

Chapter 90 ZONING*

***Cross references:** Any ordinance rezoning specific property or any amendment thereto saved from repeal, § 1-8(7); buildings and building regulations, ch. 18; floods, ch. 38; manufactured homes and trailers, ch. 54; planning, ch. 66; streets, sidewalks and public places, ch. 82.

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ARTICLE I. IN GENERAL

Sec. 90-1. Title of chapter.

This chapter shall be known and may be cited as "the zoning ordinance."

(Code 1986, app. B, § 1.1)

Sec. 90-2. Purpose of chapter.

The zoning regulations and districts as set forth in this chapter have been made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

(Code 1986, app. B, § 1.2)

Sec. 90-3. Authority of chapter.

The provisions of this chapter are adopted under authority granted by RSMo 89.010 et seq.

(Code 1986, app. B, § 1.3)

Sec. 90-4. Territorial applicability of chapter.

The provisions of this chapter shall be applicable not only within the corporate limits of the city, but also within the territory beyond such corporate limits as now or hereafter fixed, by the state statutes.

(Code 1986, app. B, § 1.4)

Sec. 90-5. Application of chapter regulations.

The regulations set forth in this chapter shall affect all land, every building and every use of land and/or buildings, and shall apply as follows:

- (1) *New uses or construction.* All new construction or use of land shall conform with the use and dimensional requirements for the district in which it is to be located.
- (2) *Conforming uses or structures.* Land or structures, or the uses of land or structures which conform with the regulations for the district in which it is located, may be continued; provided, however, that any structural alteration or change in use shall conform with the regulations specified in this section.
- (3) *Nonconforming uses or structures.* All land or structures, or uses of land or structures which would be prohibited under the regulation for the district in which it is located, shall be nonconforming as defined in section 90-231.

(Code 1986, app. B, § 1.5)

Sec. 90-6. Newly incorporated areas.

All territory which may hereafter be included within the zoning jurisdiction of the city shall, after the proper hearings, be placed in the R-2 residential district until otherwise classified

by the board of aldermen.
(Code 1986, app. B, § 1.8)

Sec. 90-7. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acreage means any tract or parcel of land which has not been subdivided and platted.

Administrative officer means a person designated by the board of aldermen to perform the duties of the administrative officer as described in this chapter.

Alley means a public thoroughfare, not less than 20 feet wide, and not more than 40 feet in width, which affords only a secondary means of access to abutting property.

Alterations means, as applied to a building or structure, a change or rearrangement in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, or by change in use from that of one district classification to another.

Amusement device means any device which is either hand, electronically or mechanically operated, whether or not a charge is made for its use, and which is primarily intended for the entertainment of the users.

Apartment means a room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Area means the amount of land surfaces in a lot, plot or parcel.

Auto wrecking or junkyard means any place where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging and scavenging of any other goods, articles or merchandise.

Automobile repair means general repair, engine rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; and overall painting of motor vehicles.

Automobile service station means a place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for the operation of automobiles and marine engines, are retailed directly to the public on premises, and includes minor accessories and services for automobiles, but not including automobile repairs and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Basement means a story partly or wholly underground, where more than one-half of its height is below the average level of the adjoining ground.

Billboard means any structure or portion thereof upon which are signs or advertisements

used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

Block means a parcel of land that is surrounded by public streets, roads or highways. Where a block is not entirely surrounded by public streets, etc., a block shall be interpreted as the land between two intersecting streets.

Boardinghouse means a building, other than a hotel or restaurant, where meals are provided for compensation for four or more persons, but not exceeding 12 persons.

Building means any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Building area means the buildable area of a lot is the space remaining after the minimum open space requirements of this chapter have been complied with.

Building height means the vertical distances measured from the sidewalk level or its equivalent grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to mean height level between eaves and ridge of a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

Building line means the same as a front yard setback line.

Carport means a structure attached or made a part of the main structure, and which is open to the weather on at least two sides, intended for the use of sheltering not more than three motor driven vehicles.

Condominium means an apartment building in which the units are owned individually; also an apartment in such a building. See also *Office condominium*.

Court means an open unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such building.

District means a section of the incorporated area of the city for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein.

Dwelling means a building or portion thereof, but not an automobile house trailer, designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels, boardinghouses and lodginghouses.

Dwelling, row means a row of three to six attached one-family dwellings, not more than 2 1/2 stories in height, nor more than three rooms deep.

Dwelling, multiple means a building or portion thereof designed for occupancy by three or more families living independently of each other.

Dwelling, one-family means a detached building designed exclusively for occupancy by one family.

Dwelling, two-family means a building designed exclusively for occupancy by two families living independently of each other.

Dwelling unit means one or more rooms in a dwelling or apartment hotel designed primarily for occupancy by one family for living or sleeping purposes.

Family means an individual or two or more persons related by blood or marriage or group of not more than five persons (excluding servants), who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit. The term "family" shall also include individuals residing in a home for mentally or physically handicapped persons or residing in a foster home, in compliance with, and as permitted by, state statute.

Farm means an area which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities; provided, further, that farming does not include the feeding of collected garbage or offal to swine or other animals.

Floor area means the total number of square feet of floor space within the exterior walls of a building, not including space in cellars or basements; however, if the cellar or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

Frontage means all property on one side of a street between two intersecting streets or natural barriers.

Garage, private means an accessory building for the storage of not more than three motor-driven vehicles, of which not more than one shall be a commercial vehicle of not more than two-ton capacity.

Garage, public means a building, other than a private garage, used for the care, repair or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure.

Grade means the average level of the finished surface of the ground adjacent to the exterior walls of a building, except when any wall approximately parallels and is not more than five feet from a street line, when the elevation of the street at the center of the wall adjoining the street shall be grade.

Home occupation means an accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate, and, in connection therewith, there is not involved the keeping of a stock in trade in excess of \$500.00. The office of a physician, surgeon, dentist or other professional person, including an instructor in violin, piano or other individual musical instrument limited to a single pupil at a time who offers skilled services to clients, and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be home occupations; and the occupations of dressmaker, milliner or seamstress, each with not more than one paid assistant shall be deemed to be home occupations. Dancing instruction, band instrument instruction in groups, tourist homes, beauty parlors, real estate offices, convalescent homes, mortuary establishments and stores, trades or businesses of any kind, not excepted in this section shall not be deemed to be home occupations.

Hotel means a building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are six or more guestrooms, and in which no provisions are made for cooking in any individual room or suite.

Institution means a building occupied by a nonprofit corporation or a nonprofit establishment for public or semipublic use.

Kennel means any lot or premises on which four or more dogs, at least four months of age, are kept.

Laboratory means a place devoted to experimental study such as testing and analyzing. Manufacturing of product or products is not to be permitted within this definition.

Loading space means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lodginghouse means a building with not more than five guestrooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or transients.

Lot means a parcel of land occupied or suitable for occupancy by one main building or use with accessory buildings, including the open spaces required by this chapter, and having its principal frontage upon a public street or highway.

Lot, corner means a lot situated at the intersection of two or more streets.

