CODE OF ORDINANCES
City of Kingsport, Tennessee

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(Updated: 4/23/2014)

Chapter 114 – Zoning

Article I. – In General

Sec. 114-1. - 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:

Accessory structure means a detached structure, the use of which is incidental and subordinate to that of the principal structure on the same lot, which is constructed after the principal structure. See also *Use.*

Adult bookstore means an establishment having, as more than 50 percent of the face value of its stock in trade, books, magazines, motion pictures, periodicals and other materials which are distinguished or characterized by depicting, describing or relating to specified anatomical areas, as defined in this section.

Adult cabaret means any restaurant, bar, dancehall, nightclub or other such place which features dancers, strippers, male or female impersonators or similar entertainers for the entertainment of a predominantly adult clientele.

Adult motion picture theater means any public place, whether open or enclosed, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein.

Adult-oriented establishment means a business or facility that is sexually explicit and that caters exclusively or predominately to adult clientele, including but not limited to adult bookstores, adult theaters, adult motion picture theaters, cabarets or other enterprises which regularly features materials, acts or displays involving the display of the human form, wholly or partially clothed, static or animated.

Adult theater means a theater, concert hall, auditorium or similar establishment which, by any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas, as defined in this section, or by specified sexual activities.

Agriculture means the use of land for farming, dairying, pasturage, animal and poultry husbandry and other similar uses and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the principal agricultural activities.

Alley. See *Street.*

Animated sign means an electronic message board that uses physical movement or change of lighting to depict motion, with a slightly progressive change. The display of video shall be prohibited.

Automobile and truck repair, major, means the rebuilding or reconditioning of engines or transmissions, vehicles or trailers; repair and collision service, such as body, frame or fender straightening; painting; upholstering; auto glass work; and the like.

Automobile and truck repair, minor.

(1) The term "minor automobile and truck repair" means minor repairs including auto inspection lanes, engine tune-ups; adjusting lights and brakes; upholstering.

(2) The term "minor automobile and truck repair" does not include any operation specified under the definition of automobile and truck repair, major.

Automobile service station means a building or structure used for the retail sale and dispensing of fuel, lubrication, tires, batteries, accessories, supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication.

Boarding house means a building or part thereof, including a lodging house, with sleeping rooms available for hire with or without meals to five or more persons primarily not transients. Where cooking equipment or provisions for cooking are included in a sleeping room, such room shall be deemed a dwelling unit.

Brewery - A facility where malt liquors, regardless of alcohol content by volume, are produced in accordance with any manufacturing or wholesaling license required by Tennessee Code Annotated.

Brewpub - A type of eating or drinking establishment that includes as an accessory use the production of malt liquors, regardless of alcohol content by volume, for consumption on the premises; except that sales for off-premises consumption, if not prohibited by other local ordinance or state or federal law, shall be allowed in specialty containers holding no more than

one U.S. gallon (128 U.S. fluid ounces), commonly referred to as growlers. The area of the establishment devoted to the production of malt liquors shall not exceed (5,000) square feet.

Building means any structure used or intended for supporting or sheltering any use or occupancy. The term is further defined as follows:

Building, accessory. See *Use, accessory use and accessory structure.*

Building, principal, means a building in which the primary use of the lot, on which the building is located, is conducted.

Climate controlled indoor storage facility means a building or a group of buildings utilizing a common entrance with indoor access to individual climate controlled units used for the storage of personal property with no commercial transactions permitted other than the rental of the storage units.

Club, private, means a building and facilities for social, educational or recreational purpose, generally open to members, but not primarily for profit or to render a service which is customarily carried on as a business.

Commission means the municipal-regional planning commission, or simply the planning commission.

Communication facilities means a land-use facility supporting antennas and microwave dishes that sends or receives radio frequency signals. The term "communication facilities" includes the structure, towers and accessory buildings.

Community center means a building and facilities for a social, educational or recreational purpose generally open to the public but not primarily for profit or to render a service customarily carried on as a business.

Comprehensive plan or *community plan* means the official document or elements thereof adopted by the planning commission and intended to guide the development of the community or portions thereof.

Court means an open space, other than a yard, on the same lot with a building.

Court, outer, means a court which extends directly to and opens for its full width on a street or other permanent open space or on a required yard at least 20 feet wide or deep or on a

side yard at least 50 percent wider than the required side yard's least width, but not less than ten feet.

Craft brewery, winery and distillery - A type of brewery, winery or distillery wherein the area of the establishment devoted to the production of malts and liquors may not exceed (10,000) square feet in commercial zone districts or twenty thousand (20,000) square feet in industrial zone districts. The establishment may include a tasting room and may also include office, retail, eating and drinking establishment or event facility components in addition to the area devoted to the production of malts and liquors.

Distillery - A facility where distilled liquors are produced in accordance with any manufacturing or wholesaling license required by Tennessee Code Annotated.

Driveway means that space or area of a lot that is specifically designated and reserved for the movement of vehicles from the street to the required off-street parking and loading areas.

Dwelling means a building or portion thereof occupied for residence purposes, but not including travel trailers or motels, boarding houses, hospitals or other accommodations used more or less for transient occupancy. The term "dwelling" is further defined as follows:

Dwelling, multiple-family, means a building or portion thereof occupied by more than two families or more than two housekeeping units.

Dwelling, single-family, means a building occupied exclusively for residence purposes by one family or housekeeping unit.

Dwelling, two-family, means a building occupied exclusively by two families or two housekeeping units, commonly known as a duplex.

Dwelling unit means one room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy by a family as owner, by rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same building, and containing independent cooking and sleeping facilities.

Electronic message board means a sign that uses electronic technology to display information.

Family means a person living alone or two or more persons customarily living together as a single housekeeping unit and using common cooking facilities, but not including a group

occupying a hotel, club, boarding house, lodging house, fraternity or sorority house, institution for human care or other similar building.

Flood-hazard-related definitions. See section 114-251.

Floor area.

(1) The term "floor area" means the sum of the gross areas of the several floors of a building, measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings. In particular, the term "floor area" includes basement space; elevator shafts or stairwells at each floor; penthouses; attic space, whether or not a floor has been laid, providing structural headroom of eight feet or more; interior balconies; mezzanines; hallways; lobbies; floor space in accessory buildings, except for floor space used for off-street parking; and any other floor space not specifically excluded.

(2) The term "floor area" does not include cellar space, where the cellar ceiling is less than four feet above grade, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths; elevator or stair bulkheads; accessory water tanks or cooling towers; outside steps that are uncovered; attic space, whether or not a floor actually has been laid, providing structural headroom of less than eight feet; floor space used for mechanical equipment; floor area used exclusively as parking space for motor vehicles.

Floor area, parking, means the floor area of a structure, less storage and warehouse areas used principally for nonpublic purposes of the structure.

Floor area ratio means the floor area of a building on a lot, divided by the ground area of the lot on which it is located.

Garage, community, means a structure only for the storage of vehicles or trailers of residents of the neighborhood.

Garage, private, means a space or structure, including a carport, on the same lot with or in the building to which it is accessory, primarily for storage only of automobiles of the residents of the premises.

Grade means a reference plan representing the average of the finished ground level adjoining a building at all exterior walls.

Group residential project means a building or group of buildings used for the purpose of providing a family-like atmosphere for mentally retarded, mentally handicapped, physically handicapped or socially disadvantaged persons, which may include two persons, not residents, acting as house parents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped, physically handicapped or socially disadvantaged persons residing in the home. The term "group residential project" is further defined as follows:

Large group residential projects means group residential projects which house eight to 15 residents.

Small group residential projects means group residential projects which house no more than eight residents.

Height means the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge of gable, hip and gambrel roofs, with all measurements made from the curb level, if the building is within ten feet of the property line, or from the grade in all other cases.

Height-to-yard ratio means the height of a building as related to the minimum rear yard and each side yard permitted as used in some zoning districts (i.e., for 2:1 ratio, a 40-foot building must have a minimum of 20 feet for the rear yard and each side yard).

Highway identification signs means those signs that are for the purpose of directing interstate traffic to establishments which conduct business on a premises.

Home occupation means professional offices, studios or customary incidental home occupations conducted within the principal building, but only by a person resident in the dwelling, provided that:

(1) Not more than one person, not a resident of the premises, is employed;

(2) Not more than 25 percent of the total floor area in any dwelling unit is devoted to such use; and

(3) The use does not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation, parking, noise or other disturbing characteristics.

Hotel, motel means a building or group of buildings containing individual sleeping or living units designed for the temporary occupancy of transient guests and including hotels, tourist courts, motor lodges, motor hotels or auto courts, but not including boarding houses or lodging houses.

Institution for human care means a building or group of buildings providing health, medical or rehabilitation services to individuals such as hospitals, convalescent homes, nursing homes, rest homes, orphanages, rehabilitation centers.

Interstate highway means a divided highway with fully controlled access (owners of abutting property have no legal right of access except by the public authority) by the public authority giving preference to through traffic.

Junkyard means a place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, handled, including auto wrecking yards, used lumberyards and places or yards for use of salvaged house wrecking structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and excluding pawnshops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

Lot means a parcel of land of at least sufficient size to meet the minimum zone requirements for use, coverage and area and to provide such yards and open spaces as required under this chapter and includes the term "plot" or "parcel." The term "lot" is further defined as follows:

Lot area means the computed ground area inside the lot lines, excluding any public right-of-way or public water body.

Lot, corner, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street and where, in either case, the interior angle formed by intersection of the street lines does not exceed 135 degrees.

Lot or ground coverage means the computed ground area occupied by all buildings within a lot.

Lot depth refers to the mean horizontal distance between the front and rear lot lines.

Lot frontage means the distance between the side lot lines measured along the front building line of the lot, as determined by the prescribed front yard requirement.

Lot line, front, means, for a lot line abutting upon only one street, the line separating such lot from such street. For any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line as the front lot line, provided

that such choice, in the opinion of the building official, will not be injurious to the existing or to the desirable future development of adjacent properties.

Lot line, rear, means ordinarily, that lot line which is opposite and most distant from the front lot line. For an irregular, triangular or gore-shaped lot, a line ten feet in length entirely within the lot, parallel to and most distant from the front lot line, shall, for the purpose of this chapter, be considered the rear lot line. In other cases not covered in this definition, the building official shall designate the rear lot line.

Lot line, side, means any lot line other than a front or rear lot line.

Lot line, street or alley, means a lot line separating the lot from a street or alley.

Lot lines means the property lines bounding the lot.

Lot width means the mean horizontal distance across the lot measured at right angles to the depth.

Manufactured home means a structure having the same general appearance as required for site-built homes and transportable in two or more sections which in the traveling mode is eight body feet or more in width or 40 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "manufactured home" includes any structure which meets all the requirements, except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under T.C.A. § 68-126-202(4), (6) and (7).

Medical clinic means a facility properly licensed in the state for examining and treating patients with medical problems on an outpatient basis. A medical clinic is not a methadone treatment clinic or facility or substance abuse treatment facility as may be defined or used in this Code.

Methadone treatment clinic or facility means a facility properly licensed in the state for counseling of patients and the distribution of methadone for outpatient, nonresidential purposes only. Such facility is not included in the meaning of a medical clinic, substance abuse treatment facility, or institution for human care as may be defined or used in this Code.

Mobile home means any vehicle or similar portable structure having been constructed with wheels, whether or not such wheels have been removed, or without wheels but designed to be moved on the highway when attached to a suitable wheeled undercarriage and not meeting the requirements to be classified as a manufactured home.

Monopole means a freestanding sign which is supported by one pole.

Motel. See *Hotel.*

Nit means a unit of measurement of luminous intensity or brightness of electronic message boards as determined by the PR-650 SpectraScan Colorimeter.

Occupied includes the term "arranged, designed or intended to be occupied."

Open space means the outdoor area of a lot or tract which is designed and used for outdoor living, recreation, pedestrian access or landscaping and the following:

(1) *Open space, common,* means an open space located within an area designated as a planned development district and intended for the use and enjoyment of residents and owners of the development. Common open spaces may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of the residents and owners of the development.

(2) *Open space, private,* means that property immediately contiguous to a dwelling unit which in a traditional development would be denoted as the front, side or rear yard.

(3) *Open space, public,* means an open space conveyed or otherwise dedicated to a municipality or a state, county or public body for recreational or conservational uses.

See also *Usable open space.*

Parking area or structure means an off-street area or structure for required parking or loading spaces including driveways, accessways, aisles, parking and maneuvering space, but excluding a required front yard or public right-of-way. The term "parking lot or structure" also means a street area or structure, other than the parking or loading spaces or areas required or permitted under this chapter, for the parking of automobiles, and available to the public customarily for a fee.

Personal services or *personal service establishments* means commercial businesses providing services to individuals such as beauty shops and barbershops, shoe repair, dressmaking and tailoring.

Primary point of intersection means the point at which the centerline of the median on the interstate facility intersects with the centerline of the cross road. When the cross road has more than two lanes, the centerline of the median, bridge, or the exact center of the roadway surface crossing the interstate main line will be used.

Restaurant means an eating establishment where food is served and consumed within the building or off the premises.

Restaurant, drive-in, means an eating establishment where food is generally served by employees or by self-service on the premises outside the building and generally consumed on the premises outside the building or off the premises.

Roadside stand means a temporary structure designed or used for the display and sale of agricultural or other products grown or produced on the premises upon which such a stand is located.

Scrolling means a type of animated sign that uses change of lighting to create the appearance of words, numbers, or objects moving across the face of the sign horizontally, vertically, or diagonally.

Sexual encounter establishment.

(1) The term "sexual encounter establishment" means an establishment, other than a hotel, motel or similar establishment, offering public accommodations which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with specified sexual activities or the exposure of specified anatomical areas.

(2) The term "sexual encounter establishment" does not include an establishment for a medical practitioner, psychologist, psychiatrist or similar professional person engaging in sexual therapy and licensed by the state.

Shopping center, planned, means a retail business development, planned as a unit, and characterized by groups of retail uses having the common use of specifically designated off-street areas for access, parking and service, whether in a B-4P district or other zone.

Sign means any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, in view of the general public, and which directs attention to a product, place, activity, person, institution or business. The term "sign" is further defined as follows:

Sign area means the area of the sign contained within the smallest square, rectangle, circle, or combination thereof which will encompass the entire sign inclusive of all border, trim, ornamental base, apron supports, structural members and sign surface area.

Sign, complex, means a freestanding sign for a commercial development containing one or more businesses on the same parcel, sharing common access, parking, or other amenities.

Sign, directional, means any noncommercial sign of an instructional nature, bearing no business advertising and displayed for the convenience of the public.

Sign, fascia, means a wall sign.

Sign, flashing.

(1) The term "flashing sign" means a sign, the illumination of which is not kept constant in intensity at all times when in use.

(2) The term "flashing sign" does not mean illuminated signs that indicate time, temperature, weather or other similar public service information.

Sign, identification, means a sign which indicates only the name and address of the building or management and which has no direct advertising value.

Sign, illuminated, means a sign designed to emit artificial light.

Sign, indirectly illuminated, means any sign designed to reflect artificial light from any source.

