19, 2001.
- (3) When the intensity of use of any legally established building, structure or premises is increased resulting in a net increase of gross floor area or any other unit of measurement specified herein for determining required parking areas, parking spaces and any other facilities as required herein shall be provided for such increase in intensity of use.
- (4) Whenever the type of use of a building, structure or premises is changed to a new type of use permitted by this chapter, parking spaces and areas shall be provided as required by the provisions of this section for such new type of use, subject to the exception noted in subsection (a)(2).
- (5) Required off-street parking areas in existence on November 19, 2001 shall not be reduced below, or if already less than, shall not be further reduced below, the requirements for such use as would be required for the use as a new use of a building, structure or premises under the provisions of this section.

- (6) In a residential district, no garage other than a private garage shall be located nearer than sixty (60) feet to the front lot line. Required parking spaces may be tandem to serve one- and two-family dwellings only; provided that the parking space is adjacent and parallel to the driveway serving the space required behind the building line and only one parking space per dwelling unit is allowed in the required front yard or on the required side yard on the street side of a corner lot. Parking spaces for all other uses in residential districts shall not be located in the required front yard.
- (7) No motor vehicle shall be parked in the yard area of a one-family, one-family attached or two-family dwelling, multiple-family apartment, court apartment, group dwelling, sorority or fraternity house, dormitory, cooperative house, or rooming, boarding, or lodging house, other than in a parking area or driveway as defined by and under the provisions of this chapter, provided that such parking shall be allowed on property with a valid temporary permit issued by the director of public works under subsection (a)(8).
- a. If any vehicle is found in violation of this provision and the driver thereof is not present, the owner or person in whose name such vehicle is registered in the records of the city, county or state, shall be responsible for such violation when such vehicle was being used with permission. Proof of the ownership, as aforesaid, shall be prima facie evidence that such vehicle with absent driver was being operated with the permission of the owner.
 - b. In addition, the owner or general agent of the building or premises where a violation of this provision exists, or the lessees or tenants of an entire building or entire premises where such violation has been committed or shall exist, shall be responsible for such violation, when such person knows of such violation or has been served with an order to remove any such violation and after five (5) days following service of such order has failed to remove any such violation, or allows any violation of this provision to exist.
 - c. Any person found in violation of this provision shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment of not more than thirty (30) days, or by both such fine and imprisonment.
- (8) The director of public works may issue temporary permits to the owner or authorized agent of the owner to allow parking of motor vehicles in a yard area as prohibited in subsection (a)(7), subject to the following terms and conditions:
- a. Such permit shall be issued for a period deemed appropriate by the director of public works, not to exceed forty-eight (48) hours.
 - b. No such permit may be issued for parking in the yard area of a one-family, one-family attached or two-family dwelling.
 - c. Such permits may be issued only for Saturdays, Sundays or holidays.
 - d. Such permit shall only be issued on a finding by the director of public works that such

permit is necessary for an event which is of city or area-wide concern and where such event will attract traffic which cannot be effectively served by existing accessible parking facilities.

(b) *Parking Requirements.* Off-street parking spaces shall be provided for all uses in accordance with the minimum requirement set forth in Table 29-30(b)(1).

Table 29-30(b)(1)

	Required Parking
<i>Residential</i>	
One- and Two-Family Dwelling Units	2 spaces/dwelling unit for one-family attached and unattached dwellings; 2 spaces/unit for two-family units having up to 2 bedrooms; three spaces/unit in two-family units of 3 or more bedrooms
One-family Attached Units	2 spaces/dwelling unit
Multi-Family Dwellings	1.0 spaces/dwelling unit for "efficiency" apartment (i.e., units without a separate bedroom); 1.5 spaces/dwelling unit for 1 bedroom units; 2 spaces/dwelling unit for 2 bedroom units; 2.5 spaces/dwelling for 3 or more bedroom units; In addition to required parking for residents, 1 space/5 dwelling units will be required for visitor parking
Dormitories	1 space/2 occupants the building is ultimately designed to accommodate
Fraternity/Sorority Houses	1 space/2 occupants
Elderly and Handicapped Housing	1 space/unit
Boardinghouse or Rooming House	1 space/2 occupants the building is ultimately designed to accommodate
Nursing (or Convalescent) Homes and Residential Care Facilities	1 space/4 beds plus 1 space/employee
Bed and Breakfast	1 space/guest room plus 2 parking spaces/dwelling unit

Motel, Hotel	1 space/room plus 1 space/20 rooms (to accommodate motel/hotel staff) plus 75% of the normal spaces required for accessory uses (e.g. banquet rooms, meeting rooms, restaurants, etc) if applicable.
Mobile Home	2 space/dwelling unit
Temporary Shelters	1 space/employee plus 1 space/every 4 occupants the shelter is designed to accommodate
<i>Public and Quasi-Public Uses</i>	
Art Gallery, Museum, Education Research Center, Library	1 space/1,000 sq. ft.
Auditorium or Assembly Hall	1 space/4 seats or occupants
Churches, Temples, Mosques, & Synagogues	1 space/4 seats in sanctuary or other assembly area
College/University Administrative or service buildings	1 space/employee station
College/University Classrooms	1 space/5 classroom seats
College/University Dormitories where students are not permitted autos	Public works director may reduce requirements for dorms by not more than 20% during such periods students are not permitted autos.
Day Care Facility	1 space/employee plus either of the following: 1) 2 parking spaces for the first 10 children plus 1 parking space for every 10 additional children, or fraction thereof, for whom care is provided; OR 2) A drive through facility with adequate "pullover" space out of the flow of driveway traffic for 2 additional vehicles.
Hospital and Sanitarium	1 space/bed for first 100 beds; 1 space/2 beds for next 100 beds; 1 space/4 beds thereafter
Lodge or Private Club	1 space/200 sq. ft. of assembly area
Philanthropic/Eleemosynary Institutions, other than penal or correctional	1 space/400 sq. ft.

Schools (including public, private, parochial) Elementary, Junior High or Middle School	Elementary schools--1 space/employee plus 1 space/15 students; Middle schools and junior high schools--1 space/employee plus 1 space/10 students
Senior High School	1 space/employee plus 1 space/4 students
Other schools including Vocational, Trade or Business Schools	1 space/employee station plus 1 space/each 5 students except nursery schools which require 1 space/employee or teacher station
<i>Office and Related Uses</i>	
Bank, Savings and Loan Association and Other Financial Institutions	Walk-in facility: 1 space/250 sq. ft.; Drive-thru facility: 1 space/300 sq. ft. plus 3 stacking spaces for each drive-up window
Medical Clinic or Office	1 space/each 200 sq. ft.
Professional & Business Office	1 space/300 sq. ft.
<i>Service Business Uses</i>	
Animal Hospital/Kennel	1 space/300 sq. ft.