Lot depth means the horizontal distance between the front and rear lot lines measured in the mean direction on the side lot lines.

Lot frontage means that boundary of a lot along a public street; and for a corner lot, the front shall be the shorter lot boundary along a street.

Lot, interior means a lot other than a corner lot.

Lot, width means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Mall means an enclosed or open common space for pedestrian traffic.

Mobile home means a single-family dwelling unit that has the following characteristics:

- (1) Designed for longterm occupancy containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
- (2) Designed to be transported after fabrication and remain on its own wheels, flatbed, frame or detachable wheels.
- (3) Arrives at site where it is to be occupied as a dwelling unit with or without major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities and the like.
- (4) A mobile home must be located in a mobile home park.

Mobile home park means a parcel of land under single ownership which has been planned and approved for the placement of no less than five mobile homes for nontransient use.

Office condominium means an office building in which units are owned separately; also an office unit in such a building.

Parking space off-street means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

Premises means a lot, together with all buildings and structures thereon.

Shopping center means a shopping center with or without a mall.

Sign means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of this definition:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (3) An on-site sign is a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises, and constructed in conformity with the on-site sign standards contained in this chapter. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Story means that portion of a building included between the surface of any floor and the surface of the floor next to it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

Street means a public way which affords the principal means of access to abutting property.

Street grade means the officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grades of the street should be taken as the street grade.

Structural alterations means any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, which required location on the ground or being attached to something having its location on the ground.

Trailer, automobile means a vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons or property, including a trailer coach or house trailer.

Variance means a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not

the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

(Code 1986, app. B, § 1.14)

Cross references: Definitions generally, § 1-2.

Sec. 90-8. Procedure for amending chapter.

The board of aldermen may amend, supplement or change the text regulations and zoning map according to the following procedures:

- (1) *Action by the applicant.* The following action shall be taken by the applicant:
 - a. *Initiation of amendments.* Proposed changes or amendments may be initiated by the board of aldermen, planning and zoning commission, zoning board of adjustment, or by one or more interested parties.
 - b. *Application.* An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied, and the names and addresses of the owner of the property. Such application shall be filed with the city clerk not later than ten days prior to the planning and zoning commission meeting at which the application is to be considered. All such applications shall be accompanied by three copies of an accurate map, drawn to scale, which shall show all adjacent property owners, roads, and other natural boundaries.
 - c. *Application fees.* The filing fees are established to cover the costs of advertising and other administrative expenses. The application fee shall be \$190.00 for each change of zoning classification applied for by the applicant.
- (2) *Action by the planning and zoning commission.* The following action shall be taken by the planning and zoning commission: The planning and zoning commission shall consider and make recommendations to the board of aldermen concerning each proposed zoning amendment. The planning and zoning commission may hold separate public hearings or may sit concurrently with the public hearing held by the board of aldermen.
- (3) *Action by the board of aldermen.* The board of aldermen shall take action as follows:
 - a. *Considerations.* The board of aldermen shall consider changes and amendments to this chapter proposed by applicants only at a meeting of the board of aldermen during the months of February, May, August and November. The board of aldermen may, by vote of four-fifths of its total membership, waive this restriction if it finds an emergency exists.
 - b. *Notice and public hearing.* No amendment shall be adopted by the board

of aldermen until after public notice and hearing. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published in the town. Such notice shall be published the first time not less than 15 days prior to the date fixed for such hearing. Notice shall also be made by posting the property concerned with a poster indicating the proposed change and time and place of hearing.

- c. *Action.* Before taking such lawful action as it may deem advisable, the board of aldermen shall consider the planning and zoning commission's recommendation on each proposed zoning amendment. If no recommendation is received from the planning and zoning commission within 30 days after public hearing by the board of aldermen, the proposed amendment shall be deemed to have been approved by the planning and zoning commission. The board of aldermen shall have the authority, with or without recommendation of the planning and zoning commission, to grant zoning changes to any higher classified district than petitioned for. Such zoning changes shall require the consent of the petitioner.
- d. *Protests.* In case of a protest against such change duly signed and acknowledged by the owners of 30 percent or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and within 185 feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by a favorable vote of two-thirds of all the members of the board of aldermen. No protest against any change or amendment in a zoning ordinance or zoning map shall be valid or effective for the purpose of this section unless it is in the form of a written petition actually bearing the signatures of the required number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the city clerk in sufficient time to allow the city at least two normal working days, excluding Saturdays, Sundays and legal holidays, prior to the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.
- e. *Consideration of application.* No application covering the same property will be considered until after a lapse of 12 months from the date of denial or withdrawal of the application. The fact that the new application is for a different zoning classification than the original application shall not serve to waive this rule. Similarly, when an application for rezoning has been approved by the board of aldermen, no application for rezoning the same property in some other classification will be considered until a lapse of 12 months from the date of approval. The inclusion of an additional lot in an application shall not be permitted when it is evident that inclusion is for the express purpose of avoiding the regulations of this chapter. This 12-month provision may be waived for good causes shown, by a three-fourths vote of the entire board.

Secs. 90-9--90-40. Reserved.

ARTICLE II. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 90-41. Interpretation of district boundaries.

When uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) *Delineation.* District boundary lines are intended to be along or parallel to property lines, lot lines, the centerline of streets, alleys, railroads, easements, other rights-of-way, and creeks, streams or other water channels.
- (2) *Official zoning map.* In the absence of specified distances on the map, dimensions or distances shall be determined by the scale of the official zoning map.
- (3) *Zoning board of adjustment.* When the street or property layout existing on the ground is at variance with that shown on the official zoning map, the zoning board of adjustment shall interpret the district boundaries of this chapter.

(Code 1986, app. B, § 1.12)

Sec. 90-42. Interpretation of district regulations.

Regulations for each district shall be enforced and interpreted according to the following rules:

- (1) *Permitted uses.* Uses not designated as permitted uses shall be prohibited, except that special or conditional uses are permitted according to the additional regulations imposed.
- (2) *Minimum regulations.* Regulations set forth by this chapter shall be minimum regulations. If the district requirements set forth in this chapter are at variance with the regulations of any other lawfully adopted rules, regulations or other ordinances, the more restrictive or higher standard shall govern.
- (3) *Land covenants.* Nothing in this chapter shall modify or repeal any deed restriction, but no such restriction shall constitute a basis for failing to comply with this chapter.

(Code 1986, app. B, § 1.13)

Sec. 90-43. Conditional uses--Established.

There are hereby established conditional uses of properties located in the R-2 residential district, R-3 mobile home district, C-1 commercial district and I-1 industrial district. A conditional use is defined as any use of a parcel or tract of land located within any zoning

district, other than an R-1 residential zoning district, wherein a use is proposed, or is made, which is contrary to the permitted uses listed for the zoning district in which the land lies.

(Ord. No. 10-95, § 2(1.15(1)), 9-7-95)

Sec. 90-44. Same--Procedure.