Sign, mobile, means a sign which is affixed to a frame having wheels or capable of being carried, or otherwise portable, and designed to stand free from a building or other structure. A sign designed to be affixed to the surface of real estate shall be deemed a freestanding sign and not a mobile sign, but the mere removal of wheels or the temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition.

Sign, monument, means a permanent, freestanding sign mounted on a base or other supports and where the bottom of the sign face is located within three feet of ground level.

Sign, mural, means any mosaic, painting, photograph, graphic art technique, or combination thereof placed on the wall and containing no copy, advertising symbols, lettering, trademarks or other references to the premises or to the products and/or service offered for sale on the premises.

Sign, non-illuminated, means any sign which is not artificially lighted, either directly or indirectly.

Sign, off-premises means a sign which directs attention to a business, product, service or activity generally conducted, sold or offered elsewhere than on the premises where such sign is located.

Sign, on-premises, means a sign which directs attention to a business, profession, product, activity or entertainment sold or offered upon the premises where such sign is located.

Sign, projecting, means a sign which is attached directly to a canopy, marquee or wall of a building or other structure and which extends horizontally outward from such canopy, marquee or wall more than 12 inches.

Sign surface area.

(1) The term "sign surface area" means the entire aggregate area of the actual sign surface.

(2) The term "sign surface area" does not include any structural elements outside the limits of such sign and not forming an integral part of the display.

Sign, temporary, means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.

Sign, tract, means a temporary sign advertising the original sale of property in a subdivision.

Sign, wall, means any sign, including a fascia sign, which is attached parallel to the face of the wall of a building or other structure.

Solid underpinning/screening means solid material, such as brick, which shall be used to screen the foundation system of all residential dwellings, to prevent the creation of a habitat for

vermin, to provide covering for utilities, to prevent freezing of water and sewer lines and to aid in the anchorage and stabilization of homes.

Specified anatomical areas means any of the following:

(1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus or female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even when completely and opaquely covered.

Specified sexual activities includes, but is not limited to, the following:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts of human masturbation, sexual intercourse or sodomy.

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

(4) Flagellation or torture in the context of sexual relationship.

(5) Masochism, sadism, erotic or sexual oriented torture, beating or infliction of pain.

(6) Erotic touching, fondling or other contact with an animal by a human being.

(7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in subsections (1) through (6) of this definition.

Story means that portion of a building, other than a cellar or mezzanine, including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between the floor and ceiling next above it.

Street means any vehicular way, which is a general term used to describe a right-of-way, that provides a channel for vehicular and pedestrian movement between certain points in the community that may provide for vehicular and pedestrian access to properties adjacent to it, and that may also provide space for the location of underground or aboveground utilities. Streets are classified by function as follows:

(1) *Freeways.* The first rank in the classification of streets, and which are used only for movement of vehicles, providing for vehicular or pedestrian access to adjoining properties; interchange of traffic between a freeway and any other streets is accomplished by grade separated interchanges with merging deceleration and acceleration lanes, and no at-grade intersections are permitted. (Interstate highways are an example.) Freeways generally carry higher volumes, require greater right-of-way width and permit higher speed limits than any other class of street and should be depressed in

urban or urbanizing areas. Arterials are the only class of street which generally should be connected with expressways at interchange points.

(2) *Arterials.* The second rank in the classification, and should be used only for the movement of vehicles and preferably should not provide for vehicular access to adjacent properties. Interruption of traffic flow should contain medians, deceleration lanes, and left-turn storage lanes. Arterials are the link between freeways and collectors and rank next to freeways in traffic volumes, speed limits and rights-of-way widths.

(3) *Collectors.* The third rank in the classification of streets, and are used more for movement of vehicles than for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiently on the collector street. Intersections should contain medians, deceleration lanes and left-turn storage lanes. Collectors are the link between arterials and local streets and generally rank next to arterials in traffic volumes, speed limits and rights-of-way widths.

(4) *Locals.* The fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices, stores, work, etc.) and collector streets. Locals have the least right-of-way, the lowest speed limit and the least amount of vehicular traffic. Local streets can be subdivided further into the following six subclasses:

a. *Continuing streets.* Continuing streets are local streets having two open ends, with each end generally connecting with different streets, one or more other streets may intersect it between its two open ends and property fronts on both sides of the streets.

b. *Marginal access streets.* Marginal access streets are local streets or service roads generally having two or more open ends which are sometimes referred to as access points, other streets may intersect between the ends and property fronts on only one side of the streets, the other street side is parallel and adjacent to a higher classification street such as a collector or arterial.

c. *Loop streets.* Loop streets have two open ends, with each end generally connecting with the same street; other streets generally intersect between its two ends and property fronts on both sides of the street.

d. *Cul-de-sac streets.* Cul-de-sac streets are local streets having only one open end providing access to another street, the closed end provides a turnaround circle for vehicles, no other street generally intersects between the two ends and property fronts on both sides of the streets.

e. *Dead-end streets.* Dead-end streets are similar to cul-de-sacs except that they provide no turnaround circle at their closed end and are not permitted as streets in any proposed subdivision.

f. *Alleys.* Alleys generally have two open ends, with each end connecting with different streets, and property generally backs onto both sides of the alley. Special permission from the planning commission is required whenever alleys are used for development.

Structure means anything built or constructed, the use of which may require permanent location on the ground or attachment to something having permanent location on the ground and includes the term "building."

Substance abuse treatment facility means a facility properly licensed in the state with the purpose of providing outpatient treatment, counseling, or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances. Such facility is not included in the meaning of a medical clinic or methadone treatment clinic or facility, or institution for human care as may be defined or used in this Code.

Tasting room - A facility, or portion of a facility, accessory to a brewery, winery or distillery at which guests may sample the manufacturer's products and consume other nonalcoholic beverages.

Townhouse means a single-family dwelling, attached or detached, with each dwelling designed and erected as a unit on a separate lot and separated from one another by a yard or common wall.

Trailer means any portable structure having no foundation, other than wheels, jacks or skirtings, or a vehicle so designed or constructed as to permit:

(1) Temporary occupancy for dwelling or sleeping purposes;

(2) The conduct of any business, trade, occupation, profession or use as a selling or advertising device; or

(3) The transportation of personal property and including automobile trailers, campers and tourist trailers, but not including a mobile home.

Usable open space means the outdoor area of a lot or tract which is designed and used for outdoor living, recreation, pedestrian access or landscaping. Such areas may be:

(1) Ground or roof space 75 percent open to the sky;

(2) Balconies a minimum of five feet wide;

(3) An enclosed deck, porch; or

(4) Ground floor portions of a building constructed on columns.

Off-street parking and loading areas, driveways, unenclosed fire escapes or required front and street side yard areas do not qualify as usable open space; provided, however, that those portions of the required street side yard not located between the building and the adjacent property line may qualify as usable open space; provided that such open space is separated from the street right-of-way by an open fence or solid screen planting.

Use means any purpose for which a structure or tract of land may be designed, arranged, intended, maintained or occupied; also, includes any activity, occupation, business or operation carried on or intended to be carried on in or on a structure or on a tract of land. The term "use" is further defined as follows:

Use, accessory, means a use or structure subordinate to the principal use or structure on a lot and clearly and customarily incidental thereto.

Use, principal, means the main use of land or a structure, as distinguished from a secondary, or accessory, use.

Used includes the phrase "arranged, designed or intended to be used."

Variance means a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter, where specified enforcement would result in unnecessary hardship.

Video means the display or transmission of moving pictures (not animated) such as television images or video recordings.

Winery - A facility where vinous liquors are produced in accordance with any manufacturing or wholesaling license required by Tennessee Code Annotated.

Yard means any open space on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such open space by this chapter. The term "yard" is further defined as follows:

Yard, front, means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified in the definition of yard. The least depth of a front yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts excepted, and the front lot line.

Yard, rear, means an open space extending the full width of a lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified in the definition of yard. The least depth of a rear yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts excepted, and the rear lot line.

Yard, side, means an open space extending from the front yard to the rear yard between a building and a side lot line, unoccupied and unobstructed from the ground upward, except as specified in the base definition of yard. The least width of a side yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts excepted, and the nearest side lot line, except that where the sidewall of a building is not parallel with the sideline, the least width is the average distances.

(Code 1981, app. A, art. I, § 9; Code 1998, § 114-1; Ord. No. 4018, § I, 3-21-1995; Ord. No. 4083, § I, 7-18-1995; Ord. No. 4276, § I(art. I), 9-3-1996; Ord. No. 4456, § 1, 11-18-1997; Ord. No. 4497, § 1, 4-7-1998; Ord. No. 4517, § 1, 5-5-1998; Ord. No. 4518, § 1, 5-5-1998; Ord. No. 5613, § I, 11-6-2007; Ord. No. 5616, § I, 11-6-2007; Ord. No. 6001, § I, 9-7-2010; Ord. No. 6187, § I, 3-20-2012; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-2. - Zoning map adopted by reference.

The map referred to in this chapter, which is identified by the title "Zoning Map of Kingsport, Tennessee," dated June 16, 1981, as amended, and all explanatory matter thereon is adopted by reference and made a part of this chapter.

(Code 1981, app. A, art. I, § 1; Code 1998, § 114-2)

Sec. 114-3. - Purpose and authority.

(a) The purpose of this chapter is to:

(1) Promote the public health, safety, morals and general welfare of the city.

(2) Facilitate orderly and harmonious development in the visual or historic character of the community.

(3) Regulate the density of population and intensity of land use in order to provide for adequate light and air.

(4) Provide for vehicle parking and loading space.

(5) Improve the appearance of vehicular use areas and property abutting public rights-of-way.

(6) Require buffering between incompatible land uses.

(7) Protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods.

(8) Promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature and artificial light glare.

(9) Facilitate fire and police protection.

(10) Prevent the overcrowding of land, blight, danger and congestion in the circulation of people and commodities.

(11) Prevent the loss of life, health or property from fire, flood or other dangers.

(12) Protect airports, highways and other transportation facilities, public facilities, including schools and public grounds, historic districts, central business districts, natural resources and other specific areas of the city which need special protection.

(b) This chapter is adopted in accordance with and authority has been conferred by the state legislature in T.C.A. §§ 13-7-201—13-7-210.

(Code 1981, app. A, art. I, § 2; Code 1998, § 114-3; Ord. No. 4318, § I, 12-17-1996)

Sec. 114-4. - Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of health, safety, morals, comfort, prosperity and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance or resolution (except the prior zoning ordinance which this chapter has replaced) or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed or recorded plat; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or where this chapter requires greater lot areas, larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or by permits or by such private restrictions, the provisions of this chapter shall control.

(Code 1981, app. A, art. I, § 3; Code 1998, § 114-4)

Sec. 114-5. - Conflict with other ordinances.

Whenever this chapter or the development plans or subdivision plats approved in conformance within this chapter are in conflict with other local ordinances, regulations or laws, the more restrictive ordinance, regulations or law shall govern and shall be enforced by appropriate

local agencies. When subdivision and development plans, approved by the planning commission, contain setback or other features in excess of the minimum requirements of this chapter, such features as shown on the approved plan shall govern and shall be enforced by the building official. Private covenants do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the building official.

(Code 1981, app. A, art. I, § 4; Code 1998, § 114-5)

Sec. 114-6. - Zoning map atlas.

(a) *Adopted; composition.* The city is divided into zones and districts as provided in this chapter and as shown on the zoning map atlas. The zoning map atlas, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this chapter. The zoning map atlas is composed of a series of map sheets, each of which represents a different geographical area of the city. Each map sheet shall be identified as part of the zoning map atlas, shall be the official record of zoning status of all land in the city, shall be kept on file in the office of the planning commission and shall be known in this chapter as "the zoning map" or "zoning map atlas."

(b) *Posting map amendments.* Zoning map amendments, after official passage by the city, shall be promptly posted on the appropriate map sheets along with a numerical designation referring to the planning commission record of the amendment proceeding.

(c) *Interpreting zoning district boundaries.* Where uncertainty exists as to the boundaries of zoning districts, the following shall apply:

(1) *Streets.* Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(2) *Lot lines.* Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

(3) *City limits.* Boundaries indicated as approximately following the city limits shall be construed as following such city limits.

(4) *Railroads.* Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) *Shorelines, streams.* Boundaries indicated as following shorelines shall be construed to follow such shorelines and, if the shorelines are changed, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(6) *Extensions.* Boundaries indicated as parallel to or extensions of features indicated in the subsections (c)(1) through (5) of this section shall be so construed.

Distances not specifically indicated on the zoning map atlas shall be determined by the scale of the map.

(7) *Lot division.* Where a zone or district boundary line divides a lot which was in single ownership on June 16, 1981, the board of zoning appeals may permit, as a conditional use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the zone or district line into the remaining portion of the lot.

(8) *Determination by board of zoning appeals.* Where the rules in this subsection (c) do not indicate the exact location of the zone or district boundaries, the boundaries shall be determined by appeal before the board of zoning appeals.

(d) *Annexation.* All territory which may be annexed by the city shall be shown on the appropriate zoning map atlas sheet as an agriculture zoning district, unless already zoned in another manner by the city prior to annexation. Any further change shall follow the required procedure for any zoning ordinance map amendment.

(Code 1981, app. A, art. I, § 6; Code 1998, § 114-6)

Sec. 114-7. - Amendment procedure; fees.

Any amendment to this chapter shall be in conformance with the following:

(1) *Procedure.* Such regulations, restrictions and boundaries as are provided for in this chapter may be amended, supplemented, changed, modified or repealed. All changes and amendments shall be effective only after official notice and public hearings. An application for an amendment to this chapter that has been denied shall not be reinstituted sooner than 12 months from the date of the denial, unless substantial changes in conditions or circumstances have occurred in the opinion of the planning commission.

(2) *Approval of planning commission.* No amendment shall become effective unless it is first submitted to and approved by the planning commission or, if disapproved, unless it shall receive a majority vote of the entire membership of the board of mayor and aldermen. Prior to planning commission action on any proposed zoning map revision or amendment, the planning commission may give public notice of such proposed revision or amendment by erecting an appropriate sign on the property that would be affected by the proposed change, and it may send a notice of the time and place for a public discussion of the proposed change to owners fronting or abutting the property in question.

(3) *Applications and fees.* Applications for amendments to this chapter shall be filed in the offices of the planning department and shall contain information and shall follow the procedures established by the planning commission. The commission also may establish

a schedule of fee payments for such amendments and may require such fees to accompany the filing of an application in order to defray administrative costs of application processing.

(Code 1981, app. A, art. I, § 7; Code 1998, § 114-7)

State law reference— *Amendment of municipal zoning ordinances, T.C.A. § 13-7-105.*

Sec. 114-8. - Nonconforming uses.

Under this chapter, nonconforming uses shall be governed by the following:

(1) *Conditions for continuation.* Any building or use existing on June 16, 1981, or whenever a district is changed by an amendment may be continued, subject to subsections (3) and (4) of this section, even though such building or use does not conform to this chapter.

(2) *Extension of uses.* No building or land containing a nonconforming use shall be extended unless such extension shall conform with the sections of this chapter for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to June 16, 1981.