	Required Parking
<i>Residential</i>	
Barber & Beauty Shop	2 spaces/chair or operator station
Dry Cleaning or Laundry Establishment	1 space/300 sq. ft.
Mortuary, Funeral Home	1 space/5 seats in largest chapel plus 1 space/employee plus 1 space for each facility vehicle
<i>Retail Business Uses</i>	
Apparel & Accessory Stores, Clothing Store, Shoe Store, Jewelry Store	1 space/200 sq. ft.
Building Materials, Hardware & Garden Supplies	1 space/250 sq. ft. plus 1 space/1,000 sq ft of outdoor sales area
Computer Supply	1 space/200 sq. ft.
Convenience Store	1 space/200 sq. ft. Parking spaces at gas pumps will count toward required parking
Department Store	1 space/200 sq. ft.
Drug Stores	1 space/200 sq. ft.
Dry Goods, Fabric Store	1 space/200 sq. ft.
Furniture, Appliance Stores, Home Furnishings	1 space/400 sq. ft.
Office Supply	1 space/200 sq. ft.

Restaurant, Cafe, Fast-Food Restaurant, Taverns or Bars	1 space/100 sq. ft.; Drive-thrus also required to have 4 stacking spaces/window
Shopping Center	First 200,000 sq. ft. of gross floor area (GFA)--1 space/250 sq. ft.; Over 200,000 sq. ft. of GFA--1 space/200 sq. ft.
Sporting Goods	1 space/200 sq. ft.
Supermarket, Food and Beverage Stores	1 space/200 sq. ft.
<i>Commercial Recreational Uses</i>	
Bowling Alley or Lanes	5 spaces/lane; Other uses (bar, restaurant, etc) figured separately at 75% of the parking required
Driving Range	1 space/tee box
Golf Course	4 spaces/hole
Health Clubs & Fitness Centers	1 space/150 sq. ft.
Indoor Movie Theater	1 space/4 seats
Indoor Recreation Facilities	1 space/300 sq. ft.
Miniature Golf	1 space/hole
Parks & playgrounds	1 space/5,000 sq. ft. of land area
Pool Halls	1 space/300 sq. ft.
Rifle, pistol, and archery ranges	1 space/station
Skating Rinks	1 space/200 sq. ft.
Stadiums	1 space/4 seats
Outdoor Swimming Pools	a. 1 parking space for each 150 sq. ft. of water surface area; provided, however, additional spaces shall be required when the following amenities are included: water slide (10 feet or taller)--7 spaces for each slide; diving board--2 spaces for each board; zero depth entry--1 space for each 15 lineal feet; concession stand--3 spaces; tennis, basketball or volleyball court--2 spaces for each court; and b. The number of spaces shall be reduced by 20% if use of the pool is restricted to residents of the subdivision in which the pool is located or if use of at least 25% of the pool is regularly devoted to training or therapy.

Indoor Swimming Pools	a. 1 parking space for each 200 sq. ft. of water surface area; provided, however, additional spaces shall be required when pool amenities are included at the same rate as for outdoor swimming pools, as well as when the following other amenities are included: aerobics floor or cardiovascular room--1 space for each 100 sq. ft., weight room--1 space for each 150 sq. ft., lounge or office area--1 space for each 200 sq. ft., other useable activity areas--1 space for each 300 sq. ft.; and b. The number of parking spaces shall be reduced by 20% if use of at least 25% of the pool is regularly devoted to training or therapy.
Tennis Courts	2 spaces/court
<i>Transportation and Related Uses</i>	
Auto Service Stations and Auto Accessory Stores	1 space/200 sq. ft.; spaces at fuel pump islands will be counted toward this requirement
Automobile Repair, Major	1 space/employee plus 4 spaces/service bay; Inoperable vehicles shall not occupy required parking
Automobile, Boat, Truck, and Mobile Home Sales & Service	1 space/400 sq. ft. of floor area plus 1 space/3,000 sq. ft. of open lot display area
Car Wash--Automatic and Self-serve	4 stacking and drying spaces/stall
Self-Service Storage Facility	1 space/20 rental units plus 2 spaces for the "office"; Rows between storage buildings shall be designed to allow for simultaneous vehicle parking and passage.
Warehouse	1 space/2,000 sq. ft. of floor area
Wholesale Distribution	1 space/1,000 sq. ft.
<i>Industrial Uses</i>	
Manufacturing/Industrial Uses	The greater of 1 space/employee for the sum of the two largest consecutive shifts plus 1 space/vehicle used in the conduct of business OR 1 space/600 sq. ft of floor area

(c) *Other Parking Requirements.* For any and all uses or structures not specifically provided for in the foregoing enumeration, such parking spaces as the director of public works shall determine necessary, considering all the parking-generating factors involved, but not less than two (2) spaces.

(d) *Transit Incentive.* Upon application of the owner, the parking requirement of a building or use may be reduced by five (5) per cent for lots or tracts of two (2) acres or more located on a transit route which provide, at the owner's cost, transit pull-offs and transit rider shelters of a type and location acceptable to the city.

(e) *Shared Parking.* Upon application of the owners, facilities may be shared if multiple uses cooperatively establish and operate parking facilities and if these uses generate parking demands at different times. (For example, if one use operates during evenings and weekends only and other uses operate during weekdays only). The applicant shall have the burden of proof for a reduction in the total number of required parking spaces, and shall provide required documentation. A shared parking arrangement shall be approved by the director of public works only if:

- (1) A sufficient number of spaces are provided to meet the greater parking demand of the particular uses.
- (2) Satisfactory evidence has been submitted by the parties operating the shared parking facility, describing the nature of the uses and times when the uses operate so as to demonstrate the lack of conflict between them.
- (3) Additional documents, covenants, deed restrictions, or other agreements as may be deemed necessary by the director of public works are executed to assure that the required parking spaces provided are maintained and uses with similar hours and parking requirements as those uses sharing the parking remain for the life of the building.

(f) *Mixed Uses.* Generally, in mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this section. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except as approved above in subsection (f), shared parking.

(g) *Location of Facilities.* Except as otherwise provided in this section, off-street automobile parking facilities required by this section for all uses except residential may be located either on the premises of the parking generator or within one thousand (1,000) feet therefrom. Land used for parking shall be zoned to accommodate the generating use. All off-premises parking facilities available to the public shall install sidewalks along abutting streets and be accessible to abutting street rights-of-way for physically handicapped persons.

(h) *Improvement of Parking Areas.* All open parking areas shall have:

- (1) *Setback.* No parking shall be permitted within six (6) feet of an adjoining lot in a residential district, except as otherwise provided by this chapter.