- (a) *Application for certificate.* If any person, firm, partnership or corporation, who is the owner of property within a zoning district, other than the R-1 zoning district, desires to make use of the property other than a listed permitted use set out for the zoning district within which the land lies, then the owner shall make written application to the planning and zoning commission and the board of aldermen for a conditional use certificate.
- (b) *Form; contents; fee.* The application for a conditional use shall be made in writing and be signed by the owner of the property to which the conditional use would apply. The application shall be on a form prescribed by the board of aldermen and shall set out, among other things the legal description of the property, the use to which the property is proposed to be made, the owners of the property, the use of all adjacent properties, and, if the property is proposed in a subdivision subject to restrictions and covenants, a copy of the restrictions shall be attached and a mortgage inspection survey or equivalent shall be attached. A fee of \$190.00 shall be paid to the city for each application for conditional use permit which shall be paid at the time of filing the application to cover the cost of advertising and other administrative expenses involved.
- (c) *Notice and public hearing:* No conditional use permit shall be adopted by the board of aldermen until after public notice and hearing. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published within the corporate limits of the city with the first publication not less than 15 days prior to the date set for such hearing.
- (d) *Notice to adjoining property owners.* Prior to the public hearing, the applicant shall notify all property owners within 200 feet and adjacent to all sides of the property and the property across the street from the proposed conditional use. This notification shall be prepared on forms furnished by the city and shall be delivered by registered or certified mail and shall indicate the time, date and place of the hearing and the proposed conditional use.
- (e) *Recommendation to board of aldermen by planning and zoning commission; vote to issue certificate.* The planning and zoning commission shall make a recommendation to the board of aldermen to approve or not approve the application for conditional use within ten days after the date of the public hearing, upon the application for conditional use before the planning and zoning commission. If the planning and zoning commission shall fail to make such a recommendation within ten days of the public hearing, then the clerk of the planning and zoning commission shall notify the board of aldermen that no recommendation has been made and the board of aldermen shall treat such failure to make a recommendation as a recommendation to approve the conditional use. After receiving the recommendation from the planning and zoning commission, the board of aldermen, may take up the application for conditional use, and after considering the matter, may vote to issue a conditional use certificate by a majority vote of the board of aldermen voting on the issue.
- (f) *Issuance; requirements and restrictions.* If the board of aldermen approve the conditional use, the city clerk shall issue a conditional use certificate which shall state the names of

the owners of the property, legal description of the property and the common description by address or other commonly identified location of the property. The board of aldermen shall specify any special requirements or restrictions placed upon the conditional use, and such requirements and restrictions shall be set out on the conditional use certificate and the mayor and the city clerk shall sign the certificate of conditional use. The city clerk shall deliver a certified copy of the certificate of conditional use to the recorder's office in the county in which the land lies, along with the appropriate recording fee for the certificate.

(Ord. No. 10-95, § 2(1.15(2)), 9-7-95; Ord. No. 8-2001, § 1, 5-3-01)

Sec. 90-45. Same--Effect of certificate of conditional use.

Any certificate of conditional use issued by the city shall not affect the restrictions and covenants, or any subdivision regulations, which may be in effect and to which the land sought to be approved by conditional use is located.

(Ord. No. 10-95, § 2(1.15(3)), 9-7-95)

Sec. 90-46. Same--Termination of certificate.

- (a) If an application for conditional use is approved by the board of aldermen and a certificate of conditional use is issued, and thereafter the conditional use is terminated for a period of at least 90 days, then the city may give notice to the owner of its intention to terminate the certificate of conditional use. Before any certificate of conditional use can be withdrawn by the city, the board of aldermen shall hold a hearing, with notice to the owners of the property subject to the conditional use, of its intention to terminate the certificate of conditional use previously issued. Notice to the owners may be by certified mail, in person delivery, or if the whereabouts of the owners of the subject property is unknown to the city, then by publication in a newspaper, published and regularly distributed within the city, giving at least ten days' notice of the time and date of such hearing.
- (b) If the owners of the property for which a certificate of conditional use has been issued permanently violate the provisions of the certificate of conditional use, the city may, after notice and hearing, terminate the certificate of conditional use, and thereafter, in no more than 60 days the conditional use of the property shall terminate by the owners thereof.

(Ord. No. 10-95, § 2(1.15(4), (5)), 9-7-95)

Sec. 90-47. Same--Record keeping of termination actions.

In the event of the termination of the certificate of conditional use, for whatever reason, the city shall cause such termination action to be documented and recorded in the recorder's office of the county wherein the land subject to the conditional use lies.

(Ord. No. 10-95, § 2(1.15(6)), 9-7-95)

Sec. 90-48. Same--Negation or waiving of other requirements.

Nothing contained in this division or any certificate of conditional use issued by the board of aldermen shall negate or waive any requirement or regulation of any building code adopted by the city, nor shall any certificate of conditional use waive any requirements for site plan approval as set out in article III of this chapter if a site plan approval would have been required for the use of the land but for the issuance of the certificate of conditional use.

(Ord. No. 10-95, § 2(1.15(7)), 9-7-95)

Secs. 90-49--90-70. Reserved.

DIVISION 2. R-1 DISTRICT

Sec. 90-71. Permitted uses.

The following are permitted uses in the R-1 district:

One-family detached dwellings;

Farming, truck gardening and nurseries;

Home occupations, as defined in this chapter;

Public schools, elementary and high, or private schools having a curriculum similar to that ordinarily given in a public elementary school or public high school, including religious instruction in parochial schools;

Churches and similar places of worship;

Convents, monasteries, rectories or parish houses to be occupied by not more than ten persons;

Temporary buildings and uses for construction purposes for a period not to exceed one year;

Libraries;

Private swimming pools appurtenant to a one-family dwelling on the same lot, when they meet yard depth and width requirements for principal buildings in the district in which they are located and when the swimming pool or the property on which it is located is adequately fenced to prevent access of small children, and meets all applicable health and sanitary requirements;

Signs, defined as follows: a sign or signboard not exceeding eight square feet in area, appertaining to the sale or lease of the premises or trespassing thereon, a nameplate, not exceeding one square foot in area; a sign or bulletin board not exceeding 20 square feet in area, appertaining to the sale or lease of the premises or trespassing thereon.

(Code 1986, app. B, § 2.1)

Sec. 90-72. Lot size.

Lot size in the R-1 district shall be as follows:

- (1) Every one-family detached dwelling, convent, monastery, rectory or parish house

hereafter erected shall be on a lot having an area of not less than 9,600 square feet and a width at the established building line of not less than 75 feet.

- (2) Churches and similar places of worship hereafter erected or structurally altered shall be on a lot having an area of not less than one acre and a width at the building line of not less than 150 feet.
- (3) Every public school (elementary or high), or private school having a curriculum similar to that ordinarily given in a public elementary or high school (including religious instruction in parochial schools), hereafter erected, shall be sited in conformity with the following minimum standards:

TABLE INSET:

Elementary school	Three acres, plus one acre per 100 student design capacity
Junior high school	Eight acres, plus one acre per 100 student design capacity
Senior high school	15 acres, plus one acre per 100 student design capacity

(Code 1986, app. B, § 2.3)

Sec. 90-73. Yard areas.