(3) *Damage or deterioration.* Any nonconforming structure damaged by fire, flood, wind or other act of God or man, including dilapidation, to the extent of more than 50 percent of the assessed value, as established from time to time by the appropriate county property assessor, shall not be reconstructed. However, any structure suffering such degree of damage or dilapidation may be reconstructed and the nonconforming use permitted to continue if the reconstruction is completed within 12 months of the date of such damage or finding of dilapidation. All reconstruction authorized by this subsection shall be accomplished in conformity with the applicable provisions of the building code, as set forth in chapter 22, and the applicable sections of this chapter in force immediately preceding the date of the zoning change by which the structure or its use became nonconforming.

(4) *Discontinuance.* When a nonconforming use of any building or land has ceased for a period of one year, it shall not be reestablished or changed to any use not in conformity with this chapter without the written approval of the board of zoning appeals.

(Code 1981, app. A, art. I, § 8; Code 1998, § 114-8)

Secs. 114-9—114-34. - Reserved.

Article II. – Administration and Enforcement

Division 1. - Generally

Sec. 114-35. - Authority and duties of building official.

(a) The building official shall administer and enforce this chapter, except as otherwise provided in this chapter.

(b) The building official shall promptly investigate complaints of violations and shall report his findings and actions to complainants. He shall use his best efforts to prevent violations and to detect and secure the correction of violations. If he shall find any section of this chapter is being violated, he shall in writing notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall:

(1) Order discontinuance of the illegal use of land, buildings or structures;

(2) Order removal of illegal buildings or structures or of illegal additions, alterations or structural changes;

(3) Order discontinuance of any illegal work being done; and

(4) Take or cause to be taken any other action authorized by this chapter to ensure compliance with and the prevention of violations of this chapter.

(c) The building official shall make a record of all official actions of his office relating to the administration and enforcement of this chapter, including but not limited to written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto and the final disposition of all such matters.

(Code 1981, app. A, art. II, § 1; Code 1998, § 114-36)

Sec. 114-36. - Building permit.

(a) *Required.* Under this chapter, it shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building official has issued for such work a building permit.

(b) *Issuance.* In applying for a permit, the applicant shall submit a dimensioned sketch or scale plan, as required by the building official, indicating the shape, size and location of the lot to be built upon and the shape, size, height and location of all buildings to be erected, altered or moved and of any building already on the lot. The applicant shall also state the existing and intended use of all such buildings and shall supply such other information as may be required by the building official for determining whether the requirements of this chapter are being observed. If the proposed excavation or construction as set forth in the application are in conformity with this chapter and other city ordinances in force, the building official shall issue a building permit for

such excavation or construction. If a building permit is refused, the building official shall state such refusal in writing, with the cause.

(Code 1981, app. A, art. II, § 1(A), (B); Code 1998, § 114-37)

Sec. 114-37. - Certificate of occupancy.

Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted pursuant to section 114-36, application shall be made to the building official for a certificate of occupancy. Within three days of such application, the building official shall make a final inspection of the property in question and shall issue a certificate of occupancy if the building or structure is found to conform to this chapter and the statements made in the application for the building permit. If such a certificate is refused, the building official shall state such refusal in writing, with the cause. No building erected or altered in its use shall be used until such a certificate of occupancy has been granted.

(Code 1981, app. A, art. II, § 1(C); Code 1998, § 114-38)

Sec. 114-38. - Remedies.

If any building or structure is erected, constructed, reconstructed, repaired, converted or maintained or if any building, structure or land is used in violation of this chapter, the building official or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent the occupancy of such building, structure or land.

(Code 1981, app. A, art. II, § 2, art. XVII, § 1; Code 1998, § 114-39; Ord. No. 4099, § VIII, 8-1-1995)

Secs. 114-39—114-64. - Reserved.

Division 2. – Board of Zoning Appeals

Sec. 114-65. - Established; appointment; terms; vacancies.

A board of zoning appeals is established, to consist of five members, who may be members of the planning commission. The members shall be appointed by the mayor and

confirmed by a majority vote of the board of mayor and aldermen. The terms of membership shall be five years. Vacancies shall be filled for any unexpired term by appointment by the mayor and confirmation by the board of mayor and aldermen.

(Code 1981, app. A, art. II, § 3(A); Code 1998, § 114-66)

State law reference— *Similar provision, T.C.A. § 13-7-106 et seq.*

Sec. 114-66. - Meetings; rules of procedure.

Meetings of the board of zoning appeals shall be held at the call of the chairperson and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall adopt rules and procedures and shall keep records of applications and actions thereon, which shall be public records.

(Code 1981, app. A, art. II, § 3(B); Code 1998, § 114-67)

Sec. 114-67. - Powers.

(a) *Generally.* The board of zoning appeals shall have the following powers:

(1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the building official or other administrative official in carrying out or enforcing any section of this chapter and for interpretation of the zoning map and text.

(2) *Conditional uses or special exceptions.* To hear and decide applications for conditional uses or special exceptions as specified in this chapter and for decisions on any special questions upon which the board of zoning appeals is specially authorized to pass by this chapter.

(3) *Variances.* Except as provided herein to hear and decide applications for variance from the terms of this chapter, because of exceptional narrowness, shallowness or shape of a specific piece of property which on June 16, 1981, was a lot of record or where, because of exceptional topographic conditions or other extraordinary or exceptional situation or condition of a piece of property, the strict application of this chapter would result in peculiar and exceptional practical difficulties to exception or undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the

proposed building, structure or use as it may deem advisable in furtherance of the purposes of this chapter. Before any variance is granted, the board must find all of the following, which shall be recorded, along with any imposed conditions or restrictions, in minutes and records and issued in written form to the applicant to constitute proof of the variance:

a. The specific conditions in detail which are unique to the applicant's land.

b. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.

c. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter.

d. Reasons that the variance will preserve, not harm, the public safety and welfare and will not alter the essential character of the neighborhood.

(b) *Granting procedure for variances.* Further, a variance may be granted only if the board finds that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and this chapter. Variances shall not be granted:

(1) Permitting an increase in floor area or density above the maximum permitted by the zoning district;

(2) Allowing a use other than those specifically authorized by this chapter in the applicable zoning district; or

(3) From the denial of a zoning permit when such denial is due to the fact that such lot has no frontage on a public street unless such lot was a lot of record on June 16, 1981.

(Code 1981, app. A, art. II, § 3(D); Code 1998, § 114-68; Ord. No. 5868, §§ I, II, 8-4-2009)

State law reference— *Similar provision, T.C.A. § 13-7-207 et seq.*

Sec. 114-68. - Appeals to board.

(a) An appeal to the board of zoning appeals may be taken by any person aggrieved or by any governmental officer, department, board or bureau affected by any decision of the building official based in whole or in part upon this chapter. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building official shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, shall give public notice thereof, as well as due notice to the parties in interest, and shall decide the appeal within a reasonable time. At the hearing any person or party may appear in person or by agent or by attorney.

(b) A fee, to be set by resolution of the board of mayor and aldermen, shall accompany each appeal.

(Code 1981, app. A, art. II, § 3(C); Code 1998, § 114-69)

Sec. 114-69. - Limitation of authority.

The board of zoning appeals shall not possess the jurisdiction to grant a variance to permit a use of any land, building or structure which is not permitted by this chapter in the zone in question.

(Code 1981, app. A, art. II, § 3(E); Code 1998, § 114-70)

Sec. 114-70. - Applicability and transferability of variance.

For the purpose of this division, a variance applies to the property for which it is granted, and not the individual who applied for it. A variance runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

(Code 1981, app. A, art. II, § 3(F); Code 1998, § 114-71)

Sec. 114-71. - Appeals from board action.

(a) The aggrieved party, against whom the decision of the board of zoning appeals is made, may have a review of the decision of the board of zoning appeals by petition for a common law writ of certiorari, addressed to either the law court or chancery court in the county. Such petition shall be filed within 60 days from the date the decision of the board of zoning appeals is made and written notice thereof given the aggrieved party.

(b) Immediately upon the grant of the writ of certiorari and service thereof, the secretary of the board of zoning appeals shall cause to be made, certified and forwarded to such court a complete transcript of the proceedings in the cause by the board of zoning appeals.

(c) The action may be reviewed by either the law court or the chancery court in which the petition for certiorari is filed and shall be heard solely upon the transcript of the proceedings before the zoning appeal board, and neither party shall be entitled to introduce new evidence in such court.

(d) Any party dissatisfied with the decree of the court hearing the cause may, upon giving bond as required by law, take an appeal, as is made and provided by law, where the case shall be heard upon the transcript of the record from the court in which the cause is heard.

(Code 1981, app. A, art. II, § 3(G); Code 1998, § 114-72)

Secs. 114-72—114-100. - Reserved.

Division 3. – Zoning Development Plan

Sec. 114-101. - Intent.

This division sets forth the content and procedures for submission, review and approval of all development plans required in this chapter, unless other procedures or contents are specified elsewhere in this chapter. The intent of this division is to recognize that public necessity requires that the conversion of open land to developed land or the redevelopment of urban land be preceded by plans that can be reviewed for compliance with community needs. Such changes may be reviewed under the land subdivision regulations (on file in the clerk's office), other local laws or the provisions established in this division for zoning development plans.

(Code 1981, app. A, art. XII, § 1; Code 1998, § 114-101)

Sec. 114-102. - Building permit.

When this chapter or planning commission action, taken under this chapter, requires a development plan, no building permit shall be issued until such development plan is approved by the planning commission and its approval is certified to the building official. Such plan shall then limit and control the issuance of all building and occupancy permits, and restrict the construction, location and continuing use of all land, structures and other facilities, to the conditions as set forth in the plan.

(Code 1981, app. A, art. XII, § 2; Code 1998, § 114-102)

Sec. 114-103. - Required.

Under this chapter, development plans shall be required as described in the following:

(1) *Certain districts.* As required in this chapter, applications for a B-4P district, planned development (PD), planned village district (PVD), MX district, BC district, and other districts require approval of preliminary or final zoning development plans.

(2) *Multiple principal structures.* Other sections of this chapter require the submission of a development plan when more than one principal structure is proposed for

a lot. For such situations, the planning commission may require a preliminary and final development plan or may require only the final plan if conditions warrant.

(3) *Zoning map amendment.* The planning commission, at its discretion, may require the submission and approval of a preliminary or final zoning development plan for any zoning map amendment request where the commission finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the property that could have an adverse influence on existing or future development of the property or other property in this neighborhood.

(Code 1981, app. A, art. XII, § 3; Code 1998, § 114-103)

Sec. 114-104. - Contents of preliminary plan.

Unless otherwise designated by appropriate sections of this chapter, any preliminary zoning development plan shall contain the following information:

(1) *Community location.* A location map sufficient in size and content to quickly relate others to the property's location within the community.

(2) *Plot plan.* For the property, the following shall be shown as a plot plan:

a. *Property lines and adjacent uses.* The boundary of the property with dimensions and the approximate location of adjoining property and its use and zoning and the nearby location of streets, utilities and any other pertinent features or facilities required by the planning commission.

b. *On-site information.* The on-site information to be shown will include topography at five-foot contour intervals or less and the existing and proposed streets, drives, access points, parking and loading areas, walkways, other transportation features, all utilities and easements, screening, landscaping and building ground coverage areas. Elevation drawings of buildings or structures also may be required for sign control or other purposes.

(3) *Legends, notes, tables.* The plan also shall contain a legend and title box with ownership, zoning and other appropriate information; tabulations of pertinent data for land area, building area, parking area, number of units, density, etc.; and notes and certifications of various kinds, including if necessary references to soil erosion control plans or other requirements.

(Code 1981, app. A, art. XII, § 4; Code 1998, § 114-104)

Sec. 114-105. - Contents of final development plan.

Under this division, the final development plan shall contain information as described for the preliminary development plan, except that it also shall include all revision required by the planning commission. The contour intervals shall be five feet or less. Property lines shall carry accurate bearings and dimensions. Other pertinent physical features and easements shall carry accurate dimensions and shall be prepared and signed (with seal) by a registered engineer or architect or land surveyor, as licensed by state law. This plan will be drawn at a scale of not less than one inch equals 50 feet, unless a different scale is specified elsewhere in the text.

(Code 1981, app. A, art. XII, § 5; Code 1998, § 114-105; Ord. No. 4199, § VII, 5-7-1996)

Sec. 114-106. - Procedures.

(a) *Preliminary plan.* Under this division, procedures for submission of the preliminary plan are as follows:

(1) When a preliminary development plan is required, no review by the planning commission or public hearing shall be given on any zoning map amendment request until the required plan has been submitted to the commission. If the preliminary development plan is disapproved by the commission or if the commission fails to approve or disapprove the plan and the zoning map amendment is subsequently approved by the appropriate legislative body, the commission shall take action on the development plan for the property, which shall be the final development plan.

(2) Approval of the preliminary plan shall be for a period of 24 months, during which time a final development plan shall be filed.

(b) *Final development plan.* Procedures for submission of the final development plan shall be as follows:

(1) Final development plans shall be submitted within 24 months of the approval of the zoning map amendment by the appropriate legislative body. The commission shall take action on the final development plan for the subject property with such conditions as are found necessary to comply with this chapter, if any, within 90 days after the applicant has submitted the required plan. If the required plans have not been submitted in accordance with requirements or if construction has not been completed, the planning commission may institute action for rezoning of the property to its previous classification or other appropriate classification.

(2) Approval of the final plan shall be for a period of 24 months, after which time the commission may require submission of a new final zoning development plan.

(Code 1981, app. A, art. XII, § 6; Code 1998, § 114-106; Ord. No. 4199, § VIII, 5-7-1996)

Sec. 114-107. - Amendments.

(a) Amendments may be made to any zoning development plan only by official action of the planning commission, except that amendments which fully meet the requirements of this chapter may be approved and signed by the director of the planning department without further action by the commission. If any question arises as to compliance, however, or if the proposed use differs from the use notated on the approved zoning development plan, the director shall refer the plan to the commission for action.

(b) Action by the director of the planning department is intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments must meet the requirements of this chapter. Such amended plans also shall have written on them the exact changes made, and a note for the director's signature shall be added, signifying his approval under this section for the amendments as noted. Any plans approved by the director shall be fully described to the commission at its next meeting and properly entered into the minutes of the meeting.

(Code 1981, app. A, art. XII, § 7; Code 1998, § 114-107)

Sec. 114-108. - Zoning development plan requirements for off-premises signs.

All zoning development plans for off-premises signs shall contain the following information:

(1) *Community location.* A location map drawn at a scale of not less than one inch equals 500 feet and encompassing an area of not less than 2,000 feet from the proposed sign base location as measured in a radius.

(2) *Legends, notes, tables.* The legend and title box shall contain the property address, name and address of the sign owner and property owner, height of the proposed sign as constructed, sign area dimensions, method of illumination, and all design and construction materials proposed.

(3) *Required topographic information.* Petitioner shall submit topographic information with five-foot contour intervals for an area including a one-mile radius from the proposed sign base.