- (2) *Grades and drainage.* Parking areas shall be designed to assure positive drainage, but shall not exceed a slope of ten (10) percent; provided that transitional and approach driveways which do not serve directly abutting parking spaces may be designed to a slope of up to fifteen (15) percent, if accompanied by appropriate landing grades and vertical curves at points of transition. Storm drainage control and facilities shall be designed to satisfy the requirements of the storm drainage standards of the city.
- (3) *Access.* Ingress and egress shall be only by way of paved driveways or openings, according to standards on file with the director of public works. All parking areas of more than two hundred (200) spaces shall be served by more than one (1) standard entrance. Access driveways shall be free of objects which might interfere with the ability of drivers to see pedestrians and other vehicles.
- (4) *Paving, curbs and marking.*
- a. All new and expanded vehicle parking and maneuvering areas must be paved with concrete, asphalt, or an alternate paving material as determined by the director of public works. Vehicle storage areas may be surfaced with a permanent, dust-free pavement in lieu of concrete or asphalt pavement. Pavement cross-section shall be determined by the owner based on considerations of durability, subsurface conditions, and the type of vehicles using the parking area.
 - b. Curb islands or wheel stops may be installed for drainage control, and for vehicular channelization and lane control; provided, that in parking areas of more than one hundred (100) spaces, curbing or similar measures shall be required to assure safe and proper control of vehicular and pedestrian movements. Parked vehicles shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheel stops, or other means.
 - c. Interior driveways, fire lanes, and loading or maneuvering areas shall be in accord with applicable standards on file with the director of public works. Parking spaces shall be delineated, and appropriate traffic flow indications given, by use of reflectorized paint on the parking area pavement.
 - d. All paving, curbs and markings shall be continuously maintained in good condition, to the above standards, after installation.
- (5) *Lighting.* Lights shall be required for all parking areas intended for night use. Lights shall be arranged or shielded to direct illumination away from residences and from public streets and other public areas.
- (6) *Certification.* Prior to authorizing use of any parking area established under this section, or issuance of occupancy certificates for any uses dependent thereon, the director of public works, or his representative, shall inspect and certify the parking area to be in compliance with these standards.

- (7) *Exceptions.* Driveways and off-street parking for one-family and two-family dwellings in districts R-1 and R-2 shall not be required to comply with the provisions of subsections (i)(1), (i)(2), (i)(4)c., and (i)(5) hereof.

(i) *Loading Space for Business and Industry.* Any business or industrial building, hospital, institution or hotel hereafter erected, constructed, reconstructed or expanded in any district shall provide adequate off-street facilities for the loading and unloading of merchandise and goods within or adjacent to the building in such a manner as not to obstruct freedom of traffic movement on the public streets or alleys.

(j) *Permits.* Parking lots without an associated building permit shall be subject to separate permitting and inspecting during construction, as appropriate, and shall not be open for use until a certificate of completion has been issued by the public works department.

- (k) *Dimensional elements of off-street parking layouts.*

- (1) All required parking spaces must comply with the minimum dimensions for spaces shown in the following diagram and table:

Standard Sized Vehicles

Table 29-30(1)(4)

Parking Angle (A)	0°	20°	30°	40°	45°	50°	60°	70°	80°	90°
Curb Length Per Space (B)	23.0'	24.9'	17.0'	13.0'	12.0'	11.3'	9.8'	9.4'	9.0'	8.5'
Space Depth (C)	8.0'	14.5'	16.9'	18.5'	18.8'	19.3'	20.0'	19.5'	19.0'	18.0'
Access Aisle Width (D)	12.0'* **	12.0'*	12.0'*	12.0'*	13.0'*	15.0'*	18.0'	20.0'	22.0'	24.0'
Space Width (E)	8.0'	8.5'	8.5'	8.5'	8.5'	8.5'	8.5'	8.5'	8.5'	8.5'

Note*--Aisle width (D) shall not be less than 18' if the aisle is a designated fire lane.

Note**--Aisle width (D) shall not be less than 22' for two-way traffic.

- (2) If the degree of angle of parking provided is not listed, the aisle width required shall be the next largest angle of parking shown.
- (3) If parking spaces are located only on one (1) side of an access aisle, the width of the access aisle may be reduced by twenty (20) per cent but not less than twelve (12) feet wide or eighteen (18) feet wide if a designated fire lane.

(1) *Delayed construction of required parking.* Upon application of the owner, up to twenty (20) per cent of the parking required under this chapter may remain unimproved until such time as the director of public works deems that it must be improved to adequately serve the parking demand. Such delayed construction of

parking may be permitted only after the director of public works is satisfied that the initial occupancy of the premises will be adequately served by the lesser number of spaces and only after approval of a site plan clearly indicating the location, pattern, and circulation to and from the deferred parking spaces. The land area so delineated for future parking shall be brought to finished grade and shall be landscaped. It shall not be used for building, storage, loading or other purposes. Further, it shall not count toward the required landscaping for the site.

- (m) Providing facilities for the storage of bicycles in off-street parking lots or structures.
- (1) Any parking lot or structure which contains ten (10) or more parking spaces shall be required to provide adequate and safe on-site bicycle parking facilities. These bicycle parking facilities shall be designed to accommodate the number of bicycle parking spaces according to the following number of required vehicle spaces: ten (10) to fifty (50) vehicle spaces--four (4) bicycle parking spaces; fifty-one (51) to ninety-nine (99) vehicle spaces--eight (8) bicycle parking spaces; one hundred (100) to one hundred ninety-nine (199) vehicle spaces--twelve (12) bicycle parking spaces; two hundred (200) to two hundred ninety-nine (299) vehicle spaces--fifteen (15) bicycle parking spaces; three hundred (300) or more vehicle spaces - number of bicycle parking spaces equal to five (5) percent of the number of vehicle spaces. For parking lots having more than twenty-five (25) required vehicle parking spaces, the required number of vehicle parking spaces may be reduced by one space for each required bicycle parking space installed.
- (2) Bicycle parking facilities shall be equipped with either a lockable enclosure (bicycle locker) or a permanent, secure, and stationary structure (bicycle rack) that supports the bicycle frame and to which the frame and both bicycle wheels can be locked (with removal of the front wheel) or where the frame and one (1) wheel can be locked (if both wheels remain on the bicycle).
- (3) Each bicycle parking space shall be at least six (6) feet long, two (2) feet wide and shall have a minimum overhead clearance of seven (7) feet. If more than one (1) bicycle rack is used, an access aisle five (5) feet wide at a minimum is required beside or between each row of bicycle racks. Bicycle parking facilities shall be surfaced with all-weather material and maintained in a safe and neat condition.
- (4) Bicycle parking facilities shall be clearly designated, safely separated from vehicle maneuvering areas, and located near the main and employee entrances to the principle use. Bicycle parking facilities in parking structures shall be located on ground level.

(n) *Screening and landscaping.* All parking facilities shall comply with the screening and landscaping requirements of section 29-25.

(Code 1964, § 19.250; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87; Ord. No. 13058, § 1, 8-19-91; Ord. No. 13416, § 1, 8-17-92; Ord. No. 13543, § 1, 12-21-92; Ord. No. 13622, § 1, 3-15-93; Ord. No. 14164, § 1, 8-1-94; Ord. No. 15134, § 1, 2-3-97; Ord. No. 16798, § 1, 3-5-01; Ord. No. 17116, § 2, 12-17-01; Ord. No. 17247, § 1, 4-1-02; Ord. No. 17575, § 1, 2-3-03; Ord. No. 19503, § 1, 5-7-07; Ord. No. 20237, § 1, 4-20-09)

Sec. 29-30.1. Outdoor lighting regulations.