No building or structure should be erected or enlarged in an R-1 district unless the following yards are provided and maintained in connection with such building, structure or enlargement.

- (1) *Front yard.* A front yard depth of not less than 40 feet shall be provided for in siting the construction of a dwelling upon a lot. Where a lot has double frontage, the required front yard depth shall be provided on both streets.
- (2) *Side yard.* On each lot upon which a dwelling is constructed, there shall be a side yard width on each side of not less than 20 feet. The combined total of the side yards for interior lots shall not be less than 45 feet and the combined total widths of side yards for corner lots shall not be less than 50 feet. The width of the side yard on each side of a building on a lot of record which is less than 100 feet in width shall be ten percent of the width of the lot, but the side yard shall not be less than eight feet wide.
- (3) *Rear yard.* The rear yard depth of every lot or parcel of land upon which a building is constructed shall be not less than 35 feet, or 20 percent of the depth of the lot, whichever is larger, but the depth need not exceed 50 feet.

The lot area for churches, public and private schools, or any permitted eleemosynary institution shall not be less than one acre.

(Code 1986, app. B, § 2.4)

Sec. 90-74. Lot coverage.

Not more than 35 percent of the area of a lot in the R-1 district may be covered by main buildings, structures or accessory buildings.

(Code 1986, app. B, § 2.5)

DIVISION 17. R-3 DISTRICT

Sec. 90-75. Accessory buildings.

Accessory buildings in the R-1 district shall not encroach upon the front yard. They may encroach upon the side yards, provided no buildings are closer to the lot lines than ten feet, and provided further, that on a corner lot accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

(Code 1986, app. B, § 2.6)

Sec. 90-76. Dwelling standards.

- (a) Every one-story dwelling hereafter erected in any R-1 one-family district shall have a total ground floor area of not less than 1,350 square feet measured from the outside of the exterior walls, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are roughed in and are to be completed within a reasonable time may be considered in computing such ground floor areas.
- (b) Every dwelling of more than one story hereafter erected in any R-1 one-family district shall have a total floor area, measured from the outside of the exterior wall, of not less than 1,680 square feet, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are roughed in and are to be completed within a reasonable time may be considered in computing such ground floor areas.

(Code 1986, app. B, § 2.7)

Sec. 90-77. Parking regulations.

The off-street parking required for uses of land and buildings in this R-1 district are as follows:

- (1) Residences: One space for each dwelling unit. Churches:
- (2) One space for each four persons of capacity.
- (3) Schools: Reasonable amount to accommodate the average number of persons attending special events.

Off-street parking spaces required in this R-1 district shall not be permitted within the required front yard unless such spaces are upon a drive providing access to a required garage, carport or parking area in back of the required front yard.

(Code 1986, app. B, § 2.8)

Secs. 90-78--90-1 00. Reserved.

DIVISION 18. R-3 DISTRICT

Sec. 90-101. Permitted uses.

A building or premises in the R-2 district shall be used only for the following purposes:

Any use permitted in the R-1 residential district.

Two-family and multifamily dwellings.

Hospitals and nursing homes.

(Code 1986, app. B, § 3.1)

Sec. 90-102. Dwelling standards.

- (a) Every one-story dwelling hereafter erected in any R-2 one-family district shall have a total ground floor area of not less than 920 square feet, measured from the outside of the exterior walls, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are roughed in and are to be completed within a reasonable time may be considered in computing such ground floor areas.
- (b) Every dwelling of more than one story hereafter erected in any R-2 one-family district shall have a total floor area, measured from the outside of the exterior walls, of not less than 1,300 square feet, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are roughed in and are to be completed within a reasonable time may be considered in computing such ground floor areas.

(Code 1986, app. B, § 3.3)

Sec. 90-103. Accessory buildings.

Accessory buildings in the R-2 district shall not encroach upon the front yard. They may encroach upon the side yards, provided no buildings are closer to the lot lines than five feet; provided, further, that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

(Code 1986, app. B, § 3.4)

Sec. 90-104. Lot area.

The minimum lot area for a one-family residence in the R-2 district shall be 7,200 square feet. The minimum lot area for a two-family residence shall be 10,800 square feet and an additional 2,400 square feet for each additional dwelling unit. A minimum lot width of 75 feet shall be required.

(Code 1986, app. B, § 3.5)

DIVISION 19. R-3 DISTRICT

Sec. 90-105. Yard areas.

DIVISION 20. R-3 DISTRICT

No building or structure should be erected or enlarged in the R-2 district unless the following yards are provided and maintained in connection with such building, structure or enlargement:

- (1) *Front yard.* A front yard depth of not less than 25 feet shall be provided on each lot upon which a dwelling is constructed.
- (2) *Side yard.* On each lot upon which a dwelling is constructed, there shall be a side yard width on each side of not less than ten feet. The combined total width of the side yards for interior lots shall not be less than 25 feet, and the combined total width of side yards for corner lots shall not be less than 30 feet. The side yard width on each side of a building on a lot of record which is less than 65 feet wide shall be ten percent of the width of the lot, but not less than six feet. On lots upon which a church or similar place of worship is constructed, or extension made to an existing church or similar place of worship, there shall be a side yard not less than 15 feet wide on each side of the main structure and a combined total width of side yards of not less than 35 feet.
- (3) *Rear yard.* The rear yard depth of every lot or parcel of land upon which a building is constructed shall be not less than 25 feet, or 20 percent of the depth of lot, whichever is larger, but need not exceed 35 feet.
- (4) *Lot coverage.* Not more than 35 percent of the area of a lot may be covered by main buildings, structures or accessory buildings.

(Code 1986, app. B, § 3.6)

Sec. 90-106. Height of buildings.

No building in the R-2 district shall exceed 2 1/2 stories or 35 feet in height.

(Code 1986, app. B, § 3.7)

Sec. 90-107. Parking regulations.

The off-street parking required for uses of land and buildings in this R-2 district are as follows:

- (1) Residences: One space for each dwelling unit.
- (2) Two or more family residences: One and one-half spaces per dwelling unit.
- (3) Churches: One space for each four persons of capacity.
- (4) Schools: Reasonable amount to accommodate the average number of persons attending special events.

(Code 1986, app. B, § 3.9)

Secs. 90-108--90-130. Reserved.

DIVISION 21. R-3 DISTRICT

Sec. 90-131. Permitted uses.

Permitted uses in the R-3 district are as follows:

- (1) Mobile homes.
- (2) Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines, and other similar services provided by the facility operator primarily for the use and convenience of mobile home occupants.

Recreation buildings and areas serving only the mobile home district in which they are located.

Customary accessory buildings and facilities necessary for operation of the mobile home district in which they are located.

(Code 1986, app. B, § 4.1)

Secs. 90-132--90-155. Reserved.

DIVISION 5. C-1 DISTRICT

Sec. 90-156. Permitted uses.