(4) *Proposed site inspection.* The exact site location shall be marked by stakes and clearly visible and ready for inspection by the planning commission 30 days prior to plan submission.

(5) *Required certification.* Sign plot plans shall be certified by a registered surveyor or architect lawfully practicing in the state.

(6) *Conformance with other restrictions.* All other provisions concerning zoning development plan submission shall also apply as identified within this Code of Ordinances.

(Code 1998, § 114-108; Ord. No. 4519, § 1, 5-5-1998)

Secs. 114-109—114-128. - Reserved.

Article III. – Districts

Division1. - General

Sec. 114-129. - Intent.

The intent of this article is to describe certain regulations and provisions which apply generally to two or more zoning districts in relation to yards, courts, fences, height, lot area, lot width and other similar characteristics or features.

(Code 1981, app. A, art. III, § 1; Code 1998, § 114-136)

Sec. 114-130. - List of districts.

The following is a list of districts and their corresponding acronyms:

Acronym	Districts
A-1	Agricultural District
R-1A	Residential District
R-1B	Residential District
R-1C	Residential District

R-2	Two-Family Residential District
R-3	Low Density Apartment District
R-4	Medium Density Apartment District
R-5	High Density Apartment District
PD	Planned Development District
R-1MP	Mobile Home Park District
P-1	Professional Offices District
TA	Tourist Accommodation District
B-1	Neighborhood Business District
B-2	Central Business District
B-3	Highway Oriented Business District
B-4P	Planned Business District
M-1	Light Manufacturing District
M-1R	Light Manufacturing Restricted District

M-2	General Manufacturing District
MX	Mixed-Use District
BC	Business Conference Center District
PVD	Planned Village District
H-1O	Historic District Overlay
H-2O	Historic District Overlay
GDO	Gateway District Overlay
CDO	Conservation District Overlay
GC	Golf Course Community District

Sec. 114-131. - Uniform regulations.

The regulations of this chapter within each zoning district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land and, particularly, except as follows:

(1) *Conformance to chapter.* No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this chapter for the zone and district in which it is to be located unless otherwise specifically permitted in this chapter. No building or other structure shall be erected or altered to exceed the height, bulk or floor area ratio; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; to have narrower or

smaller rear yards, front yards, side yards or other open spaces; or to have less perimeter and interior lot landscaping for vehicular use area and incompatible land uses than required in this chapter or in any other manner contrary to the provisions of this chapter.

(2) *Exclusive areas.* No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this chapter.

(3) *Reduction of yard or lot.* No yard or lot existing on June 16, 1981, shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or lots created after June 16, 1981, shall meet at least the minimum requirements established by this chapter.

(4) *One principal building.* There shall be no more than one principal structure and its accessory structures on any lot or parcel of land, unless otherwise specifically permitted in this chapter or unless a development plan is approved by the commission as provided in this chapter.

(5) *Permitted and prohibited uses.* Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone or district, and all uses specifically prohibited or substantially similar to prohibited uses are prohibited.

(6) *Street access.* No residential structure shall be erected on any lot or tract of land which does not adjoin and have direct access to a street or other public right-of-way for the dimension as specified for that zoning district.

(7) *Foundation requirements for residential dwellings.* All residential dwellings, including manufactured homes, shall be located in appropriately zoned districts and shall meet minimum setback and landscaping requirements of the district in which the property is located. All residential dwellings, including manufactured homes, shall have a minimum of four-inch-thick solid underpinning/screening of the foundation system. All manufactured homes shall have the chassis tongue and hitch permanently removed.

(Code 1981, app. A, art. III, § 2; Code 1998, § 114-137; Ord. No. 4083, § II, 7-18-1995)

Sec. 114-132. - Conversion of dwellings.

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such zone with respect to minimum lot size, floor area, dimensions of yards and other open

spaces and off-street parking. Each conversion shall be subject, also, to such further requirements as may be specified in this chapter applying to such zone. The requirements of this section with respect to yards and other open spaces shall not apply if the conversion will not involve any exterior structural changes.

(Code 1981, app. A, art. III, § 3; Code 1998, § 114-138)

Sec. 114-133. - Accessory building location and height.

Under this chapter, the following shall apply to the location and height of accessory buildings:

(1) *Yards.* No accessory building shall be erected in any required court or yard other than a rear yard with exceptions as provided in subsection (3) of this section.

(2) *Location.* Except as provided in subsection (3) of this section, no accessory building shall be erected in any required front or side yard. Accessory residential structures shall be on the same lot as the principal residential structure. The floor area of accessory structures located upon any property zoned for residential use shall not exceed 30 percent of the floor area of the principal structure, or 1,100 square feet, whichever is greater. Accessory structures shall not exceed the height of the principal structure or 35 feet, whichever is less. Accessory structures shall be at least three feet from all lot lines and five feet from any other building on the same lot; provided, however, that where two adjoining property owners desire to build a double garage on the property line, one-half of which would be located on each property, they may secure a building permit to construct such garage by submitting written agreements signed by both parties concerned to the building official. The height of both the accessory structure and the principal structure shall be measured according to the provisions outlined in the current building code, as set forth in article III of chapter 22. Swimming pools not covered by a permanent roof, tennis courts, pet enclosures not exceeding 100 square feet floor area, and satellite dish antennas shall not be subject to size, or height restrictions in this section or included in calculating floor area.

(3) *Garage.* Where the average natural grade of a required yard is more than eight feet above or below the established street grade, a private garage may be erected within such yard, but not within five feet of any street right-of-way.

(Code 1981, app. A, art. III, § 4; Code 1998, § 114-139; Ord. No. 5083, § I, 2-4-2003)

Sec. 114-134. - Traffic visibility across corner lots.

In any residential zone, on any corner lot, no fence, structure or planting shall be erected or maintained within ten feet of the intersection of the two street pavement edges, except as may be provided elsewhere in this chapter.

(Code 1981, app. A, art. III, § 5; Code 1998, § 114-140)

Sec. 114-135. - Agricultural use exemptions.

Notwithstanding any other section of this chapter, land which is used solely for agricultural, farming, dairying, stock raising or similar purposes shall have no regulations imposed as to height, yard, location or court requirements for agricultural buildings, except that a setback may be required for the protection of existing and proposed streets and rights-of-way and that all buildings or structures in a floodway or floodplain or which tend to increase flood heights or obstruct the flow of floodwaters may be fully regulated.

(Code 1981, app. A, art. III, § 6; Code 1998, § 114-141)

Sec. 114-136. - Height limits and exceptions.

Except as provided in this section, no building or structure or part thereof shall be erected or altered to a height greater than the maximum specified for the respective zone. Notwithstanding other sections of this chapter, including those for the zoning districts, the following shall be excluded from height limits, except as may be covered by other laws or regulations:

(1) Barns, silos or other farm structures on farms; church spires, belfries, cupolas and domes, not for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts and aerials.

(2) Bulkheads, elevator penthouses, water tanks, monitors and scenery lofts, provided that any such structure shall not have an aggregate area greater than 25 percent of the lot area and provided that no linear dimension of any such structure shall exceed 50 percent of the corresponding street lot line frontage if the structure is within 25 feet of such street lot line.

(3) Monuments or towers, including fire towers, hose towers, cooling towers, grain elevators, sugar refineries, gas holders and other structures shall have no height limits, where the manufacturing process requires a greater height; provided, however, that every such structure above the limiting height specified in this chapter shall not occupy

more than 25 percent of the area of the lot, shall be distant not less than 25 feet from every lot line not a street lot line, and not less than one foot from the otherwise required setback at the limiting height for each foot of vertical height above such limiting height.

(Code 1981, app. A, art. III, § 7; Code 1998, § 114-142)

Sec. 114-137. - Lot area and lot width minimum.

Except as otherwise specifically provided in this chapter, no principal building shall be erected on a lot which has less than the minimum area or width specified for the respective zone, and no building shall be erected or converted for dwelling use on a lot containing less than the minimum lot area so specified. The total gross floor area in all buildings on the lot shall be considered in determining the adequacy of lot area.

(Code 1981, app. A, art. III, § 8; Code 1998, § 114-143)

Sec. 114-138. - Yards.

The following shall apply to yard requirements of this chapter:

(1) *Line of more restricted zoning boundary.* Along any zone boundary line, any abutting side yard or rear yard on a lot adjoining such boundary line in the less restricted zone shall have a minimum width and depth equal to the required minimum width and depth for such yards in the more restricted zone.

(2) *Minimum yards.* Except as otherwise specified in this chapter, every lot shall have a front yard and a rear yard, the least depths of which shall not be less than those specified for the respective zone, and every lot shall have a side yard on each side which shall not be less than the side yard as specified for the respective zone.

(3) *Front yard.* The following shall apply to front yards:

a. *Exceptions for existing alignment.* In any residential district in this chapter, when the average depth of front yards of existing buildings, located within 100 feet of each side of a lot in the same block front as such lot, is less or greater than the least front yard depth prescribed for a building on such lot, the depth of the front yard of any building or structure on such lot shall not be less than the average depth of the existing front yards, except that it shall not be required to exceed the average depth of front yards of existing buildings on the two lots immediately adjoining or the average depth of front yards of existing buildings on the two lots immediately adjoining, but shall be at least ten feet, and

need not exceed 50 feet in any zone, but in no event shall any building be constructed closer than any setback established on a plat of record.

b. *Nonresidential zone adjoining residential.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the minimum front yard required shall equal in depth the front yard required for that residential zone.

c. *Through lots.* In any zone where a lot runs through a block from street to street, a front yard as otherwise required shall be provided along each street lot line.

(4) *Side yards.* The following shall apply to side yards:

a. *Decrease for narrow lots.* For each foot by which a lot of record existing on June 16, 1981, is narrower than 50 feet and where the owner of record does not own any adjoining property, 1½ inches may be deducted from the required least width of any side yard for buildings not exceeding 2½ stories in height; provided, however, that no side yard shall be narrower at any point than three feet in any case.

b. *Increase for deep buildings.* In any zone where a side yard is required, the least width of each side yard shall be increased by one inch for each foot by which the sidewall of a building adjacent to a side yard exceeds 50 feet.

c. *Corner lot.* On a corner lot in any residential zone, the required least width of a side yard along the side street shall be at least 50 percent greater than the side yard required for that zone.

d. *Attached dwellings.* For attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

(5) *Multifamily yards.* In addition to other yard requirements, whenever the principal entrances to a multifamily structure or to the individual dwelling units therein face on the side yard portion of a building, whether opening on an interior hall or to the exterior, each side yard width shall not be less than the front yard requirement. No parking shall be permitted within the side yard space required under this subsection.

(Code 1981, app. A, art. III, § 9; Code 1998, § 114-144)

Sec. 114-139. - Walls and fences.

No barbed wire fences shall be permitted within residential zoning districts; provided, however, that protective devices utilizing barbed wire may be installed upon walls or fences constructed or used in conjunction with a commercial or industrial use in a residential district. In any residence, business or professional district, a wall or fence of not more than six feet in height may be erected or maintained within a front yard, and a wall or fence of not more than eight feet

in height may be erected in any other yard. No height restriction shall be placed on a wall or fence erected or maintained in any industrial district or on an approved retaining wall in any district.

(Code 1981, app. A, art. III, § 10; Code 1998, § 114-145)

Sec. 114-140. - Projections.

Under this chapter, the following shall apply to projections:

(1) *Porches, etc.* Porches, stairways, terraces or other similar features that are uncovered or unenclosed may project into a required front, side or rear yard not more than eight feet, provided that such porches, stairways, terraces or other similar features conform to subsection (4) of this section.

(2) *Fire escapes, stairs.* Fire escapes may extend not more than three feet into any required court or side yard, and fire escapes or outside stairways may extend not more than five feet into any required rear yard.

(3) *Chimneys, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like may extend not more than 24 inches into any required yard.

(4) *Limitations.* Notwithstanding any other subsection of this section, no projection shall extend into any required side yard more than one-third the width of such yard or into any required court more than one-fourth the width of such court or within ten feet of the front or rear lot line or within three feet of any accessory building. The limitations of this subsection shall not apply to terraces and steps rendered necessary in side yards due to topographic situations or to loading docks or tailboards required in a side yard in connection with an industrial use in an industrial district because of topographic constraints.

(Code 1981, app. A, art. III, § 11; Code 1998, § 114-146)

Sec. 114-141. - Land use within sinkholes.

Within any sinkhole (a land surface feature characterized by the absence of surface drainage), no building floor shall be permitted at an elevation lower than the lowest surface drainage outlet along the rim of the sinkhole, except when it can be demonstrated by a licensed engineer that corrective measures have been taken which would protect a lower level from flooding.

(Code 1981, app. A, art. III, § 12; Code 1998, § 114-147)

Sec. 114-142. - Yard or garage sales.

A yard or garage sale may be permitted within a residential zone. Such sales shall not exceed two per year, with each not exceeding three consecutive days. Sales shall be held on the property of the resident. Sale items shall consist only of used personal property of the resident and shall not be used for retailing items purchased from others for resale purposes.

(Code 1981, app. A, art. III, § 13; Code 1998, § 114-148)

Sec. 114-143. - Alcoholic beverage sales in TA, B-2, B-3, B-4P, MX, PVD, BC and GC districts.

(a) 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:

Alcoholic beverage sales site means any lot, parcel or property providing on-premises alcoholic beverage sales, whether owned or leased.

School.

(1) The term "school" means any facility that houses or provides education experiences for a person who is five years of age or older in kindergarten through the 12th grade.

(2) The term "school" does not include a preschool, day care or home school.

(b) Within the boundaries of any district zoned as B-2, B-3, B-4P, BC, MX, PVD, TA or GC, on-premises alcoholic beverage sales shall not be permitted within 300 feet of any school, from kindergarten through the 12th grade, whether public or private, as measured from the school property boundary to the boundary of the property of an alcoholic beverage sales site. Measurement, for the purpose of this section, shall be made in a straight line without regard to intervening structures or objects. This measurement shall be made at the nearest points between the school boundary line and the boundary line of an alcoholic beverage sales site.

(Code 1998, § 114-149; Ord. No. 4018, § II(art. III, § 14), 3-21-1995)

Sec. 114-144. - Communication facilities.

(a) *Scope.* The communication towers for mobile telephone services and other radio and television information services, which provide for the needs of the citizens of the city, will be subject to the standards of this section to minimize adverse visual and operational effects of

towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure and falling ice through engineering and careful siting of towers; and to maximize use of any new communication tower and existing structures to reduce the number of towers needed.

(b) *Building permit.* The application for a building permit for a communication facility shall include the following:

(1) A report prepared by a professional engineer licensed by the state describing the height and design of the tower; that demonstrates the tower's compliance with applicable structural standards, building codes, electrical codes and fire codes; and that describes the tower's capacity, including the number and type of antennas it can accommodate. For an antenna mounted on an existing structure, the report shall indicate the existing structure's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(2) An adequate report inventorying existing towers and antenna sites within a reasonable distance from the proposed site, outlining the opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed tower or antenna cannot be accommodated on an existing approved tower or facility due to one or more of the following reasons:

a. Unwillingness of the owner to entertain a cellular telephone facility proposal.

b. The equipment would exceed the structural capacity of the existing approved tower and facilities.

c. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

d. Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.

e. Other reasons make it impractical to place the equipment proposed by the applicant on existing and approved towers or facilities.