(a) *Purpose and intent.* The purpose of this section is to enhance the attractiveness and livability of the community for its citizens, both during the day and at night without compromising the safety, security, and well-being of persons engaged in outdoor nighttime activities. It is the intent of this section to control the obtrusive aspects of excessive and careless outdoor lighting usage while preserving, protecting, and enhancing the lawful nighttime use and enjoyment of property. Intended outcomes include:

- (1) Insuring that parking areas, public gathering places, approaches to buildings, and other areas active at night have adequate outdoor illumination.
- (2) Minimizing the adverse impacts on public safety and comfort due to excessive glare.
- (3) Providing minimum and maximum light levels and establishing standards of lighting uniformity to enhance night vision and security.
- (4) Minimizing spillage of light on adjacent or nearby property.
- (5) Minimizing the effects of skyglow.
- (6) Encouraging energy conservation through the use of efficient lighting technologies.

(b) *Definitions and interpretation.*

- (1) The following definitions apply to this section:

Color rendering. General expression for the effect of a light source on the color appearance of objects in conscious or subconscious comparison with their color appearance under a reference light source.

Decorative lighting. Lights that have an aesthetic purpose to illuminate the architectural features of a building and produce generally low levels of light (one hundred (100) watts, one thousand eight hundred (1,800) lumens per light), including but not limited to "gooseneck" lights, sconce lights, recessed lighting in roof soffits, spot lighting, and silhouette lights.

Display area. Outdoor locations where nighttime sales occur and where accurate color perception by customers is needed, for example automobile sales.

Fixtures (Figure 29.30.1):

- a. *Full cutoff:* Zero intensity at or above horizontal (ninety (90) degrees above nadir) and limited to a value not exceeding ten (10) percent of lamp lumens at or above eighty (80) degrees.
- b. *Cutoff:* Intensity at or above ninety (90) degrees (horizontal) no more than two and one-half (2.5) percent of lamp lumens and no more than ten (10) percent of lamp lumens at or above eighty (80) degrees.
- c. *Semi-cutoff:* Intensity at or above ninety (90) degrees (horizontal) no more than five (5) percent of lamp lumens and no more than twenty (20) percent at or above eighty (80) degrees.

d. *Non-cutoff*: No limitations of light distribution at any angle.

Footcandles. The amount of light falling on a surface. One footcandle is defined as one lumen per square foot. Initial footcandles is the amount of light when fixtures are new.

Glare. Light that causes discomfort, distraction, or temporary impairment of sight because it is not adequately diffused, shielded, or directed away from the viewer.

Installed. The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

Light fixture. An illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination or advertisement.

Light loss ratio. The ratio of the illuminance on a given area after a period of time to the initial illuminance on the same area. Note: The light loss factor is used in lighting calculations as an allowance for the depreciation of lamps, accumulation of dirt on luminaire, light control elements and room surfaces, to values below the initial or design conditions, so that a minimum desired level of illuminance may be maintained in service.

Light spillage. Lighting that illuminates property adjacent to the property on which the light source is located.

Lighting engineer. A person having the education and training to design outdoor lighting systems and prepare and interpret lighting plans.

Lumen. Unit of luminous flux; used to measure the amount of light emitted by lamps.

Luminaire. The complete lighting assembly, less the support assembly. For purposes of determining total light output from luminaries, lighting assemblies that include multiple unshielded or full cutoff lamps on a single pole or standard shall be considered as a single unit. Two (2) or more units with lamps less than three (3) feet apart shall be considered a single luminaire.

Maintained footcandles. Illuminance of lighting fixtures adjusted for a light loss factor (maintenance factor) accounting for dirt build-up and lamp output depreciation.

Maximum-to-minimum ratio. The highest horizontal illuminance point divided by the lowest horizontal illuminance point or area.

Nadir. A point directly below the light fixture.

- (2) The standards in this section are based on the standards in the IESNA Lighting Handbook, 9th Edition and "Lighting for Exterior Environments: An IESNA Recommended Practice," RP-33-99 both published by the Illuminating Engineering Society of North America. These publications shall be used in interpreting undefined terms and unclear provisions of this section. When new

editions of these publications are available, the environment and energy commission shall prepare a report to the city council setting forth any recommended changes in the standards of this section.

FIGURE 29.30.1
LIGHTING FIXTURE "CUTOFFS"

GRAPHIC UNAVAILABLE

(c) *Conformance with applicable codes.* All outdoor illuminating devices shall be installed in conformance with the provisions of this section, the building code, the electrical code and chapter 23 of this Code as applicable and under appropriate permit and inspection.

(d) *General requirements and exceptions.*

- (1) This section applies to all new construction that includes outdoor lighting and to all replacement of outdoor lighting structures other than replacement of lighting fixtures.
- (2) All outdoor facilities intended for nighttime use shall be illuminated and such illumination shall be maintained in compliance with the standards of this section.
- (3) Search lights and similar spot light fixtures, such as moving, flashing, chasing and strobe lights used to attract attention to a place are prohibited.
- (4) The following are exceptions to the outdoor lighting regulations of this section:
 - a. Lighting structures installed lawfully before December 4, 2006, may continue in operation. Routine replacement and repair of lighting fixtures installed before December 4, 2006, shall be exempt from the requirements of this section.
 - b. Lighting installations in districts PUD, O-P, C-P, M-R, or M-P shown on development plans approved before December 4, 2006, shall comply with outdoor lighting standards adopted as part of those plans.
 - c. Additions to buildings, parking lots, and other site improvements approved before December 4, 2006, shall be exempt from the lighting plan submittal requirements of subsection 29-30.1(f), provided the addition does not increase either the size of a building or parking lot greater than fifty (50) percent of its existing gross floor area.
 - d. The addition of individual lighting structures shall not require submittal of a lighting plan provided the owner provides a certification that the additional lighting structures conform to the design criteria of this section, or the property owner obtains a special exception as provided in section 29-31(g).
 - e. This section shall not apply to public street lighting.

- f. Seasonal decorations that include illuminated displays are exempt from this section except that no light fixture that is part of a seasonal display shall be aimed or directed to create glare or light spillage.
- g. This section shall not apply to the installation of an outdoor lighting structure if an application for a building permit involving the installation of that structure was received by the city on or before December 4, 2006.

(5) For enhanced security, only light sources with a color rendering index (CRI) of greater than sixty (60) shall be used. See Appendix A for CRI range of lamps.

(e) *Methods of measurement.*

(1) Unless otherwise specified, all footcandle values shall be measured horizontally and shall refer to maintained footcandles (initial values with a light loss ratio applied).

(2) Light spillage thresholds shall be determined by horizontal footcandles measured at ground level at the property line.

(3) Maximum height shall be measured as the vertical distance between the finished grade directly below a light fixture and the highest point on the light fixture.

(4) A light loss ratio of seventy-two tenths (0.72) shall be used to calculate lighting plans.