Permitted uses in the C-1 district are as follows:

Stores retailing:

- Antiques;
- Appliances;
- Automobiles;
- Automobile accessories;
- Bakeries;
- Bicycles;
- Bookstores;
- Candy;
- Clothing;
- Drugs;
- Dry goods;
- Electrical and plumbing fixtures;
- Farm equipment sales and service;
- Fish;
- Furniture;

Gifts;
Groceries;
Hardware;
Hobbies and crafts;
Jewelry;
Leather goods;
Magazines;
Meat;
Motorcycles;
Musical goods;
Notions;
Paint and wallpaper;
Pets;
Radio and television;
Seed and feed;
Shoes;
Sporting goods;
Toys;
Upholstery.
Automobile wash;
Banks;
Barbershops and beauty shops;
Billboards;
Bottling works;
Bowling alleys;
Bus stations;
Business offices;
Cabstands;
Cafeterias;

Churches and related appurtenances which shall be defined as day care centers, education buildings, social and recreational buildings, church offices and housing quarters for employees of the church, but not houses or other buildings for rental purposes or cemeteries or burial plots;

Clubs and fraternal organizations;
Computer stores;
Day nurseries;
Drive-ins dispensing foods;
Dry cleaning pickup stations;
Financial offices;
Florists;
Funeral homes;
Furriers;
Government offices;
Greenhouses and nurseries;
Guesthouses;
Household equipment;
Interior decorating shops;
Laundry and dry cleaning;
Libraries;
Liquor stores;
Lounge or tavern;
Medical offices;
Motels;
Nursing and rest homes;
Offices;
Parking lots;
Photographer studios;
Plumbing supplies;
Pool halls;
Printing;
Professional offices;
Publishing and reproduction establishments;
Radio and television broadcasting stations;
Radio and television repair; Repair and
services of offices;

Restaurants;
Savings and loan associations;
Service stations;
Shoe repair;
Signs;
Telephone exchange buildings;
Theaters;
Tourist homes;
Variety stores;
Washerettes;
Wholesale and jobbing establishments including retail outlets for only merchandise as is handled at wholesale.
(Code 1986, app. B, § 5.1)

Sec. 90-157. Plan approval.

A site plan for a C-1 district use as required by article III of this chapter shall be submitted.
(Code 1986, app. B, § 5.3)

Sec. 90-158. Dimensional requirements.

Dimensional requirements for a C-1 district are as follows:

- (1) *Yards.* The first five feet from the property line of any commercial property shall be developed for grass and plants, and shall not be used for any purpose except for necessary drives, walks or off-street parking behind grass and plants. A minimum side yard of ten feet and when adjacent to residential property, natural planting, hedges or fence to a height of at least six feet. A minimum rear yard of 30 feet where abutting residential zoning. Minimum required width of any corner side yard, ten feet. Minimum required rear yard, 20 feet.
- (2) *Building height.* After October 31, 1985, every building erected or structurally altered to exceed 50 feet in height shall be set back from the front lot line on a ratio of one foot for each two feet of rise above 50 feet in height.
- (3) *Off-street loading space.* Off-street loading and unloading space shall be provided.
- (3) *Off-street parking space.* Off-street parking space shall be provided as follows:
- (4) a. Motels (not included in any rental use): One parking space for each four rooms to be rented plus one additional parking space for each three employees.

- b. Churches, funeral homes and theaters: One parking space for each four seats of capacity.
- c. Retail uses not otherwise indicated: One parking space for each 200 square feet of gross floor area.

(Code 1986, app. B, § 5.5)

Secs. 90-159--90-180. Reserved.

DIVISION 6. I-1 DISTRICT

Sec. 90-181. Permitted uses.

Permitted uses in the I-1 district are as follows, accompanied by a site plan as required by article III of this chapter:

- Animal hospitals.
- Assembly of farm products such as granaries and storage bins, but not fertilizer or tallow plants.
- Automobile sales and service.
- Automobile wash.
- Bag manufacture.
- Bakery plants.
- Banks.
- Billboards and signs.
- Boat manufacture.
- Bottling works.
- Building materials storage and sale.
- Bus garages.
- Cabinetmaking.
- Cemeteries.
- Coalyards.
- Cold storage plant.
- Contractor's plant or storage yard.
- Dairy products processing.
- Diecasting plants.
- Dry cleaning and laundry plants.
- Electrical and industrial equipment repair and servicing, but not railroad equipment, farms.
- Farm machinery, assembly, repair and sales.

Food processing in wholesale quantity except meat, fish, poultry, vinegar and yeast.

Grain elevators.

Greenhouses and nurseries.

Grounds and facilities for open air games or sports.

Hatcheries.

Ice plant.

Laundries.

Leather goods manufacture.

Lumberyards.

Machine shops.

Machine tool manufacture. Off-street parking facilities.

Optical and scientific instrument, jewelry and clocks and musical instrument manufacture.

Paint shops.

Pharmaceutical products manufacture.

Printing, publishing and reproduction establishments.

Railroads.

Repair and servicing of office and household equipment.

Service stations.

Sheet metal shops.

Shirt manufacture.

Sign manufacture, painting and maintenance.

Soap, detergent and washing compound manufacture.

Storage warehouses and yards.

Store or office for the rental of personal property other than mobile construction or earthmoving equipment.

Radio or television broadcasting stations and studios.

Textile manufacture.

Tinsmith shops.

Tire recapping and retreading.

Tool and die shops.

Truck terminals, repair shops, hauling and storage yards.

Venetian blind manufacture, contractor and cleaning shop.

Warehouses.

Welding shops.

Wholesale and jobbing establishments, including incidental retail outlets for only such merchandise as is handled at wholesale.

Woodworking shops, millwork.

(Code 1986, app. B, § 6.1)

Sec. 90-182. Dimensional requirements.

Dimensional requirements for the I-1 district are as follows:

- (1) *Yards.* No building shall be less than 30 feet from any street right-of-way line. No other yards are required, except where the rear of a lot abuts a residential district there shall be a 20-foot rear yard, and where a lot abuts upon the side or a lot zoned residential there shall be a side yard of not less than the minimum required in the district on which it abuts. In cases where a side yard, not required, is provided, it shall be at least five feet in width.

Off-street loading. Off-street loading and unloading space shall be provided.

Sidewalks, entrances and exits. All permitted or conditional or special uses in this I-1 district are subject to installation of sidewalks, entrances and exits.

- (4) *Off-street parking.* Off-street parking shall be provided as follows:
 - a. Retail uses not otherwise indicated. One parking place for each 200 square feet of gross floor area if goods are sold at retail on the premises.
 - b. If no retail sales are conducted on the premises, one parking space for each employee on the premises at any one time.

(Code 1986, app. B, § 6.4)

Secs. 90-183--90-205. Reserved.

DIVISION 7. SUPPLEMENTAL REGULATIONS

Sec. 90-206. One principal building permitted on one lot.

No lot shall be occupied by more than one principal building. No part of a yard, court or other open space provided about any building or structure for the purpose of complying with the provisions of this article shall be included as a part of a yard or other open space required under this article for another building or structure.

(Code 1986, app. B, § 1.9)

Sec. 90-207. Reduction of lot and yard areas.