(c) *Site plan.* A site plan shall be approved by the building official prior to issuing a permit. The following standards shall be used in the design of the facilities:

(1) *Setback.* The minimum setback shall be 20 percent of tower height or equal to the existing zoning district, whichever is greater. Where appropriate, the requirements of the flood district, Historic District Overlay and Gateway District Overlay also apply. Setback shall be measured from the base of the tower, or guy-wire supports for lattice towers, to the property line. Ground structures shall not be located within required setbacks.

(2) *Landscaping and screening.* The visual impacts of a communication facility shall be mitigated from nearby viewers by an evergreen screen located outside the fence. This screen may consist of evergreen trees, having a minimum height of six feet at planting and a minimum height of 15 feet at maturity, or a continuous hedge with a three-foot height at planting and a six-foot height at maturity. Sites may be exempted from the landscaped area requirement, provided that the building official finds the vegetation or the topography of the site provides a natural buffer.

(3) *Fencing.* A chain link fence or solid wall not less than eight feet in height from the finished grade shall be provided around each communication facility. Access to the facility shall be through a locked gate.

(4) *Lighting.* The facility shall not be artificially lighted except to ensure human safety or as required by the Federal Aviation Administration. All lighting shall be oriented inward so as not to project onto surrounding property.

(5) *Radiation standards.* All proposed communication facilities shall comply with current standards of the Federal Communication Commission or the American National Standards Institute for nonionizing electromagnetic radiation (NIER) and electromagnetic fields (EMF). Each request for a building permit shall be accompanied by certified documentation or a statement from a registered engineer or other professional indicating compliance with these standards.

(6) *Aircraft hazard.* Communication facilities shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration.

(7) *Equipment storage.* Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site unless repairs are being made.

(8) *Removal of obsolete or unused facilities.* All obsolete or unused communication tower facilities shall be removed by the property owner within 12 months of cessation of use. The applicant shall submit an executed removal agreement to ensure compliance with this subsection.

(9) *Signs and advertising.* The use of any portion of a tower for signs or advertising purposes, including banners, streamers, etc., is prohibited. Warning signs or identification signs will be permitted.

(10) *Maintenance.* Adequate inspection and maintenance shall be performed to ensure the structural integrity of the facility and prevent deleterious conditions occurring on the site.

(11) *Access and parking.* All access roads and parking areas for facilities adjacent to platted subdivisions or developed areas shall be paved as required by this chapter. These requirements may be waived for rural or undeveloped areas.

(12) *Changes to facilities.* Any changes to antennas, reception or transmitting devices shall require review in the same manner as the existing facility was originally approved.

(Code 1998, § 114-150; Ord. No. 4276, § I(art. III, § 14), 9-3-1996)

Secs. 114-145—114-171. - Reserved.

Division 2. - Establishment

Sec. 114-172. - Intent—District; categories.

The intent of this division is to recognize the various ways in which people make use of land and buildings and to classify such uses by relative compatibility and their relationship to various community facilities and services; to delineate areas of relatively compatible use into zoning districts that permit certain dimensional and other requirements for the use of such land and buildings. Although human activities and use of the land can be classified in various ways, this chapter establishes five broad categories with recognition of some overlapping and intermingling. Common to all five categories as permitted are the streets, walkways, underground pipes, overhead wires and surface ditches, which are used to move people, goods, energy, wastes, sounds and images. The categories and their intent are as follows:

(1) *Planned development district.* For urban activities in which buildings, land use, transportation facilities, utility systems and open spaces are integrated through an overall design.

(2) *Agricultural.* For rural activities primarily related to use of the land in its natural state for raising crops or livestock, or leaving the land in its natural state.

(3) *Residential.* For urban activities primarily related to the social family, such as the primary place of being together with one's family, or being alone, for eating, sleeping, recreation and other nonwork activities.

(4) *Business.* For urban activities related to the exchange of services and manufactured goods that provide for physical, social and economic needs common to all residents.

(5) *Manufacturing.* For urban activities related to the production of goods which must precede their availability for purchase in the business areas of the community.

(Code 1981, app. A, art. IV, § 1; Code 1998, § 114-181)

Sec. 114-173. - Same—Planned Development District.

The Planned Development Zoning District is established to permit flexibility and design innovation in the site planning and land use, to provide open space and recreational areas and options in land development which encourage imaginative solutions to environmental design problems.

(Code 1981, app. A, art. IV, § 2; Code 1998, § 114-182)

Sec. 114-174. - Same—Agricultural areas.

Only one agricultural district is established in this chapter, an A-1 Agricultural District. The intent is to recognize the agricultural needs of the community. It also is used as a holding zone for newly annexed areas where additional study may be necessary before designation into the appropriate urban zoning district. It also permits single-family use.

(Code 1981, app. A, art. IV, § 3; Code 1998, § 114-183)

Sec. 114-175. - Same—Residential areas.

The intent of the residential zoning districts is to accommodate the private living needs of individuals and families, in a variety of building types and in locations generally separated from commercial and industrial activities. The intent of providing variety is achieved by establishing residential districts with variation in lot sizes and other dimensional requirements. The residential districts include the following:

(1) *R-1A, Residential District.* For single-family detached homes on lots of at least 10,000 square feet, with certain other dimensional requirements for light, air and personal preference.
(2) *R-1B, Residential District.* For single-family detached homes on lots of at least 7,500 square feet, with certain other dimensional requirements.
(3) *R-1C, Residential District.* For single-family detached homes on lots of at least 5,000 square feet, with certain other dimensional requirements.
(4) *R-2, Two-Family Residential District.* For buildings as permitted by section 114-185, placed side by side or one above the other, on lots of at least 7,500 square feet.
(5) *R-3, Low Density Apartment District.* For buildings as permitted by section 114-186, where floor area can equal no more than half of the land area.
(6) *R-4, Medium Density Apartment District.* For buildings as permitted by section 114-187, where floor area can equal no more than 70 percent of the land area.

(7) *R-5, High Density Apartment District.* For buildings as permitted by section 114-188

(8) *Residential area modifiers.* Other sections of this chapter may modify some of the residential zones and their requirements as described in this section.

(9) *GC, Golf Course Community District.* The GC (Golf Course Community) zoning district has been established to permit residential development in areas developed integrally with a new and/or existing golf course. It is the intent of this district to permit golf course development by providing for a more flexible placing of buildings on land, and providing for flexibility in accessory uses associated with a golf course while protecting the integrity of the surrounding residential community. In addition to the requirements specified herein for this zoning district, the planning commission and/or the board of mayor and aldermen may impose any reasonable conditions deemed necessary to safeguard the health, safety, welfare, and property values of the surrounding area of the city.

(Code 1981, app. A, art. IV, § 4; Code 1998, § 114-184; Ord. No. 6181, § I, 3-6-2012)

Sec. 114-176. - Same—Business areas.

Under this chapter, business areas are intended for the sale or exchange of goods and services conveniently located to their users and giving proper recognition to safe and efficient traffic control, adequate parking, sign control and related characteristics. The seven business districts and their intent are as follows:

(1) *P-1, Professional Offices District.* For buildings primarily containing offices, and acting as a buffer between residential and retail business uses.

(2) *TA, Tourist Accommodation District.* To provide the traveling public with convenient services adjacent to controlled access highway interchanges.

(3) *B-1, Neighborhood Business District.* For businesses providing goods and services, not for the entire community, but rather for only a neighborhood area in order to reduce travel time for the acquisition of the most frequently needed services and goods.

(4) *B-2, Central Business District.* For community activities serving the entire community or larger area, and often the only one of its kind (city hall, library, etc.) or the major one of its kind (finance, insurance, retailing, etc.), benefiting from and contributing to that area which generally is the most accessible to the region, and contains the area's greatest variety, intensity and concentration of land use.

(5) *B-3, Highway Oriented Business District.* For business activities dependent upon or motivated by access to the community's major highway system and often referred to as "strip commercial" development. Great care must be exercised to ensure that

legitimate uses are permitted in a manner that does not, in turn, strangle and make unnecessarily dangerous the major streets and highways that originally attracted them to such locations.

(6) *B-4P, Planned Business Development District.* For planned business developments that are coordinated with adjacent activities. The purpose is to permit a more efficient, integrated and aesthetically pleasing environment than generally is the case in the other business zones.

(7) *BC, Business Conference Center District.* As provided in division 9 of this article, for a range of activities such as, but not limited to, regional convention centers, employment based officers, commercial services, recreational facilities, educational uses and cultural events.

(Code 1981, app. A, art. IV, § 5; Code 1998, § 114-185; Ord. No. 4498, § 1, 4-7-1998)

Sec. 114-177. - Same—Manufacturing areas.

Under this chapter, industrial areas are intended for the storage, manufacturing or other processing of goods and materials, with proper provision for environmental controls and vehicular movement and parking. The three districts and their intent are as follows:

(1) *M-1, Light Manufacturing District.* This zone is established for light industrial activities which are the least prone to create objectionable environmental problems related to smoke, noise, heat, odor, vibration, light and waste generation and disposal.

(2) *M-1R, Light Manufacturing Restricted District.* This light industrial zone is similar to the M-1 district, except that higher provisions are established for light and air and for physical appearance.

(3) *M-2, General Manufacturing District.* This zone is established as a general industrial district in order to provide locations for a broad range of heavier industrial activities.

(Code 1981, app. A, art. IV, § 6; Code 1998, § 114-186)

Sec. 114-178. - Same—Mixed-use district.

The MX, Mixed-Use District is established to allow flexibility in the development of compatible mixed-use areas of light manufacturing, professional office and limited commercial uses and to do so by developing a self-contained, campus-like atmosphere which protects the adjacent land uses.

(Code 1981, app. A, art. IV, § 7; Code 1998, § 114-187)

Sec. 114-179. - Same—Overlay districts and other modifiers.

(a) Under this chapter, the flood hazard district provisions overlay any other zoning district when flood hazards may exist. (See division 5 of this article.)

(b) Under this chapter, the historic zoning district provisions for H-2 overlay any other zoning district where historic buildings or areas have been designated. (See division 4 of this article.)

(c) Under this chapter the GDO, Gateway District provisions overlay any other zoning district within the designated Gateway District. (See division 10 of this article.)

(d) In addition, the various districts must also meet provisions for sign control, parking and loading, landscaping, soil erosion and development plans as described in other articles of this chapter.

(Code 1981, app. A, art. IV, § 8; Code 1998, § 114-188; Ord. No. 4018, § IV(29), 3-21-1995)

Sec. 114-180. - Restrictions by type of zoning district.

(a) Sections 114-181 through 114-201 provide specific requirements and restrictions for various zoning districts. For all districts so listed, where the principal uses are specified, other substantially similar uses shall also be deemed permitted uses. For all districts so listed, where prohibited uses are listed, substantially similar uses are also prohibited.

(b) For all districts listed in sections 114-181 through 114-201, principal uses shall include the following:

(1) Governmental use.

(2) Public parks.

(3) Public and private utilities to serve the residents of the area.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-189; Ord. No. 4018, § IV(9), 3-21-1995)

Sec. 114-181. - A-1, Agricultural District.

(a) *Principal uses.* Principal uses permitted in the A-1, Agricultural District are as follows:

(1) Customary general farming and horticulture.

(2) Commercial raising of livestock and poultry.

(3) Single-family detached dwellings.

(4) Small group residential projects.

(5) Hunting, fishing and forestry.

(b) *Accessory uses.* Accessory uses which are incidental and subordinate to principal uses are permitted in the A-1 district as follows:

(1) Home occupations within the principal building by a resident using no more than 25 percent of total floor space, and no more than one nonresident employee.

(2) Garages, barns and other customary farm accessory buildings.

(3) Roomers or boarders within the principal building not exceeding 25 percent of the total floor area.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the A-1 district as follows:

(1) Cemeteries and other burial grounds.

(2) Tenant homes, only for persons working on the farm.

(3) Hospitals, nursing homes and rehabilitation homes.

(4) Sewage treatment plants or landfills operated by a government.

(5) Private recreation areas, country clubs and golf courses.

(6) Churches and other places of worship, schools and colleges.

(7) Commercial kennels and veterinary facilities.

(8) Communication facilities.

(d) *Prohibited uses.* Uses prohibited in the A-1 district are as follows:

(1) Residential, other than single-family detached dwellings.

(2) Retail sales and services, wholesaling, offices and industrial uses.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the A-1 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 20,000 square feet.

b. Lot frontage, 100 feet.

c. Front yard, 50 feet.

d. Each side yard, 20 feet; plus six feet on the street side yard.

e. Rear yard, 50 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, no limit.

b. Building height, 35 feet.

Note. Commercial raising of livestock and poultry shall not be conducted on a tract of land of less than five acres, and no structure housing poultry shall be located nearer than 200 feet to a property line. Other accessory buildings shall have minimum setbacks as described under subsections (e)(1)a through e of this section, except that the setback shall be 30 feet from any side street property line.

(f) *Signs.* A sign permit is required for most signs in the A-1 district. See also article IV of this chapter for additional sign provisions. The following non-illuminated or indirectly illuminated signs are permitted in the A-1 district:

(1) One name and address identification sign, not to exceed two square feet, for a property owner or occupant. No permit is required.

(2) For residential developments, one identification sign at each major entrance thereto.

(3) One identification sign not exceeding 30 square feet for any permitted use not previously covered.

(4) Height of freestanding signs shall be no greater than five feet above ground, and building mounted signs shall not extend above the roof.

(g) *Parking.* The following numbers of vehicle parking spaces are required for the corresponding uses in the A-1 district:

(1) Two spaces per dwelling unit, provided that only one such space shall have convenient access to a street.

(2) For other uses, see the parking and loading provisions of article VI of this chapter.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-190; Ord. No. 4018, § IV(10), 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-182. - R-1A, Residential District.

(a) *Principal uses.* Principal uses permitted in the R-1A, Residential District are as follows:

(1) Single-family detached dwellings.

(2) Small group residential projects.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-1A district as follows:

(1) Private garages, storage sheds, parking and private recreation.

(2) Living quarters without cooking facilities, but only for guests or domestic employees.

(3) Home occupations and roomers or boarders as for A-1 districts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-1A district as follows:

(1) Cemeteries and other burial grounds.

(2) Day care nurseries.

(3) Country clubs and golf courses.

(4) Churches and other places of worship.

(5) Schools and colleges for academic instruction.

(6) On-site subdivision sales offices while sales are underway.

(d) *Prohibited uses.* Uses prohibited in the R-1A district are as follows:

(1) Residential, other than single-family detached dwellings.

(2) Retail sales and services, wholesaling, offices and industrial uses.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-1A district are as follows:

(1) *Minimum requirements.*

a. Lot area, 10,000 square feet.

b. Lot frontage, 60 feet.

c. Front yard, 40 feet.

d. Each side yard:

1. Ten feet for one or two stories;

2. 15 feet for three stories;

3. Plus 50 percent on the street side yard.

e. Rear yard, 30 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 30 percent including accessory buildings.

b. Building height, 35 feet or three stories.