(5) Maximum-to-minimum is the highest horizontal illuminance point divided by the lowest horizontal illuminance point or area and should not be greater than the values shown.

(f) *Photometric lighting plan requirements.* All applications for building permits involving installation of outdoor lighting shall include the following information:

(1) A photometric plan, prepared by a lighting engineer at a scale of no smaller than one inch equals sixty (60) feet which consists of:

a. An accurate site plan of the proposed development indicating the location of property lines, and all existing and proposed land improvements including but not limited to buildings, parking lots, aisles and driveways, streets, walkways, landscaped areas and accessory structures;

b. The estimated footcandles at ground level across the entire site, at minimum intervals of thirty (30) feet, including estimated footcandles at the property line;

c. Location and type of all lighting fixtures;

d. A table indicating the type, light source, wattage, output in lumens, light loss ratio, height of luminaires above grade and the maximum-to-minimum ratio. The maximum-to-minimum ratio shall be calculated using ninety-five (95) percent of the data point

sources, excluding two and one-half (2.5) percent of the lowest values and two and one-half (2.5) percent of the highest values; and

- e. A certification by a lighting engineer that the lighting plan complies with the standards of this section. The director of public works or the director's designee may rely on this certification for issuance of appropriate construction and occupancy permits.
- (2) Manufacturer's catalogue specifications of all luminaires to be used, indicating the design, refractor (lens) type, cutoff angle (full, semi or non-cutoff), and any special features affecting the performance of the light.
- (g) *Parking lot illumination.* The following standards apply to the illumination of parking lots:
 - (1) *Minimum lighting.* During business hours, parking lots shall be uniformly illuminated such that vehicular license plates, addresses and directional, instructional or regulatory signs are plainly visible without blind spots or excessive distortion of color. Minimum maintained illuminance values are stated in Table 29-30.1(a).
 - (2) *Lighting control.* Lighting shall have automatic controls capable of turning off lighting when sufficient daylight is available or when the lighting is not required during nighttime hours. Lighting not designated for dusk-to-dawn operation shall be controlled by an astronomical time switch or time switch and photo sensor with the following exceptions:
 - a. Emergency lighting that is automatically off during normal building operation;
 - b. Lighting that is specifically designated as required by a health or life safety statute, ordinance, or regulation; or
 - c. Decorative gas lighting systems.
 - (3) *Maximum height.* When non-cutoff light fixtures are used, the height of the light structure shall not exceed fifteen (15) feet above grade. When any other light fixtures are used, the height of the light structure shall not exceed twenty-eight (28) feet above grade.

In a planned district, the city council may allow up to thirty-five (35) feet maximum pole height with a maximum base height of three (3) feet if the following criteria are met:

- a. There is no residential zoning within five hundred (500) feet of the parking lot perimeter.
- b. The buildings are configured so that the lighting is shielded from the residential area.
- c. The site is ten (10) acres or greater.

Where a taller base is required, the pole length shall be decreased to prevent the luminaire's light source from being more than thirty-eight (38) feet above grade.

- (4) *Building mounted parking lot lighting.* Areas of parking lots, circulation drives, loading areas and drive-thru lanes located near the perimeter of a building may be illuminated by building-mounted lights provided the design of the lights conform to the standards of this section as documented in the lighting plan.
- (5) *Maximum height.* The maximum footcandles allowed on adjacent property is one-half (0.5) for residential and two (2.0) for non-residential.

Table 29-30.1(a)

Maintained Illuminance Values for Parking Lots*

	Basic	Enhanced Security
Minimum horizontal illuminance	0.2 fc	0.5 fc
Maximum-to-minimum ratio	20:1	15:1
Minimum vertical illuminance	0.1 fc	0.25

*Table taken from "Lighting for Parking Facilities," Illuminating Engineering Society of North America, RP-20-98, p. 3.

(h) *Service station canopy and apron lighting.* The following standards apply to gasoline service stations in addition to the parking lot lighting regulations in subsection (g).

- (1) *Glare minimization.* To minimize glare, no drop, sag or convex lenses shall be used on lighting under the canopy unless the lenses are recessed within the canopy ceiling or shielded by appropriate glare shields. No lighting shall be mounted on building or canopy fascias or rooftops unless the fixtures are full cutoff. The intent is to keep all the light under the canopy. This lighting shall be provided with low glare luminaires.
- (2) *Maximum illuminance.* The maximum average illuminance levels are set forth in Table 29-30.1(b).

Table 29-30.1(b)*

Service Station or Gas Pump Area Illuminance Levels

Area Description	Maximum Average Illuminance on Described Area (Footcandles)
Approach with dark surroundings	1.5
Driveway with dark surroundings	1.5
Pump island area with dark surroundings	5.0
Building facades with dark surroundings	2.0
Service areas with dark surroundings	2.0
Landscape highlights with dark surroundings	1.0

Approach with light surroundings	2.0
Driveway with light surroundings	2.0
Pump island area with light surroundings	10.0
Building facades with light surroundings	3.0
Service areas with light surroundings	3.0
Landscape highlights with light surroundings	2.0

*Table taken from "Lighting for Exterior Environments: An IESNA Recommended Practice," RP-33-99, p. 43.

(i) *Outdoor display area lighting.* Illumination of outdoor display areas for sale of automobiles, recreational vehicles, and manufactured homes and other finished products customarily displayed outdoors shall be permitted in accordance with Table 29-30.1(c) and with the following:

- (1) Maximum height of light fixtures same as parking lots.
- (2) Glare minimization. To minimize glare, no drop, sag or convex lenses shall be used on display-area lighting. Glare shields shall be used to eliminate visibility of the light source from the public roadway.
- (3) The maximum footcandles allowed on adjacent property is one-half (0.5) for residential and two (2.0) for non-residential.

Table 29-30.1(c)*

Illuminance Levels for Outdoor Display Lighting

Area	Maximum Illuminance on Pavement (Footcandles)	Maximum-to-Minimum Ratio
Adjacent to roadway	10--20	5:1
Other areas	5--10	10:1
Entrances	5--10	5:1
Driveways	2--3	10:1

*Table taken from "Lighting for Exterior Environment: An IESNA Recommended Practice," RP-33-99, p. 43.

(j) *Building lighting.* The following standards apply to building lighting:

- (1) *Location and direction.*
 - a. Building mounted lights shall be mounted and installed so that all light is directed downward, unless the lights are decorative lighting.
 - b. Fixtures shall be full cutoff or semi-cutoff.
 - c. No wall packs or similar lights shall be permitted unless the cutoff angle effectively eliminates visible glare from beyond the property lines.