No yard or lot existing on October 31, 1985, shall be reduced in size or area below the minimum requirements set forth in this article. Yards or lots created after October 31, 1985, shall meet at least the minimum requirements established by this article.

(Code 1986, app. B, § 1.10)

Sec. 90-208. Lots of record.

Where the owner of a lot on October 31, 1985, or his successor in title thereto, does not own sufficient land to enable him to conform to the dimensional requirements of this article, such lot may be used as a building site for a single-family residence in a district in which residences are permitted; provided, however, that the lot width and lot area are not more than 20 percent below the minimum specified in this article. In any case where the lot area and lot width are more than 20 percent below the minimum specified in this article or other dimensional requirements cannot be met, the board of adjustment is authorized, and may approve, upon proper application, as a special exception such dimensions as shall conform as closely as possible to the required dimensions.

(Code 1986, app. B, § 1.11)

Secs. 90-209--90-230. Reserved.

DIVISION 8. NONCONFORMING USES

Sec. 90-231. Nonconformities.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Nonconformity means any use, building, structure or lot which lawfully fails to comply with one or more of the applicable regulations or standards of this article. A nonconformity is also any use, building, structure or lot which was lawfully constructed, altered or otherwise created under applicable local zoning ordinances but which was subsequently rendered nonconforming due to circumstances that were not self-created.

- (b) *Extension of use.* Nonconformities shall not be enlarged or extended in any way except as provided in section 90-232.
- (c) *Change of use.* Nonconforming uses may be changed to a conforming use by first securing the proper approvals and permits which would have been required in the first instance for the intended or resulting use, building, structure or lot.
- (d) *Continuation, maintenance and minor repair.* The continuation and normal maintenance and repair of a nonconformity is permitted, provided that it does not extend the nonconforming use. Maintenance and minor repair means:
- (1) Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 - (2) Maintenance of land areas to protect against health hazards and promote the safety of surrounding land uses; or
 - (3) Signs without changing the exterior message. Repairs which are required by public safety because of unsafe conditions are permitted.

- (e) *Damage or destruction.* If a building or land area, occupied by a nonconforming use or a nonconforming building, is destroyed by any means to an extent of more than 50 percent of

its replacement costs at the time of destruction, such use shall not be restored for any nonconforming use.

- (f) *Cessation.* If the active operation of a nonconforming use is discontinued for a period of 60 days, such nonconforming use shall thereafter be occupied and used only for a conforming use. If a nonconforming use is reused or reoccupied within a shorter period of time, the nonconformity may continue so long as the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconformity became unused or unoccupied.
- (g) *Mobile homes.* The regulations set forth in this subsection provide the conditions under which the nonconforming use of a mobile home may be continued: If the mobile home was located on its property on October 31, 1985, the mobile home may be altered, enlarged, maintained, repaired, replaced or conveyed in the same manner as if a mobile home were a permitted use in the C-1 commercial district. However, if the placement of a mobile home is discontinued for a period of seven days, such nonconforming use shall thereafter be occupied and used for conforming uses only.

(Code 1986, app. B, § 1.6)

Sec. 90-232. Special uses for nonconformities.

- (a) *Intent of section.* The intent of this section is to allow the continuation of any nonconformity and the normal maintenance and repair thereof, but to require any expansion, major repair, alteration or change of a nonconformity to obtain a special use permit to determine whether it will substantially injure the value of abutting, adjoining and neighboring properties. All nonconformities relating to signs shall be considered by the zoning board of adjustment.
- (b) *Special use procedure.* Unless expressly provided otherwise by this section, the altering, expanding, changing or major repair of a nonconformity is only allowed pursuant to a special use permit issued by the board of aldermen. The terms "altering, expanding and changing" shall be liberally construed. The procedures shall be as follows:
 - (1) *Application.* An application shall be filed with the city clerk and shall contain a site plan drawn to scale, which shall show all adjacent property owners, roads and other natural boundaries, and shall also contain a statement of the compatibility of the proposed special use with adjacent properties and the neighborhood and such other information as may be pertinent or required by the planning and zoning commission or appropriate action by the board of aldermen.
 - (2) *Application fee.* A fee of \$150.00 shall be paid to the city for each application for special use permit to cover the costs of advertising and other administrative

expenses involved.

- (3) *Action by the board of aldermen.* Action taken by the board of aldermen shall be as follows:
- a. *Board of aldermen considerations.* The board of aldermen shall consider special uses for nonconformities proposed by applicants only at meetings of the board of aldermen during the months of February, May, August and November. No nonconforming use may be changed to another nonconforming use unless the board of aldermen finds that the proposed use will have no greater, adverse effect on surrounding property than does the existing use.
 - b. *Notice and public hearing.* No special use shall be adopted by the board of aldermen until after public notice and hearing. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published the first time not less than 15 days prior to the date fixed for such hearing.
 - c. *Notice to adjoining property owners.* Prior to the public hearing, the applicant shall notify all property owners within 200 feet and adjacent to all sides and the property across the street from the proposed special uses. This notification shall be prepared on forms furnished by the city and shall be delivered by registered or certified mail and shall indicate the time, date and place of the hearing and the proposed expansion, major repair, alteration or change of the nonconforming use.
 - d. *Consideration of application.* No application covering the same special use will be considered until after a lapse of 12 months from the date of denial or withdrawal of the application. Similarly, when an application for a special use has been approved by the board of aldermen, no application for the same special use will be considered until a lapse of 12 months from the date of approval. This 12-month provision may be waived for good causes shown by a three-fourths vote of the entire board.
- (c) *Judgment; considerations.* After holding a public hearing, the board of aldermen may take action on the application and in so doing shall consider the evidence for a proposed alteration, expansion or change of the nonconformity and to determine if such nonconformity will substantially injure the value of abutting, adjoining and neighboring properties. The board of aldermen shall consider all relevant factors and shall determine in its judgment that adequate provisions and arrangements have been made or will be made concerning the following:
- (1) Access roads or entrance or exit drives with respect to such matters as automotive and pedestrian safety and convenience, traffic flow and control and access in the case of fire or other emergency;
 - (2) Off-street parking, loading areas, refuse collectors and other service areas with respect to their impact on automotive and pedestrian safety, convenience and traffic flow, economic, noise, glare, odor and other impacts on adjoining properties;
 - (3) Utilities, water, sewerage, schools, fire and police protection and other necessary public and private services and facilities with respect to their location, availability

and compatibility;