(f) *Signs.* A sign permit is required for most signs in the R-1A district. See also article IV of this chapter for additional sign provisions. The signs permitted in the R-1A district are the same as for the A-1 district.

(g) *Parking.* The vehicle parking spaces required for the R-1A district are the same as the A-1 district.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-191; Ord. No. 4018, § IV(11), 3-21-1995; Ord. No. 5083, § III, 2-4-2003)

Sec. 114-183. - R-1B, Residential District.

(a) *Principal uses.* Principal uses permitted in the R-1B, Residential District are the same as for R-1A districts.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-1B district the same as for R-1A districts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-1B district the same as for R-1A districts.

(d) *Prohibited uses.* Uses prohibited in the R-1B district are the same as for R-1A districts.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-1B district are as follows:

(1) *Minimum requirements.*

a. Lot area, 7,500 square feet.

b. Lot frontage, 50 feet.

c. Front yard, 30 feet.

d. Each side yard, eight feet.

e. Rear yard, 30 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 30 percent, including accessory buildings.

b. Building height, two stories.

(f) *Signs.* A sign permit is required for most signs in the R-1B district. See also article IV of this chapter for additional sign provisions. The signs permitted in the R-1B district are the same as for A-1 districts.

(g) *Parking.* The vehicle parking spaces required in the R-1B district are the same as for A-1 districts.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-192; Ord. No. 4018, § IV(12), 3-21-1995; Ord. No. 5083, § IV, 2-4-2003)

Sec. 114-184. - R-1C, Residential District.

(a) *Principal uses.* Principal uses permitted in the R-1C, Residential District are the same as for R-1A districts.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-1C district the same as for R-1A districts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-1C district the same as for R-1A districts.

(d) *Prohibited uses.* Uses prohibited in the R-1C district are the same as for R-1A districts.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-1C district are as follows:

(1) *Minimum requirements.*

a. Lot area, 5,000 square feet.

b. Lot frontage, 50 feet.

c. Front yard, 25 feet.

d. Each side yard, eight feet.

e. Rear yard, 25 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 40 percent, including accessory buildings.

b. Building height, two stories.

(f) *Signs.* A sign permit is required for most signs in the R-1C district. See also article IV of this chapter for additional sign provisions. The signs permitted in the R-1C district are the same as for A-1 districts.

(g) *Parking.* The vehicle parking spaces required for the R-1C district are the same as for A-1 districts.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-193; Ord. No. 4018, § IV(13), 3-21-1995; Ord. No. 5083, § V, 2-4-2003)

Sec. 114-185. - R-2, Two-Family Residential District.

(a) *Principal uses.* Principal uses permitted in the R-2, Two-Family Residential District are as follows:

(1) The same as for R-1A districts.

(2) Two-family dwellings.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-2 district the same as for R-1A districts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-2 district the same as for R-1A districts.

(d) *Prohibited uses.* Uses prohibited in the R-2 district are the same as for R-1A districts, except two-family dwellings are permitted.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-2 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 7,500 square feet.

b. Lot frontage, 60 feet.

c. Front yard, 30 feet.

d. Each side yard, ten feet.

e. Rear yard, 20 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, not applicable.

b. Building height, 35 feet.

(f) *Signs.* A sign permit is required for most signs in the R-2 district. See also article IV of this chapter for additional sign provisions. The signs permitted in the R-2 district are the same as for R-1A districts.

(g) *Parking.* The vehicle parking spaces required for the R-2 district are the same as for A-1 districts.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-194; Ord. No. 4018, § IV(14), 3-21-1995)

Sec. 114-186. - R-3, Low Density Apartment District.

(a) *Principal uses.* Principal uses permitted in the R-3, Low Density Apartment District are as follows:

(1) The same as for R-1A and R-2 districts.

(2) Multifamily dwellings.

(3) Dormitories, sorority or fraternity houses, boarding houses or lodging houses.

(4) Group residential projects.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-3 district as follows:

(1) Garages, storage sheds, swimming pools and tennis courts.

(2) In single-family or two-family dwellings, the keeping of roomers or boarders in no more than 50 percent of total floor area of the principal structure. The term "total floor area" means the area of all floors in the principal structure, including furnished attics and furnished basements. For sign regulations for such use, see section 114-533

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-3 district as follows: nursing homes, rest homes, rehabilitation centers, hospitals, religious and charitable institutions, community centers (such as YMCA, etc.), day care nurseries, communication facilities.

(d) *Prohibited uses.* Uses prohibited in the R-3 district are as follows: retail sales and services, wholesaling and warehousing, offices and industrial uses.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-3 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 6,000 square feet.

b. Lot frontage, 50 feet.

c. Front yard, 25 feet.

d. Each side yard, six feet.

e. Rear yard, 20 feet.

f. Usable open space, 20 percent.

(2) *Maximum permitted.*

a. Lot coverage, 30 percent, and floor area ratio (FAR) of 0.5.

b. Building height, 35 feet.

(f) *Signs.* A sign permit is required for most signs in the R-3 district. See also article IV of this chapter for additional sign provisions. The following non-illuminated or indirectly illuminated signs are permitted in the district:

(1) The same as for R-1A districts.

(2) For multifamily dwellings, one identification sign not exceeding 30 square feet and set back at least 20 feet from the front property line, and no illumination except indirect. Freestanding signs shall not extend higher than 12 feet above the ground, and wall mounted signs shall not project above the roofline.

(g) *Parking.* The following numbers of vehicle parking spaces are required for the corresponding uses in the district:

(1) 1½ parking spaces per dwelling unit.

(2) For other uses, see the parking and loading provisions of article VI of this chapter.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-195; Ord. No. 4018, § IV(15), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 5083, § VI, 2-4-2003)

Sec. 114-187. - R-4, Medium Density Apartment District.

(a) *Principal uses.* Principal uses permitted in the R-4, Medium Density Apartment District are the same as for R-3 districts.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-4 district the same as for R-3 districts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-4 district the same as for R-3 districts.

(d) *Prohibited uses.* Uses prohibited in the R-4 district are the same as for R-3 districts.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-4 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 6,000 square feet.

b. Lot frontage, 50 feet.

c. Front yard, 20 feet.

d. Each side yard, ten feet; also see building height in subsection (e)(2)b of this section.

e. Rear yard, 20 feet; also see building height in subsection (e)(2)b of this section.

f. Usable open space, 20 percent.

(2) *Maximum permitted.*

a. Lot coverage, 30 percent, and floor area ratio (FAR) of 0.7.

b. Building height, no limit, but a 2:1 height-to-yard ratio for rear and side yards.

(f) *Signs.* A sign permit is required for most signs in the R-4 district. See also article IV of this chapter for additional sign provisions. The signs permitted in the R-4 district are the same as for R-3 districts.

(g) *Parking.* The vehicle parking spaces required for the R-4 district are the same as for R-3 districts.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-196; Ord. No. 4018, § IV(16), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 5083, § VII, 2-4-2003)

Sec. 114-188. - R-5, High Density Apartment District.

(a) *Principal uses.* Principal uses permitted in the R-5, High Density Apartment District are as follows:

(1) Multifamily dwellings of at least five stories, dormitories.

(2) Churches and other places of worship, schools and colleges.

(3) In five-story or higher apartment buildings, offices may be permitted on no more than the first two floors, with no mixing of offices and apartments on either floor.

(4) The same as for R-3 districts.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the R-5 district as follows: garages, storage sheds, parking, pools, tennis courts.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the R-5 district as follows:

(1) The same as for R-3 districts.

(2) Incidental retail or service use intended primarily for building occupants and located only on the first floor with no direct exterior access and no signs or display areas visible from outside the building.

(3) Communication facilities.

(d) *Prohibited uses.* Uses prohibited in the R-5 district are the same as for R-3 districts, except that certain retail or service uses are permitted as described in this section.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the R-5 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 6,000 square feet.

b. Lot frontage, 50 feet.

c. Front yard, ten feet.

d. Each side yard, ten feet; also see building height in subsection (e)(2)b of this section.

e. Rear yard, ten feet; also see building height in subsection (e)(2)b of this section.

f. Usable open space, 20 percent.

(2) *Maximum permitted.*

a. Lot coverage, 35 percent, and floor area ratio (FAR) of 1.3.

b. Building height, no limit, but a 3:1 height-to-yard ratio for side and rear yards.

(f) *Signs.* A sign permit is required for most signs in the R-5 district. See also article IV of this chapter for additional sign provisions. The following non-illuminated or indirectly illuminated signs are permitted in the R-5 district:

(1) The same as for R-3 districts.

(2) One identification sign for each business establishment no more than two square feet in area, mounted on the face of the building, and no illumination except indirect.

(g) *Parking.* The vehicle parking spaces required for the R-5 district are the same as for R-3 districts.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-197; Ord. No. 4018, § IV(17), 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-189. - Planned Development District.

The Planned Development District is regulated in division 6 of this article.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-198; Ord. No. 4018, § IV(18), 3-21-1995)

Sec. 114-190. - R-1MP, Mobile Home Park District.

Mobile home parks are regulated in division 7 of this article.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-199; Ord. No. 4018, § IV(19), 3-21-1995)

Sec. 114-191. - P-1, Professional Offices District.

(a) *Principal uses.* Principal uses permitted in the P-1, Professional Offices District are as follows:

(1) Offices for business, professional, governmental, civic, insurance or other groups.

(2) Credit agencies, brokers, travel agencies, computer or data processing centers, real estate offices, finance, photography studios, law offices.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the P-1 district as follows: incidental retail or service uses intended primarily for building tenants, employees or patrons.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the P-1 district as follows:

(1) Offices of veterinarians, animal hospitals.

(2) Hospitals, rest or convalescent homes.

(3) Group homes.

(4) Communication facilities.

(5) Golf courses.

(6) Medical or dental offices, clinics provided that upon findings of fact that all of the following criteria are met:

a. The use will not be located within 1,000 feet of a public or private school, day care facility, park, any area devoted to public recreation activity or a residential dwelling. Measurements shall be made in a straight line on the city zoning map from the nearest property line of the lot on which the facility is situated to the nearest property line of any of the uses set forth in this subsection;

b. The use will be designed, located, and proposed to be operated so that the health, safety and welfare will be protected;

c. The use will not be detrimental to and will not injure, damage or adversely affect the use, value or enjoyment of the properties in the surrounding neighborhood;

d. The use will not have an adverse impact on land use compatibility;

e. The use will not materially or adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed use;

f. Adequate public facilities are available to accommodate the use;

g. The traffic generated by the use will be safely accommodated along major streets without traversing minor streets;

h. The use will maintain appropriate traffic patterns and parking as to not strain existing facilities with substantial increases in traffic and projected trip generations;

i. The use will conform to all applicable provisions of the district and will not require any variances.

(7) The same as for R-5 districts.

(d) *Prohibited uses.* Uses prohibited in the P-1 district are as follows:

(1) Retail sales and services, except for those permitted as principal or accessory uses.

(2) Wholesaling, warehousing and industrial uses.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the P-1 district are as follows:

(1) *Minimum requirements.*

a. Lot area, 7,500 square feet.

b. Lot frontage, 60 feet.

c. Front yard, same as the most restrictive adjacent zoning district.

d. Each side yard, 12 feet; also see building height in subsection (e)(2)b of this section.

e. Rear yard, 12 feet; also see building height in subsection (e)(2)b of this section.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 35 percent, and floor area ratio (FAR) of 1.3.

b. Building height, no limit, but a 3:1 height-to-yard ratio for side and rear yards.

(f) *Signs.* See article IV of this chapter for sign provisions.

(g) *Parking.* See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-200; Ord. No. 4018, § IV(20), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 4422, § 1, 9-2-1997; Ord. No. 6101, § I, 8-2-2011)

Sec. 114-192. - TA, Tourist Accommodation District.

Intent. – This district is intended to provide the traveling public and regional residents an area for large scale shopping centers of 350,000 square feet or more in one or more buildings on 40 or more acres of land. Development within each TA district designation is to consist of hotels, retail, office, service, entertainment, and recreation uses in building and service areas sharing internal parking and circulation. The TA development may include peripheral parcels for sale to other commercial users as long as such parcels are identified as part of an integrated master plan for the development

(a) Principal uses. Principal uses permitted in the TA, Tourist Accommodation District are as follows:

(1) Uses that provide the traveling public with convenient services, but only when adjacent to major highway interchanges, including automobile service stations, restaurants and lounges, motels and hotels, gift shops and other similar shops;

(2) Governmental uses;

(3) Public parks;

(4) Public and private utilities to serve residents of the area;

(5) Retail shopping centers and shopping malls; and

(6) Satellite medical facilities, including specialist medical clinics

(7) Public Art

(8) Non-motorized trails, and trailhead facilities, equestrian use trails

(9) Brewpubs, craft breweries, distilleries, wineries

(10) Outdoor theatre/amphitheater.

(11) Stadium, Sports Arena, Auditorium, with fixed seating

(12) Banks and Financial Institutions`

(13) Art Galleries and Museums

(b) Accessory uses. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the TA district as follows: swimming pools, spas, private parks, tennis courts, and parking facilities

(c) Special exceptions. Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the TA district as follows:

(1) Franchised Auto Dealerships

(d)Prohibited uses. Uses prohibited in the TA district are as follows:

(1) Retail and service uses, except for those described in subsection (a) and (b) of this section.

(2) Residential, warehousing, industry, and truck stops.

(e) Dimensional requirements. The minimum and maximum dimensional requirements for the TA district are as follows:

(1) Minimum requirements.

a. Lot area, no requirements

b. Lot frontage minimum of 50 feet on a public road with an average of 150 at the building line feet.

c. Front yard, 30 feet.

d. Each side yard, none required. When a side yard is provided, it shall not be less than ten feet.

e. Rear yard, none required.

f. Usable open space, not applicable.

(2) Maximum permitted.

a. Lot coverage, no requirements.

b. Building height, no building or structure shall exceed 60 feet in height.

Note. Tourist Accommodation Districts require submittal of a zoning development plan for planning commission approval. The planning commission may add other dimensional requirements or restrictions.

(f) Plan requirements. Tourist accommodation districts require submittal of a zoning development plan for planning commission approval. The planning commission may add other dimensional requirements or restrictions.

(g) Signs. See article IV of this chapter for sign provisions except when the development is restricted by a sign regulation covenant accepted by the city at the time of the zoning approval and recorded in the official records of Sullivan County.

(h) Parking. See article V of this chapter for parking and loading provisions.

(i) Landscaping, Buffering, and Screening. See Article VI of this chapter for landscaping and land use buffering requirements.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-201; Ord. No. 4018, § IV(21), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 4454, § 1, 11-4-1997; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-193. - B-1, Neighborhood Business District.

(a) *Principal uses.* Principal uses permitted in the B-1, Neighborhood Business District are as follows:

(1) Only those retail and service activities oriented to serving nearby neighborhoods and not to uses that would draw communitywide traffic into a neighborhood area.