- d. No light fixtures shall be mounted above the parapet or, for pitched roofs, above the eave except motion-detection security lighting, decorative lighting and accent lighting.
 - e. Functional lighting shall not exceed four hundred (400) watts. Decorative or accent lighting shall not exceed one hundred (100) watts.
 - f. The maximum footcandles allowed on adjacent property is one-half (0.5) for residential and two (2.0) for non-residential.
 - g. The maximum average illuminance levels for floodlighting buildings and monuments are set forth in Table 29-30.1(d).
 - h. If swivel mountings are used, lights may be raised a maximum of twenty (20) degrees from horizontal and may not be mounted above the buildings and must be full cutoff fixtures.
- (2) *Decorative lighting.* Decorative building lighting, in which the purpose is enhancement of building appearance, shall be permitted and may be directed toward the building, provided that all light is cast against the building surface.
- a. Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets or roads.
 - b. Lighting fixtures mounted on the building and designed to wash the facade with light are preferred.

Table 29-30.1(d)*
Illuminance Levels for Floodlighting Buildings and Monuments

Area Description	Maximum Average Illuminance (Vertical) (Footcandles)
Bright surroundings and light surfaces	5
Bright surroundings and medium light surfaces	7
Bright surroundings and dark surfaces	10
Dark surroundings and light surfaces	2
Dark surroundings and medium light surfaces	3
Dark surroundings and medium dark surfaces	4
Dark surroundings and dark surfaces	5

*Table taken from "Lighting for Exterior Environments: An IESNA Recommended Practice," RP-33-99, p. 30

(k) *Landscape lighting.* The following standards apply to landscape lighting:

- (1) Luminaires shall be mounted four (4) feet or lower to the ground.
- (2) The photometric plan shall show the location of all landscape lighting fixtures and the landscaping feature each fixture is to illuminate. The plan shall demonstrate that the installation shall not generate excessive light levels, cause glare, or direct light beyond the landscaping into the night sky.

(l) *Athletic field and outdoor arena lighting.* The following standards apply to the illumination of athletic fields and outdoor arenas:

- (1) *Minimum and maximum lighting.* Athletic fields, where nighttime activity is authorized, shall provide adequate illumination for the scheduled activities. The minimum and maximum light levels shall meet the standards for sports lighting set forth in "Sports and Recreational Area Lighting," RP-6-01, published by the Illuminating Engineering Society of North America. Lighting shall be cutoff standards so that light is primarily aimed at and directed to the activity area.
- (2) *Fixture height.* Athletic field other than adult baseball fields and arena lighting fixtures shall not exceed seventy (70) feet above finished grade directly below the lighting fixture. Adult baseball field lighting fixtures shall not exceed eighty (80) feet above finished grade directly below the lighting fixture.
- (3) *Hours of operation.* Lighting, except for lights reasonably necessary for security purposes, shall be turned off within two (2) hours after the event or closure of the facility, or when required by other regulatory ordinance. Dusk to dawn lights for security purposes shall not emit visible glare from the perspective of adjacent properties, internal access aisles and public streets.
- (4) *Maximum footcandles.* The maximum footcandles allowed on adjacent property is one (1.0) footcandle on residential and four (4.0) footcandles on non-residential.

(m) *Private street lighting.* Private street lighting is permitted provided the fixtures, wattage and output, fixture height, and spacing are comparable to the public street lighting standards set forth in sections 27-146 through 27-151 of this Code.

(n) *Security lighting.* The following standards apply to security lighting:

- (1) All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. Lighting shall not be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevents the light source or lens from being visible from adjacent roadways and properties. The use of general floodlighting fixtures is prohibited.
- (2) The maximum footcandles allowed on adjacent property is one-half (0.5) for residential and two (2.0) for non-residential.

(o) *Signs.* Illumination of signs shall conform to chapter 23 of this Code. Location of illuminated signs and any lighting fixtures external to the signs shall be included on a lighting plan.

APPENDIX--TABLE

Table: Color Rendering Index Range of Lamps*

Lamp Type		Color Rendering Index (CRI)
Fluorescent		
	Lite White	> 40
	Warm White	> 50
	Warm White Deluxe	> 70
	Cool White	> 60
	Cool White Deluxe	> 80
	White	> 60
	Daylight	> 70
	T12 Rare Earth Phosphor	> 69 to > 80
	T8 Rare Earth Phosphor	> 70 to > 90
	Natural	> 80
	Incandescent	> 80
	Compact T4, T5	> 80
	C50, C70, DSGN 50	> 90
Mercury Vapor		
	Clear	15 - 25
	Coated	40 to > 50
Metal Halide		
	Clear or Coated	60 > 90
High Pressure Sodium		
	Standard	> 20
	Color Improved	> 60
	High Color Rendering	> 80
Low Pressure Sodium		> 20

*Table is taken from "Lighting for Parking Facilities," Report 20 - 98 of the Illuminating Engineering Society of North America, 1998. For lamp types not listed above, the Manufacture's CRI for the lamp can be used to determine if the lamp meets the standard of a CRI > 60.

(Ord. No. 19310, § 1, 12-4-06)

Sec. 29-31. Board of adjustment.

(a) *Authorized.* There shall be a board of adjustment consisting of five (5) members who shall be residents of the city. The board shall have such powers and duties as are provided by law or ordinance.

(b) *Terms.* The terms of office of the members of the board shall be for five (5) years, except that the five (5) members first appointed shall serve respectively for terms of one (1), two (2), three (3), four (4), and five (5) years. Thereafter all members shall be appointed by the council for terms of five (5) years each. The

members shall elect their own chairman, who shall serve for one (1) year. No member shall serve more than two (2) consecutive full terms.

(c) *Alternate members.* Three (3) alternate members, who shall be residents of the city, shall be appointed by the council to serve in the absence of, or disqualification of, the regular members. The first three (3) alternates appointed shall serve for terms of three (3), four (4), and five (5) years, respectively. Thereafter, all alternates shall be appointed for five-year terms.

(d) *Vacancies.* The vacancy of any member or alternate member shall be filled by appointment of the council for the unexpired term only.

(e) *Removal.* All members and alternates may be removed for cause by the council, upon written charges after public hearing.

(f) *Office location.* The office of the board shall be the office of the city clerk, who shall serve as secretary to the board, be custodian of its records, arrange for its meetings, and perform such other duties, consistent with the provisions of this chapter, as the adopted rules of the board require.

(g) *Powers and duties:*

(1) The board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this chapter in harmony with its general purpose and intent in accordance with general or specific rules herein contained.

(2) The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of the proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the board for that purpose and who shall receive reasonable compensation for such from the city. The reporter shall furnish to any person or persons a transcript of all or part of such proceedings upon payment to him of a fee equal to that set forth in section 492.590(2), Revised Statutes of Missouri. The presence of four (4) members shall be necessary to constitute a quorum.

(3) Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of an administrative official in the administration or enforcement of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An applicant shall deposit a sum sufficient to pay the costs of advertising as required by statute and ordinance. The clerk shall inform applicants of the

estimated cost of advertising and require a deposit sufficient to meet the costs upon filing. All unexpended portions of the deposit shall be returned after the actual costs of advertising have been met.