- (4) Landscaping, screening and fencing with respect to the effectiveness of their type, dimensions and character in minimizing the economic, noise, glare, odor and other impacts on and harmonizing the nonconformity with adjoining properties and properties in the general neighborhood;
 - (5) The type, size and intensity of the proposed special use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it and the hours of operation and numbers of people who are likely to utilize or be attached to the use, with respect to the impact upon adjoining properties or properties within the general neighborhood and the purposes of the use district;
 - (6) Changes in surface drainage characteristics with respect to erosion, siltation, pollution, flooding or the detrimental effects both on the site and other properties;
 - (7) Nonconforming uses in residential districts may erect nonilluminated wall signs only; and
 - (8) The board of aldermen may impose any other conditions, safeguards and procedures as it deems necessary to mitigate any potential hazards or problems or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of adjacent and neighboring owners and the public.
- (d) *Expansion of use.* If the board of aldermen permits a nonconforming use to expand, such expansion shall not exceed 25 percent of the area of the existing use.
- (e) *Considerations for substantial injurious impact.* In determining if the application will have a substantial injurious impact, the board of aldermen shall consider:
- (1) The possible detriment or benefit to the owner of the nonconformity resulting from refusing to issue the permit, from issuing it but requiring, either wholly or partially, that the nonconformity be brought into compliance, or from issuing it as requested;
 - (2) The possible detriment or benefit to the owners of adjacent and neighboring properties from refusing to issue the permit, from issuing it but requiring, either wholly or partially, that the nonconformity be brought into compliance, or from issuing it as requested; and
 - (3) The possible detriment or benefit to the public from refusing to issue the permit, from issuing it but requiring, either wholly or partially, that the nonconformity be brought into compliance, or from issuing it as requested.
- (f) *Scope of board's authority.* In acting upon an application for a special use permit the board of aldermen cannot order the discontinuance or termination of a nonconformity. If an application is denied, the continuation of the nonconformity and the maintenance and minor repair thereof will still be allowed.

(Code 1986, app. B, § 1.7)

Secs. 90-233--90-265. Reserved.

ARTICLE III. SITE PLAN APPROVAL

Sec. 90-266. Required.

Approval of a site plan is required before any use of property which would qualify as an R-3 mobile home, C-1 commercial or I-1 industrial use, whether such use is permitted by the individual zoning district regulations or by an additional use approved by the board of aldermen pursuant to sections 90-43 through 90-48.

(Code 1986, app. B, § 7.1; Ord. No. 10-95, § 3, 9-7-95)

Sec. 90-267. Building permit; issuance conditioned upon.

No building permit shall be issued unless the required site plan of the proposed use has been approved by the board of aldermen.

(Code 1986, app. B, § 7.2)

Sec. 90-268. Grounds for denial of approval.

The board of aldermen may refuse to approve a site plan on the grounds that it fails to fully comply with any specific requirement of this article or that it fails to adequately protect residentially zoned property, or property in residential use, from the adverse effects of a business operation; or that it fails to provide safe conditions for pedestrians and motorists; but not on the grounds that architectural design or building materials are aesthetically unsatisfactory.

(Code 1986, app. B, § 7.3)

Sec. 90-269. Procedure.

The owner or developer shall submit to the city clerk for consideration by the planning and zoning commission a site plan prepared and certified by a registered engineer, architect, landscape architect or land surveyor. Ten prints of the site plan at a scale of not less than one inch equals 50 feet, together with all information required by this article shall be submitted.

(Code 1986, app. B, § 7.4; Ord. No. 23-87, § 3(7.4), 11-19-87)

Sec. 90-270. Information required.

- (a) A plot and location plan shall be required with:
 - (1) Location and dimensions of buildings on the site showing the distance to side lot lines and centerlines of adjacent streets.
 - (2) Location and dimensions of proposed and existing driveways and curb cuts on the site and adjacent properties.
 - (3) Location and general design of proposed and existing sidewalks and open spaces with existing plant material and proposed landscaping.
 - (4) Location and dimensions of proposed and existing surface parking and loading areas.
 - (5) Boundary of the entire tract by courses and distances with references to true meridian and the area of the tract.

- (6) Proposed widths of any streets and sidewalks adjoining the tract, showing the right-of-way and pavement widths in accordance with the city thoroughfare plan, and showing curbs and gutters to be constructed.
- (7) Front, side and rear yard setbacks.
- (8) Relation of site to roadway median strips with existing and proposed openings in median strips.
- (9) Proposed elevations at control points such as driveways, ramps, etc.
- (10) Zoning of the tract.
- (11) Present record owner of the tract and contract purchaser, if any.
- (12) Owner, zoning and present use of all contiguous property.
- (13) Vicinity map showing location of tract at scale of not less than one inch equals 2,000 feet.
- (14) Certified topographic map of parcel at a minimum two-foot contour interval, showing existing and proposed contours.
- (15) Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.
- (16) Provisions for the adequate disposition of natural and stormwater in accordance with the duly adopted design criteria and standards of the city indicating location, sizes, types and grades of ditches, catchbasins and pipes, connections to existing drainage.
- (17) United States Coast and Geodetic Survey datum used for all elevations shown and showing location and elevation of benchmark used.
- (18) Provisions for adequate screened or planted buffer areas, not less than 30 feet in width, along and inside of all boundaries of the site which are adjacent to property located in a residential district or property which is in residential use.
- (19) Location and design of all landscaping requirements. A

typical floor plan with dimensions shall be provided. A plan of each nontypical floor shall be required with:

- (1) Location and square foot area of any permitted access or proposed conditional use as permitted by this chapter.

Access to any accessory, personal or convenience service uses.

Number and individual area of guestrooms in any hotel or motor hotel use.

A plan of each floor of a parking garage, if any is provided, shall be required. A utility plan shall be provided with:

- (1) Location of all existing underground utilities such as water, sewer, gas, electric and telephone cables, etc., both within the property and in adjacent streets.
- (2) Location of all surface facilities such as sidewalks, curbs, gutters, etc.
- (3) Fencing, walls and screening to be preserved, erected or planted; type, height and location.
- (4) All proposed changes, additions or deletions to subsections (e)(1) and (e)(2) of this section, together with a notation as to any city responsibilities thereto.

(Code 1986, app. B, § 7.5)

Sec. 90-271. Reviews, standards and regulations.

The planning and zoning commission shall review all site plans which are submitted to it pursuant hereto. The planning and zoning commission shall consider the site plan in conjunction with the following standards and regulations:

- (1) Compliance with the requirements of this chapter including setbacks, side yards and rear yards, height of building, lot area and lot coverage, fencing and screening.
- (2) Location and adequacy of automobile parking as to number of spaces, square footage per space, including movement lanes and total area.
- (3) Adequate provision for traffic circulation and control within the site and providing access to adjoining property.
Adequacy of water supply, fire protection and sanitary sewer facilities.
Compliance with applicable established design criteria, construction standards and specifications for all required public improvements.
- (6) Location of walkways so that pedestrians may walk from store to store or building to building within the site and to adjacent sites.
- (7) Connection wherever possible of all walkways, travel lanes and driveways with related facilities in adjacent properties.
- (8) The location and size of any required buffer areas adjacent to property located in a residential district or in residential use, together with a description of proposed screening or plantings adequate to protect such property from noise, dirt, dust and other adverse effects of any business operation.
- (9) Extension or construction of service roads or drives and access thereto on property bordering a state primary highway, provided the setback requirement shall be no greater if the service road or drive is dedicated or within an easement, than the setback required without the dedication or easements, except that in no event shall the building be erected closer than 20 feet from the closest right-of-way line or easement line.

- (10) Proof of any easements required in order to develop or use the property as shown on the site plan, clearly defining the purpose intended for each easement.