(2) Retail uses for sale of goods and merchandise, including food, groceries, gasoline, meals or prepared food, off-premises sale of beer, clothing, medicine, toiletries, hardware, magazines and similar uses.

(3) Service uses such as laundries and dry cleaning, appliance repair, barbershops, beauty shops and similar uses.

(4) The same as for R-3 districts.

(5) Off-premises alcoholic beverage sales.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the B-1 district as follows:

(1) Parking lots or garages.

(2) One dwelling unit for the owner, operator or employee of the principal use as part of the principal structure.

(3) Warehousing or storage incidental to the principal use.

(c) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the B-1 district as follows:

(1) Self-service carwashes.

(2) Offices.

(3) Same as for R-3 districts.

(4) Communication facilities.

(d) *Prohibited uses.* Uses prohibited in the B-1 district are as follows:

(1) Communitywide oriented retail and service uses such as department and discount stores, theaters, auto sales, warehousing, wholesaling, industry.

(2) On-premises alcoholic beverage sales.

(e) *Dimensional requirements.* The minimum and maximum dimensional requirements for the B-1 district are as follows:

(1) *Minimum requirements.*

a. Lot area, not applicable.

b. Lot frontage, not applicable.

c. Front yard, 30 feet.

d. Each side yard, not applicable.

e. Rear yard, 20 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, not applicable.

b. Building height, 25 feet.

Note. For planned neighborhood shopping centers or other B-1 uses, the planning commission may require a development plan with dimensional requirements or other provisions in variance with this subsection.

(f) *Signs.* See article IV of this chapter for sign provisions.

(g) *Parking.* See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-202; Ord. No. 4018, § IV(22), 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-194. - B-2, Central Business District.

(a) Principal uses. Principal uses permitted in the B-2, Central Business District are as follows:

(1) Establishments retailing goods and merchandise such as food, groceries, clothing, hardware, toiletries, furniture and furnishings, gasoline, meals, vehicles, boats, trailers, jewelry, appliances and similar items.

(2) Financial offices.

(3) Residential.

(4) Establishments for the sale or provision of personal appearance or care, finance, insurance, real estate, clothing and goods repair, offices, printing, parking, entertainment, recreation, hotels, motels, educational institutions, food and drink, brewpubs, craft breweries, distilleries, wineries.

(5) On-premises and off-premises alcoholic beverage sales.

(b) Accessory uses. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the B-2 district as follows: wholesaling, warehousing and light industry when accessory and incidental to a retailing or service activity.

(c) Special exceptions. Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the B-2 district as follows: communication facilities.

(d) Prohibited uses. Uses prohibited in the B-2 district are as follows:

(1) Land intensive uses, as opposed to people intensive uses, such as industry and manufacturing.

(2) Truck terminals and freight yards.

(3) Outdoor and land intensive recreation such as drive-in theaters, racetracks, scrap yards or junkyards, lumberyards, animal hospitals, stockyards and flour mills.

(e) Dimensional requirements. The minimum and maximum dimensional requirements for the B-2 district are as follows:

(1) Minimum requirements. No requirements are applicable to this district.

(2) Maximum permitted. No requirements are applicable to this district.

(f) Signs. See article IV of this chapter for sign provisions.

(g) Parking. See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-203; Ord. No. 4018, § IV(23), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-195. - B-3, Highway Oriented Business District.

(a)Principal uses. Principal uses and other substantially similar uses permitted in the B-3, Highway Oriented Business District area as follows:

(1) Ambulance services; animal hospitals; antennas; antique shops; artist studios; automobile sales and services; automobile service stations; bakeries, retail and wholesale; boat sales; brewpubs; building materials and services; business services and supplies; catering services; climate controlled indoor storage facilities; convenience stores; craft breweries; distilleries; eating and drinking establishments; equipment sales, service and rentals; financial institutions; fitness centers; food and beverage sales; funeral and internment services; hotels and motels; laboratories; maintenance and repair services; major and minor motor vehicle repair; manufactured and mobile home sales; off-premises and on-premises alcohol sales; plant nurseries; offices; open air uses (garden supplies, lawn furniture, plant nurseries, playground equipment); pawn shops; personal improvement services; printing and publishing; recreation vehicle sales; research and development; restaurants; retail sales; shopping centers; wineries.

(2) Clubs and lodges; cultural institutions; community centers; institutions for human care; day care centers; parking lots and structures; public facilities; meeting centers.

(3) Commercial recreation and entertainment; park and recreation facilities; public and private campgrounds; RV parks; golf courses; theaters and auditoriums.

(4) Government uses; religious assembly; schools, public, private, trade.

(5) Communication facilities.

(6) Adult oriented establishments: adult bookstores, cabaret, motion picture theater, sexual encounter establishments, provided however, that the property line of such businesses shall not be closer than 1,500 feet from any residential district or residential use; and public amusement or entertainment activity, public gathering place, including but not limited to: arcades, motion picture theaters, bowling alleys, marinas, golf courses, playgrounds, ice-skating or roller skating rinks or arenas, zoos, community centers, and similar amusements offered to the general public; any public recreation, school, library, day care center, park, church, mortuary, hospital or cemetery; or closer than one-half mile from any other adult oriented establishment property line. Measurement for the purpose of this regulation shall be made in a straight line without regard to intervening structures or objects, from the nearest portion of the structure used as part of the adult oriented establishment to the nearest property line or boundary of any restricted area set out herein. Documentation illustrating existing land uses, zoning, and other pertinent features located within one-half mile of the property proposed for use by an adult oriented establishment shall be submitted in conjunction with an application for approval for such use, along with site plans, surveys, and other pertinent site information as may reasonably be required by the building official to make a thorough evaluation of such proposal.

(b) Accessory uses. Accessory uses which are incidental and subordinate to the principal use are as follows:

(1) Dwelling unit for owner, operator or employee of principal use.

(2) Industry, manufacturing and offices, but only as accessory and incidental to principal use.

(3) Telecommunication facilities.

(c) Special exceptions. Special exceptions are permitted only with approval of board of zoning appeals and are as follows:

(1) Automobile storage; automobile impoundment yards.

(2) Lumberyards.

(d) Prohibited uses. Uses prohibited in the B-3 district are as follows:

(1) Residential, except as provided under accessory uses; industry, manufacturing as principal uses; junkyard; auto salvage.

(2) Mini-storage warehouses.

(e) Locational standards. Not applicable.

(f) Design standards; dimensional requirements.

(1) Minimum requirements.

a. Lot area, 10,000 square feet.

b. Lot frontage, 50 feet.

c. Front yard, 20 feet.

d. Each side yard, not applicable.

e. Rear yard, 30 feet.

f. Usable open space, not applicable.

(2) Maximum requirements.

a. Lot coverage, 40 percent.

b. Building height, not applicable.

(g) Parking. Parking and loading provisions shall be as required by article VI of this chapter. Parking areas should interconnect with adjacent commercial property.

(h) HVAC Landscaping. All HVAC units located at ground level shall be landscaped by a vegetative buffer containing the entire unit or units.

(i) Parking lot landscaping. All parking areas must provide interior landscaping as follows: In addition to all other landscaping requirements, all parking areas shall contain a minimum of one tree per five parking spaces to be located in the interior parking lot area.

(j) Property landscaping. The sum of all landscaping contained within any one zoning development plan shall be a minimum of ten percent of the entire land area.

(k) Signs. See article IV of this chapter for sign provisions.

(l) Development plan and building permit. No building permit for a B-3 district shall be issued by the zoning administrator until a final zoning development plan has been approved by the city planning department. The site plan shall contain (at a minimum) all building footprints (drawn to scale); all proposed landscaping; all proposed driveways, parking spaces, and their dimensions; all proposed HVAC unit locations; location information; property owners name and address; all adjacent public streets; all proposed sign information; and all property lines that contain the tract of land being developed.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-204; Ord. No. 4018, § IV(24), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 4498, § 2, 4-7-1998; Ord. No. 4629, § I, 2-2-1999; Ord. No. 4629, § 1, 2-2-1999; Ord. No. 5050, §§ I, II, 10-1-2002; Ord. No. 5097, § I, 4-1-2003; Ord. No. 5613, § II, 11-6-2007; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-196. - B-4P, Planned Business District.

The B-4P, Planned Business District is regulated in division 3 of this article.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-205; Ord. No. 4018, § IV(25), 3-21-1995)

Sec. 114-197. - M-1, Light Manufacturing District.

(a) *Intent.* The M-1, Light Manufacturing District is intended for industrial, manufacturing and other uses generally having a lower intensity of smoke, noise, odor, heat, vibrations, light, waste generation and similar characteristics than for M-2 districts.

(b) *Principal uses.* All principal uses shall meet all local, state and federal requirements for control of air, water and noise pollution. Every use shall be conducted in a completely enclosed building, except for outdoor storage which shall be enclosed by a wall or fence at least six feet high. Principal uses permitted in the M-1 district are as follows:

(1) Manufacturing, compounding, assembling, processing, packaging or similar treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semiprecious metals, stones, rubber, sheet metal

excluding large stampings, shell, textiles, tobacco, wax, wire, wood excluding sawmills and planing mills, and yarn.

(2) Manufacturing, compounding, assembling, processing, packaging or similar treatment of such products as: bakery goods, billboards, candy, ceramics, cosmetics, drafting instruments, electrical parts, appliances, electronic instruments, food products, meat, meat packaging, ice cream, medical and dental instruments, musical instruments, pharmaceuticals, pottery, china or figurines, radios, record players, rubber and metal stamps, rubber products, scientific instruments and equipment, shoes, television receivers, toiletries, soaps and detergents, toys and watches and clocks.

(3) Other industrial and manufacturing such as auto parts rebuilding, battery manufacturing; nondairy and nonfood product bottling plants; box and crate assembly; building materials sales; rental and storage yards; bag, carpet and rug cleaning and dyeing; cabinet shops; canneries; caterers; cooperages; crematories; dextrine and starch manufacturing; enameling, lacquering and japanning; felt manufacturing; electric foundry; furniture manufacturing; inflammable underground liquid storage; iron works (ornamental); laboratories (experimental, film or testing); lumber sales and lumberyard; nut and bolt manufacturing and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yard; welding, other metal working shops, wholesaling, warehousing, breweries, craft breweries, wineries, distilleries.

(4) Communication facilities.

(c) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the M-1 district as follows: on-site dwelling unit for caretaker; office, recreation and food service for employees; and incidental retailing of products manufactured on site.

(d) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the M-1 district as follows:

(1) Public utilities and public service uses and structures.

(2) Indoor recreational facilities such as tennis courts, racquet ball courts, gymnasiums, offices, etc.

(e) *Prohibited uses.* Uses prohibited in the M-1 district are as follows:

(1) Residential, business as principal uses.

(2) All uses in the M-2 district not included in the M-1 district.

(3) Auto wrecking yard and junkyard.

(f) *Dimensional requirements.* The minimum and maximum dimensional requirements for the M-1 district are as follows:

(1) *Minimum requirements.*

a. Lot area, not applicable.
b. Lot frontage, not applicable.
c. Front yard, 20 feet.
d. Each side yard, not applicable.
e. Rear yard, not applicable.
f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 85 percent.
b. Building height, not applicable.

(g) *Signs.* See article IV of this chapter for sign provisions.

(h) *Parking.* See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-206; Ord. No. 4018, § IV(26), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-198. - M-1R, Light Manufacturing Restricted District.

(a) *Intent.* The M-1R, Light Manufacturing Restricted District is the same as the M-1 district, except that provisions are greater for light and air and for physical appearance.

(b) *Principal uses.* Principal uses permitted in the M-1R district are the same as for the M-1 district.

(c) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the M-1R district the same as for the M-1 district.

(d) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the M-1R district the same as for the M-1 district.

(e) *Prohibited uses.* Uses prohibited in the M-1R district are the same as for the M-1 district.

(f) *Dimensional requirements.* The minimum and maximum dimensional requirements for the M-1R district are as follows:

(1) *Minimum requirements.*

a. Lot area, not applicable.
b. Lot frontage, not applicable.
c. Front yard, 50 feet.
d. Each side yard, 15 feet.
e. Rear yard, 25 feet.
f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 80 percent.
b. Building height, not applicable.

Note. A minimum of 20 feet of the required front yard shall be landscaped with grass, trees and shrubs. Landscaping must be accomplished prior to any occupancy and use of the property.

(g) *Signs.* See article IV of this chapter for sign provisions.

(h) *Parking.* See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-207; Ord. No. 4018, § IV(27), 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-199. - M-2, General Manufacturing District.

(a) *Principal uses.* Principal uses permitted in the M-2, General Manufacturing District are as follows:

(1) The same as for the M-1 district, except that all provisions in this section shall apply for such uses in this zone.

(2) All buildings, storage, loading (but not parking) shall be at least 300 feet from residential districts, and 100 feet from any other district, except the M-1 district.

(3) Abrasive manufacturing; acid manufacturing; aerosol packaging; agricultural uses, including hatcheries; asbestos processing; automobile assembling, rebuilding and reconditioning; bleaching plants; boiler shops, structural steel fabrication or other noise-producing machine operated tools; bolt or screw thread rolling or cutting; bottle making; brewing and distillery; brick, tile or terracotta and other clay products manufacturing; briquette manufacture; bronze casting; candle or sperm oil manufacturing; canvas manufacturing; carpet or rug manufacturing; coke manufacturing; concrete mixing, concrete products; die casting and making; disinfectant, insecticide or poison manufacturing; dye or dyestuff manufacturing; electric power generation; excelsior and fiber manufacturing; fencing, woven wire manufacturing; fertilizer manufacturing; forge; foundry; glass fiber manufacturing; glucose manufacturing; grain drying and poultry feed manufacturing; hair manufacturing; iron storage, sorting, collecting or bailing; leaf mold and similar products; linoleum oil cloth or oiled goods manufacturing; match manufacturing; nitrating processes; oil, paint, shellac, enamel manufacturing of the grinding of colors by machine; paper or pulp manufacturing, paper scrap or waste storage grading; perfume manufacturing; plaster manufacturing and products; potash manufacturing or refining; pyrroline plastic manufacturing; roofing material factory, rubber manufacturing, treating or reclaiming plant; sand blasting; sewage treatment plant; shoe blacking or polish; soda ash, caustic soda or washing compound containing chlorine, bleaching powder manufacturing or refining; steam power plant; storage, drying, cleaning of rags, glass, cloth, paper or clipping; sugar refining or starch manufacturing; tar or asphalt roofing; textile manufacturing; tire manufacturing; ammonia, chlorine or bleaching powder; animal black, lampblack or bone black; asphalt plant; automobile impound yard;

automobile wrecking; scrap iron storage; blast furnaces; building materials salvage; celluloid and pyroxyline manufacturing; cement, lime, gypsum or plaster of Paris; coal storage; creosote manufacturing; cupola or metal smelting furnace and ore or metal reduction; distillation of coal, petroleum, refuse, bones; explosives remanufacturing or storage except for small arms ammunition; fertilizer manufacturing using organic materials compost or storage; fish curing, smoking, or packing; gas (acetylene, illuminating or heating) manufacturing; glue manufacturing; size or gelatin manufacturing; junkyard; livestock feed yards; petroleum or inflammable liquids; rock or stone crushing; stockyards, slaughtering; smelting of metals; steel mills; storage, curing or tanning of raw, green or salted hides or skins; landfills, incinerators.