- (4) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record, on application or notice to the officer from whom the appeal is taken and on due cause shown.
- (5) The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent, or by attorney.
- (6) The board shall have the following powers:
 - a. To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the administration or enforcement of this chapter.
 - b. To hear and decide all matters referred to it or upon which it is required to pass under the provisions of the laws and ordinances of the city.
 - c. In passing upon appeals where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, to vary or modify the application of any of the regulations or provisions of such chapter relating to the construction or alteration of buildings, so that the spirit of such chapter shall be observed, public safety and welfare secured, and substantial justice done.
 - d. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, such permit to be issued for a period of not more than two (2) years.
 - e. To determine, in cases of uncertainty, the classification of any use not specifically enumerated in this chapter.
- (7) In exercising the above-mentioned powers, such board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all powers of the administrative official from whom the appeal is taken.
- (8) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter before the board.

- (9) Any person or persons, jointly or severally aggrieved by any decision of the board, any taxpayer, or any officer, department, board or bureau of the municipality, may appeal a decision of the board to a court of competent jurisdiction.

(Code 1964, § 19.260; Ord. No. 9958, § 1, 10-3-83; Ord. No. 13312, § 1, 5-4-92; Ord. No. 13473, § 1, 10-5-92)

Sec. 29-32. Interpretation.

In interpreting and applying the provisions of this chapter, these provisions shall be held to be the minimum requirements for the promotion of health, safety or general welfare. Whenever this chapter requires a greater width or size of yards, courts, or other open spaces, requires a lower height of building, requires a greater percentage of lot to be left unoccupied, or imposes higher standards than are required in any other statute or local ordinance or regulations, the regulations of this chapter shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces, require a lower height of buildings, require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations of this chapter, the provisions of such statute, local ordinance or regulation shall govern.

(Code 1964, § 19.270; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-33. Amendments.

The council may, on its own motion, or on petition, amend, supplement, change, modify or repeal the regulations and restrictions as established in this chapter, and may change, restrict or extend the boundaries of the various districts established in this chapter. Before taking any action upon any proposed amendment, modification, change, restriction or extension, the same shall be referred to the commission for public hearing, report and recommendation.

(Code 1964, § 19.280; Ord. No. 9958, § 1, 10-3-83; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-34. Petitions for amendments.

(a) *Procedure:*

- (1) Any person, firm or corporation, owning in fee simple real property within the city, may petition the council to amend, change, modify, supplement, or repeal the zoning district regulations and restrictions as established in this chapter pertaining to such real property; provided that such applicant shall specify the tract of land for which amendment, change, modification, supplement or restriction is sought, along with a specification of the zoning category which the applicant is seeking. No petition shall be presented, nor considered, which presents amendments, changes, modifications, supplements or restrictions to zoning categories in the alternative with respect to any lot, tract or parcel of land.

- a. No petition to amend the zoning district map will be accepted if it is the same or substantially the same as a petition submitted within the previous twelve (12) months and which was denied by the city council or withdrawn by the applicant after a negative recommendation from the planning and zoning commission. The city council, at its discretion, may authorize a resubmittal within the twelve (12) month period after reviewing a written request from the applicant, which provides justification for the early

resubmittal.

- b. The city council shall not rezone property to a classification less restrictive than the classification advertised and considered by the commission and shall not enlarge the area to be rezoned beyond the area advertised and considered by the commission.
 - c. Nothing herein shall be construed to prevent an applicant from combining separate requests for amendment, change, modification, supplement or restriction for separate lots, tracts or parcels in common ownership in one petition, so long as no amendments, changes, modifications, supplements or restrictions are presented in the alternative.
- (2) Such petition shall be on a form to be supplied by the director of planning and development and filed with the director of planning and development. Such petitions shall be directed in the first instance to the commission. The director of planning and development shall review the petition to determine technical compliance with the terms and conditions of this section, and if the petition and its supporting documents are found not to comply with the requirements of this section, the same shall be returned to the applicant for correction. At all times during the amendment process, however, the burden of supplying complete and accurate information contained in the petition for amendment and its supporting documents shall remain on the applicant.
 - (3) The petition shall contain an accurate legal description of the real property to be affected, the appropriate official street number and name for such property, the book and page numbers recording the latest deed to property, the existing zoning district, the requested zoning district or amendment, supplement, change, modification or repeal of the chapter, the reason or reasons why such supplement, change, modification or repeal is requested, and shall be signed by one of the owners or his attorney. The petition shall be accompanied by a map clearly showing the affected property. Also, the petition shall list the names and addresses of the owners all land within lines drawn parallel to and one hundred eighty-five (185) feet from the boundaries of the land proposed to be rezoned. The petition shall also list the addresses of all residences (including apartments and manufactured homes) within the boundaries of the land proposed to be rezoned. The petition shall also be accompanied by a check made payable to the City of Columbia sufficient to cover all costs of advertisements of public hearing.
 - (4) After determining that the petition and its supporting documents are in compliance with the requirements of this section, the director of planning and development shall set a date for a public hearing before the commission at the next regular meeting of the commission. Any omissions from the requirements of subsection (a)(3) will delay scheduling the request. The director of planning and development or the commission shall cause a notice of the public hearing on the subject matter of the petition to be published in a newspaper of general circulation within the city and such public hearing shall not be held within a time earlier than fifteen (15) days from and after the date of publication.

The notice of public hearing shall contain an address or description of the general location of the real property to be affected. The notice shall also contain a map of the real property to be affected and the surrounding area.

As a courtesy, the director of planning and development may send, by first class mail, notice of the public hearing before the commission on the proposed amendment to the addresses of the residences of the land to be rezoned and to the owners of all land within lines drawn parallel to and one hundred eighty-five (185) feet from the boundaries of the land proposed to be rezoned. The failure of the director of planning to send such notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any ordinance rezoning land.

As a courtesy, the director of planning and development may conspicuously place notification signs facing each street abutting the property to be rezoned. The sign face of notification signs shall be at least five (5) square feet. Notification signs shall have attached containers in which the director of planning and development shall place notices containing information on the rezoning and public hearing. The notice shall include the telephone number of the department of planning and development. The failure of the director of planning and development to place notification signs shall not effect the validity of any ordinance rezoning land.

- (5) The director of planning and development shall forward copies of the application and supporting documents to the director of public works and any other administrative departments affected by the requested amendment, supplement, change, modification or repeal. The various administrative departments shall, within ten (10) days of receipt of such petition and supporting papers, forward their recommendations to the director of planning and development.

(b) Protest Against Amendment. If a protest against such change, as described in the preceding section, shall be presented, duly signed and acknowledged by the owners of thirty (30) per cent or more, either of the area of land (exclusive of streets and alleys) included in such proposed change, or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed except by the affirmative vote of two-thirds of the members of the council then in office and not disqualified from voting under section 2-53.1. An abstention shall not be counted either for or against the amendment. In order to be valid, protest petitions must be filed with the city clerk no later than noon on the Wednesday before the council meeting at which the proposed amendment is scheduled to be considered for passage.

- (c) Council action; consent agenda.