Curb and gutter travel lanes or driveways that provide vehicular travel to and from parking areas of adjacent property.

- (12) Adequate drainage systems for the disposition of stormwater and natural water, including the installation of curbs and gutters on all streets adjoining the tract.

(Code 1986, app. B, § 7.6)

Sec. 90-272. Approval.

All site plans submitted pursuant to this article and which conform to the requirements and standards contained in this chapter shall be approved by the planning and zoning commission.

(Code 1986, app. B, § 7.7)

Sec. 90-273. Filing fees.

Filing fees for site plans shall be as follows: Fifty dollars, plus the following, where applicable:

- (1) Twenty-five cents per dwelling unit for each apartment unit.
- (2) One dollar per 1,000 square feet of gross floor area of all commercial structures.
- (3) Fifty cents per 1,000 square feet of gross floor area of all industrial structures.

(Code 1986, app. B, § 7.8)

Sec. 90-274. Time of validity of approved site plans.

An approved site plan shall become null and void if no significant work is done or development is made on the site within 12 months after approval. The board of aldermen may grant a single one-year extension upon written request of the applicant made at least 30 days before the expiration of the approved site plan.

(Code 1986, app. B, § 7.9)

Sec. 90-275. Landscaping.

- (a) *Purpose and intent of section.* The purpose and intent of this section is to establish regulations for better control of flooding problems, soil erosion, air and noise pollution, and to make the city a healthier, safer and more aesthetically pleasing place in which to live.
- (b) *Landscaping defined.* For the purposes of this section, the term "landscaping" shall be defined as any live plant material such as trees, shrubs, ground cover and grass used in spaces void of any impervious material or building structure, areas left in their natural state or areas where mulch is used as a ground cover.
- (c) *Plan required; minimum specifications.* A landscaping plan on all commercial office and

institutional, industrial, multifamily, mobile home district and nonresidential uses in a residential district shall be required according to the following minimum specifications:

- (1) Landscaping plans shall be drawn by a person who has knowledge and experience in the field of landscaping such as landscape architects, nurserymen, horticulturists or any other persons that can justify the use and design of plant material for a particular site plan, and shall be drawn at a scale no greater than one inch equals 50 feet.
- (2) Areas left in their natural state or areas utilizing mulch as ground cover around plantings or ornamental displays may be credited toward satisfying the requirements of this section.
- (3) Where a natural buffer is required by ordinance or is provided by the developer, that buffer may be used in satisfying the requirements of this section.
- (4) All areas that call for grass planting on a landscaping plan shall be planted in accordance with generally accepted practices.
- (5) Landscape plantings in the city street rights-of-way may be used when satisfying the landscaping requirements of this section, provided that such plantings and their placement have been approved by the city.
- (6) The owners and their agents shall be responsible for protecting and maintaining all landscaping in a healthy, growing condition; replacing it, when necessary; and keeping it free of refuse and debris, in accordance with the landscaping plan approved by the board of aldermen.

(Code 1986, app. B, § 7.10)

Secs. 90-276--90-315. Reserved.

ARTICLE IV. ZONING BOARD OF ADJUSTMENT*

***Cross references:** Administration, ch. 2.

Sec. 90-316. Created; members.

There is hereby created a zoning board of adjustment consisting of five members. Members of the board of adjustment shall be appointed by the board of aldermen.

(Code 1986, app. B, § 8.1(1))

Sec. 90-317. Meetings.

- (a) The board of adjustment shall elect one of the members of the board of adjustment as chairperson and shall appoint a secretary and such other subordinates as may be authorized. The board of adjustment shall draw up and adopt the rules of procedures under which it will operate. Meetings of the board of adjustment shall be held at such

times as the board of adjustment may determine. The chairperson or his designee may administer oaths and compel the attendance of witnesses.

- (b) All meetings of the board of adjustment shall be open to the public. adjustment shall keep minutes of its proceedings, showing the vote of upon every question or his absence or failure to vote, indicating such fact, records of its examination and any other official action. The board of each member and also keep

(Code 1986, app. B, § 8.2)

Sec. 90-318. Powers and duties.

The zoning board of adjustment shall have the following powers and duties:

- (1) *Administrative review.* To hear and decide special uses, variances and appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative officials in the carrying out or enforcement of any provision of this article. A concurring vote of four members shall be necessary to approve a special use, variance or to reverse, wholly or partly, any order, requirement, decision, permit, determination or refusal pertaining to property.
- (2) *Special uses.* To hear and decide, in particular cases, and subject to appropriate conditions and safeguards, permits for special uses as authorized by the district regulations in this chapter.
- (3) *Variances.* To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. A variance from the terms of this chapter shall not be granted by the board unless and until the following findings are made:
 - a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same district.
 - b. The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - c. The special conditions and circumstances do not result from the actions of the applicant.
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures or buildings in the same district.

(Code 1986, app. B, § 8.3)

Sec. 90-319. Filing and notice.

- (a) *Filing of appeal; effects.* Appeals from the enforcement and interpretation of this chapter

and requests for special uses or variances shall be filed with the city clerk, specifying the grounds thereof. The building inspector or his designee shall transmit to the board of adjustment all applications and records pertaining to such appeals, variances or special uses. An appeal stays all proceedings in furtherance of the action appealed from, unless the building inspector or his designee certifies to the board of adjustment that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and due cause shown.

- (b) *Notice and hearing.* No decision shall be reached by the board of adjustment on an application until after public notice and hearing.
- (1) *Special uses.* Notice requirements for special uses are as follows:
- a. *Publication.* Notice of all hearings to consider special uses shall be given not less than five days prior to the date fixed for such hearing in a local newspaper.
 - b. *Posting.* Notice of all hearings to consider special uses shall be made by posting the subject property to indicate the time and place of hearing. Such posting shall occur not less than seven days prior to the date fixed for such hearing.
 - c. *Written notice.* At least seven days prior to the date of the hearing, the city shall provide all owners of property located within 100 feet of the subject property written notice of the hearing by registered or certified mail. For this purpose, property owners shall be determined by use of the county or city tax records, and the seven-day period shall begin on the date of mailing.
- (2) *Variance.* The notice requirements of all hearings to consider variances shall be by written notice with the same provisions as provided for special uses in subsection (a) of this section.
- (3) *All other matters.* For all other matters heard by the board of adjustment, such as appeals for interpretations, there are no notice requirements.
- (c) *Fees for appeals or variances.* A fee of \$100.00 shall be paid to the city for each application for a variance, special use or appeal to cover the necessary administrative costs and advertising; provided, however, that no fee shall be due upon an application for a variance to the minimum side yard setback lines in R-1 or R-2 districts upon lots which were platted and subdivided on October 31, 1985; and provided further that only one such application per lot may be submitted without the tender of the administrative fee of \$100.00.

(d) *Appeals.* Appeal from the decision of the zoning board of adjustment shall be by petition for certiorari to the county circuit court.

(Code 1986, app. B, § 8.4)

OFFICIAL
ZONING DISTRICT MAP

Maps--ms 2412--2415

Maps--ms 2412--2415

Maps--ms 2412--2415