- (1) The city manager may place a council bill that rezones property, approves a development plan or amends this chapter on the consent agenda when the following requirements are met:
 - a. The commission has recommended approval of the proposal with less than twenty-five percent (25%) of the commissioners present voting against the motion to approve.
 - b. The applicant agrees with the commission recommendation.
 - c. No protest petition has been timely filed with the city clerk.
 - d. The commission has not recommended that the proposal be considered under old business.

Any such bill on the consent agenda shall be removed and placed under old business at the request of a council member or any other interested person. The request must be made to the city clerk before noon on the Wednesday before the council meeting at which the council bill is scheduled to be considered for passage. The city council may remove any such bill from the consent agenda and place it under old business at the council meeting at which the council bill is scheduled to be considered for passage.

(Code 1964, § 19.281; Ord. No. 9958, § 1, 10-3-83; Ord. No. 12025, § 1, 9-19-88; Ord. No. 12159, § 1, 2-20-89; Ord. No. 12239, § 1, 5-1-89; Ord. No. 14453, § 1, 4-17-95; Ord. No. 15016, § 1, 10-21-96; Ord. No. 15896, § 1, 2-15-99; Ord. No. 15986, § 1, 5-3-99; Ord. No. 16588, § 2, 9-13-00; Ord. No. 17541, § 2, 1-6-03; Ord. No. 17948, § 1, 1-5-04; Ord. No. 20181, § 1, 2-2-09)

Sec. 29-35. Enforcement.

It shall be the duty of the director of public works to enforce the provisions of this chapter and to refuse to issue any building permit for any building which would violate any of the provisions hereof, and such director of public works, or any deputy or inspector working under his direction, by and with the consent of the director of public works, is hereby authorized and instructed to arrest, prosecute or bring any proceedings in a proper court in the name of the city against any person violating any of the terms of this chapter. In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any building or land is used in violation of this chapter, such director of public works is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, construction, reconstruction, alteration, repair, conversion or use; to restrain, correct or abate such violation and to prevent any illegal act, conduct or use on or about such premises.

(Code 1964, § 19-290; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-36. Permits; application, plans, etc., to be filed.

No permit for the erection, alteration or enlargement of any building shall be issued by the director of public works unless there first be filed in his office, by the applicant therefor, a plan in duplicate, drawn to scale, and in such form as may be prescribed by the director of public works, correctly showing the location and actual dimensions of the lot to be occupied, the dimensions and location of the lot of the building to be erected, altered or enlarged, together with a true statement in writing, signed by the applicant, showing the use for which such building is arranged, intended or designed, and furnishing such other information as the director of public works may require in the enforcement of the provisions of this chapter. Failure to comply with the provisions of this chapter shall be good cause for the revocation of any building permit by the director of public works. A record of such applications and plans shall be kept in the office of the director of public works.

(Code 1964, § 19.300; Ord. No. 9958, § 1, 10-3-83; Ord. No. 11702, § 1, 12-7-87)

Sec. 29-37. Certificate of occupancy.

(a) *Vacant Land.* No vacant land shall be occupied or used except for agricultural uses, and no building hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy shall have been issued by the director of public works. No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy.

(b) *Certificate of Occupancy.* A certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of this chapter. A record of all certificates shall be kept on file in the office of the director of public works, and copies shall be furnished on request to any person having proprietary or tenancy interest in the building affected.

- (1) *Certificate of occupancy for buildings.* A certificate of occupancy for a new building or the alteration of an existing building shall be applied for in writing coincident with the application for a building permit, and shall be issued within ten (10) days after the erection or alteration of such building or part thereof shall have been completed in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the director of public works for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the city relating to the use or occupancy of the premises, or any other matter covered by this chapter, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants.
- (2) *Certificate of occupancy for child care facilities.* All existing family day care homes, day care centers, preschool centers, nursery schools, child play centers, child education centers, child experiment stations or child development institutions, shall, within forty-five (45) days from the passage of Ordinance No. 9958, make application for a certificate of occupancy. Accompanying the application shall be an affidavit, duly notarized, showing the date such use was established, the number of children in the home, the name of the owner and or operator, a brief description of the property, and shall show evidence that application has been made for the state operating license. All family day care homes, day care centers, etc., existing or established in violation of section 29-6 hereof, or in violation of other ordinances of the city shall, within forty-five (45) days from the adoption of Ordinance No. 9958, comply with the requirements of section 29-6 or make application to the board for a special use permit to continue such use.
- (3) *Certificate of occupancy for land.* A certificate of occupancy for the use of vacant land, or the change in the character of the use of land as herein provided, shall be applied for before any such land shall be occupied or used, and a certificate of occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of this chapter.
- (4) *Certificate of occupancy for a nonconforming use.* A certificate of occupancy shall be required for all nonconforming uses. Application for certificate of occupancy for nonconforming uses shall be filed within twelve (12) months from the effective date of Ordinance No. 9958, accompanied by affidavits of proof that such nonconforming use was not established in violation of this chapter.

(Code 1964, § 19.301; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-38. Invalidity.

In case any portion of this chapter shall be held to be invalid or unconstitutional, the remainder of this chapter shall not thereby be invalid, but shall be in full force and effect, or in case any portion of the zoning district map shall be held to be invalid, the remainder of such map shall not be invalidated thereby.
(Code 1964, § 19.310; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-39. Violation and penalties.

(a) In case any building is erected, constructed, reconstructed, altered, converted or maintained, or any building or land is used in violation of this chapter or any ordinance passed pursuant to this chapter including any statement of intent or other exhibit or attachment to such ordinance, the proper local authorities of the city, in addition to the other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building or land, or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the director of public works, who is empowered to cause any building, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this chapter or any condition or other provision of an ordinance passed pursuant to this chapter.

(b) The owner or general agent of a building or premises where a violation of any provision of the regulations of this chapter or any condition or other provision of an ordinance passed pursuant to this chapter has been committed or shall exist, or the lessees or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues or by imprisonment for ten (10) days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court. However, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each and every day that such violation shall continue, by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment, in the discretion of the court. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten (10) days after such service, or shall continue to violate any provision of the regulations made under authority of this chapter in the respect named in such order, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).

(Code 1964, § 19.320; Ord. No. 9958, § 1, 10-3-83; Ord. No. 19311, § 1, 12-4-06)

Sec. 29-40. Saving clause.

All rights or remedies of the city are expressly saved as to any and all violations of any zoning ordinance or amendments thereto, of such city and that have accrued at the time of the effective date of Ordinance No. 9958, and as to such accrued violation, the court shall have all the powers that existed prior to the effective date of Ordinance No. 9958, and that all existing violations of previous zoning ordinances which would otherwise become nonconforming uses under this chapter shall be considered as violations of this chapter in the same manner that they were violations of prior zoning ordinances of such city.

(Code 1964, § 19.330; Ord. No. 9958, § 1, 10-3-83)

Sec. 29-41. Repeal.

All ordinances or parts of ordinances in conflict with any of the provisions of this chapter are hereby repealed insofar as the same are in conflict with the provisions hereof.

(Code 1964, § 19.340; Ord. No. 9958, § 1, 10-3-83)