(4) Communication facilities.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the M-2 district the same as for the M-1 district.

(c) *Uses permitted upon review.* Uses permitted upon review are a methadone treatment clinic or facility, substance abuse treatment facility with the approval of the planning commission, subject to the following:

(1) The consideration for approval by the planning commission of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the state.

(2) Maps showing existing land use and zoning within one-quarter-mile of the proposed site should be submitted with an application for use of review approval along with the license of the applicant, certificate of need, site plan, survey or other information deemed reasonable by the planning commission for use in making a thorough evaluation of the proposal.

(3) The clinic or facility shall be located on and have access to a principal arterial street.

(4) Measurement shall be made in a straight line on the city zoning map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses:

a. The clinic or facility shall not be located within 1,000 feet of a school, day care facility, park, church, synagogue, mosque, mortuary or hospital.

b. The clinic or facility shall not be located within 1,000 feet of any establishment that sells alcoholic beverages for either on- or off-premises consumption.

c. The clinic or facility shall not be located within 1,000 feet of any area devoted to public recreation activity.

d. The clinic or facility shall not be located within 1,000 feet of any amusement catering to family activity.

e. The site shall not be within less than 1,000 feet of any residential dwelling at the time of approval.

f. The site shall not be less than one-half mile from any other methadone treatment clinic or facility and substance abuse treatment facility.

(d) *Special exceptions.* Special exceptions are permitted only with the approval of the board of zoning appeals and are allowed in the M-2 district as follows:

(1) Any use, except as set forth in subsection (c) of this section, in the opinion of the board of zoning appeals.

(2) The same as for subsection (a)(2) of this section.

(e) *Prohibited uses.* Uses prohibited in the M-2 district are as follows:

(1) Residential, business and office uses as principal uses.

(2) Open garbage dumps.

(f) *Dimensional requirements.* The minimum and maximum dimensional requirements for the M-2 district are as follows:

(1) *Minimum requirements.*

a. Lot area, not applicable.

b. Lot frontage, not applicable.

c. Front yard, ten feet.

d. Each side yard, ten feet.

e. Rear yard, 25 feet.

f. Usable open space, not applicable.

(2) *Maximum permitted.*

a. Lot coverage, 90 percent.

b. Building height, not applicable.

(g) *Signs.* See article IV of this chapter for sign provisions.

(h) *Parking.* See article VI of this chapter for parking and loading provisions.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-208; Ord. No. 4018, § IV(28), 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 6001, § II, 9-7-2010)

Sec. 114-200. - MX, Mixed-Use District.

The MX, Mixed-Use District is regulated in division 8 of this article.

(Code 1981, app. A, art. IV, § 9; Code 1998, § 114-209; Ord. No. 4018, § IV(30), 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-201. - Golf Course Community District (GC).

(a) *Principal uses.* Principal uses for the GC district area are as follows:

(1) One single-family detached dwelling unit per lot.

(2) Public uses, including but not limited to playgrounds, parks, recreational buildings, fire and police stations, and reservoirs.

(3) Golf course uses, including driving ranges, practice putting greens, clubhouses with parking, maintenance buildings, and restroom outbuildings.

(4) Recreational uses, including swimming pools, tennis courts, and basketball courts.

(b) *Accessory uses.* Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the GC district as follows:

(1) Golf course accessory uses.

a. One public or private banquet facility with parking.

b. One public or private restaurant with no drive-thru.

c. Retail sales utilized by golf course and club members, but not including the sale of motorized golf carts or vehicles.

d. On-premises alcohol sales.

e. One public or private club with kitchen facilities.

(2) Residential accessory uses.

a. Accessory to single-family residences: private garages, storage sheds, parking and private recreation.

b. Accessory to single-family residences: living quarters without cooking facilities, but only for guests or domestic employees.

c. Accessory to single-family residences: home occupations.

(c) *Special exceptions.* Uses permitted only with the approval of the board of zoning appeals are allowed as follows:

(1) Churches and other places of worship.

(2) On-site subdivision sales offices while sales are underway.

(d) *Prohibited uses.* Prohibited uses in the GC District are as follows:

(1) Residential, other than single-family detached dwellings.

(2) Commercial uses other than use incidental to the golf course or club members.

(3) Manufacturing/industrial uses.

(4) Any use not listed in this section as a principal use, accessory use, or special exception use.

(e) *Design standards.*

(1) Minimum requirements.

a. Minimum lot area, 10,000 square feet.

b. Lot frontage, 60 feet; and all nonresidential uses must have access directly from an arterial or collector street as designated by the major street and road plan.

c. Front yard. Minimum front yard setback shall be 40 feet.

d. Side yard. Minimum side yard setback shall be ten feet for one or two stories; 15 feet for three stories; plus 50 percent of the side yard setback listed above for a side yard abutting a public street.

e. Rear yard, minimum rear yard setback shall be 30 feet.

(2) Maximum permitted allowances.

a. Lot coverage, 30 percent including accessory buildings.

b. Building height, three stories up, 35 feet maximum height.

(3) Master plan.

a. Must be submitted and approved by the city regional planning commission.

b. Must be stamped and signed by the director of planning and recorded with the Sullivan County register of deeds prior to the issuance of a building permit.

c. Any development, uses, location of buildings or facilities must adhere to the approved master plan.

(f) *Parking and loading.* Parking and loading requirements for the GC district shall be regulated by the following provisions:

(1) For all residential units, a driveway for at least two spaces per dwelling unit shall be provided and only one such space shall be required to have direct access to a street.

(2) For the number of parking spaces required for all other uses, see article VI of this chapter.

(3) Parking areas for nonresidential uses in excess of 5,000 square feet must contain interior landscaping. This requirement is not satisfied by any other required setback planting, buffering or screening areas.

a. All parking rows shall end in a landscape island containing one small maturing tree. All landscape islands shall be a minimum of nine feet by 18 feet and shall be protected around the perimeter of the island.

b. A landscaped island is required every 12 parking spaces and it shall contain one small maturing tree.

c. A credit of two planted trees for each existing tree saved will be given when the existing tree saved exceeds the required minimum size tree at planting. (See landscaping, article VII of this chapter)

d. All loading docks and bays shall be screened from public streets.

(g) *Lighting.* All lighting for nonresidential areas shall be sufficient for the safe use of the facilities and shall not create a traffic hazard. The use of cutoff boxes shall be required for lighting adjacent to residential areas to reduce light spillage.

(h) *Signs.* Signs as allowed in section 114-528 are permitted. Signs, other than residential signs or signs as allowed in section 114-528, within the district shall be reviewed by the planning commission as part of the site plan approval process. Additionally, the following shall apply:

(1) Freestanding signs are permitted for nonresidential areas as follows:

a. Freestanding signs are only permitted at the main ingress/egress to the lot and only one sign shall be permitted.

b. The sign shall not exceed 32 square feet in area per side.

c. The sign shall be a monument style sign mounted on a solid base and shall not exceed five feet in height.

d. No freestanding sign shall be closer than 15 feet to any public street or permanent easement.

e. Signs shall only be illuminated externally.

(2) Signs for residential areas are permitted as follows:

a. Home occupations conducted in a dwelling are permitted one freestanding sign, provided:

1. The area of one side of the sign does not exceed three square feet; and

2. The sign shall not be illuminated by any means.

b. Single-family residences are permitted one temporary sign, provided:

1. The area of the sign does not exceed three square feet;

2. The sign shall not be illuminated by any means; and

3. The sign shall be placed no more than three consecutive days at a time.

c. Single-family residential subdivisions are permitted one permanent identification sign at each major street access, provided:

1. Such sign does not exceed 32 square feet per side with a maximum number of two sides;

2. The height of the sign shall not exceed five feet;

3. The sign shall be set back a minimum of 20 feet from any property line, except that a sign may be permitted in a grassed median with the approval of the public works director, provided the sign does not interfere with traffic; and

4. The sign shall only be illuminated externally.

(i) *Landscaping, screening and buffering.* Landscaping, screening and buffering shall be allowed as set forth in article VII of this chapter.

(j) *Penalty.* Any person violating any provision of this section shall be guilty of an offense and, upon conviction, shall pay a penalty of $50.00 for each offense. Each occurrence shall constitute a separate offense.

(Ord. No. 6181, §§ II, III, 3-6-2012)

Secs. 114-202—114-223. – Reserved

Division 3. – Planned Business District (B-4P)

Sec. 114-224. - Intent.

The intent of the B-4P, Planned Business District is to establish and preserve areas for planned business developments that are coordinated with adjacent activities. The purpose is to permit a more efficient and aesthetically pleasing environment than generally is found in other business zones.

(Code 1981, app. A, art. V, § 1; Code 1998, § 114-246; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-225. - Permitted uses.

All uses listed below and other substantially similar uses shall be deemed as permitted: ambulance services; animal hospitals; antique shops; artist studios; automobile sales and services; automobile service stations; bakeries, retail and wholesale; boat sales; brewpubs, craft breweries, distilleries, wineries building materials and services; business services and supplies; private clubs and lodges; commercial recreation and entertainment; community centers; convenience stores; cultural institutions; day care centers; eating and drinking establishments; equipment sales, service and rental; financial institutions; fitness centers; food and beverage sales; funeral and interment services; golf courses; government uses; hotels and motels; laboratories; malls; manufactured and mobile home sales; meeting centers; offices; off- and on-premises alcohol sales; park and recreation facilities; pawn shops; personal improvement services; printing and publishing; public facilities; recreation vehicle sales; religious assembly; research and development; restaurants; retail sales; schools (public, private, trade); shopping centers; theaters and auditoriums; utilities; and welcome centers.

(Code 1981, app. A, art. V, § 2; Code 1998, § 114-247; Ord. No. 4276, § I, 9-3-1996; Ord. No. 4498, § 3, 4-7-1998; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-226. - Accessory uses.

Accessory uses that are incidental and subordinate to the principal use: antennas; lumberyard and material yard (provided they are screened); catering services and banquet facilities; telecommunication facilities.

(Code 1981, app. A, art. V, § 3; Code 1998, § 114-248; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-227. - Special exceptions.

Permitted only with approval of board of zoning appeals: Helistops; institution for human care; open-air businesses such as plant sales, lawn furniture, playground equipment, and garden supplies; minor automobile repair centers; and parking lots and structures.

(Code 1981, app. A, art. V, § 4; Code 1998, § 114-249; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-228. - Prohibited uses.

Prohibited uses in the B-4P district are manufacturing, industry, and related uses; wholesale; warehousing; heavy equipment storage yards; motor freight terminal; junkyards; auto salvage; wrecking yards; recycling facilities; residential.

(Code 1981, app. A, art. V, § 5; Code 1998, § 114-250; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-229. - Location standards.

Uses within a B-4P district shall have frontage on and principal access to a collector or higher class of street as designated in the major street and road plan. Individual highway access should be prohibited and replaced by service roads or other means to greatly reduce street intersections and traffic hazards.

(Code 1981, app. A, art. V, § 6; Code 1998, § 114-251; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-230. - Design standards.

(a) *Multiple principal uses.* Multiple structures and accessory uses for each lot are permitted.

(b) *Minimum lot area.* Within a B-4P, Planned Business District shall be 25,000 square feet and shall have a minimum of 150 feet of frontage on an arterial, or collector, street as designated by the planning commission.

(c) *Periphery yard.* The B-4P district shall have a 30-foot landscaped development-free periphery yard. The periphery yard shall be measured from the property lines around the district. Structures including parking areas shall not be permitted within the periphery yard. However, transit stops, transit shelters, and other public uses may be located in the periphery yard.

(d) *Building setback.* The following minimum setbacks shall be observed:

(1) *Front yard.* Minimum front yard setback from a public street or right-of-way for vehicular traffic shall be not less than 30 feet. A 2:1 height-to-yard ratio shall be utilized for structures in excess of 60 feet height. Transit stops, transit shelters and other public uses may be located in the front yard setback.

(2) *Side yard.* Minimum side yard setback from a public street or right-of-way for vehicular traffic shall be 15 feet. Zero lot lines in lieu of side yard setback may be permitted on one side only when complementary joint uses are approved by the planning commission. The opposite side yard should have a minimum setback of 30 feet. A 2:1 height-to-yard ratio shall be utilized for structures in excess of 60 feet height.

(3) *Rear yard.* Minimum rear yard setback shall be 30 feet. A 2:1 height to yard ratio shall be utilized for structures in excess of 60 feet height.

(e) *Building height.* There shall be no maximum building height.

(f) *Building ground coverage.* The building ground coverage for each use and accessory use in the B-4P district shall not exceed 30 percent. This may be the total area of the lot or the average area of several lots when an integrated complex is developed. It shall include all buildings and parking structures.

(g) *Parking.* Parking and loading provisions shall be as required by article VI of this chapter and shall also be regulated by the provisions set forth in this subsection. The amount of off-street parking required may be reduced by the zoning administrator in shared parking facilities, provided that dissimilar peak hours of operations are used. Such parking facilities shall be designed and developed with improved pedestrian ways, having no building more than 400 feet from the most remote shared facility. The reductions are as follows:

(1) Two uses, a five percent reduction.

(2) Three uses, a ten percent reduction.

(3) Four or more uses, a 15 percent reduction.

(4) Reduction of parking requirements will be compensated by increased landscaping to a similar amount.

(h) *Pedestrian ways.* Pedestrian ways shall be required within parking lots of one-half acre in size or greater. These parking lots shall be divided by landscaping and/or walkways at least ten feet in width. The design of pedestrian ways shall comply with the following:

(1) Developments that contain more than one principal building or accessory building shall provide pedestrian ways between the principal entrances of the buildings, and to

public street sidewalks. Developments that contain one building shall provide pedestrian access from the building to buildings on adjacent lots, or to the public street sidewalks.

(2) Where necessary for traffic circulation, pedestrian ways may be broken by crosswalks as long as the crossings are marked or constructed with a contrasting pavement material to indicate a pedestrian area.

(3) Where practical, pedestrian ways shall be raised above the grade of streets, drives, parking lots, and other paved areas. Where pedestrian ways cannot be raised, they shall be constructed of material that is different than the adjacent pavement.

(i) *Parking lot landscaping.* Parking areas in excess of 5,000 square feet must provide interior landscaping. This does not include the perimeter/setback planting or screening.

(1) A ten-foot landscaped strip shall be required for every four aisles of parking plus a landscaped island for every ten spaces.

(2) Landscaped islands shall be at least 324 square feet. These areas shall be protected by a six-inch concrete curb and shall run the length of the abutting space.

(3) Each planting area shall contain at least one tree and the facility as a whole shall contain at least one tree for every five parking spaces.

(4) Small maturing trees may be used to satisfy parking lot landscaping requirements. Such trees shall meet the planting area specification of the landscape and buffer provisions.

(5) Existing trees shall be preserved whenever possible and shall be given a credit of 2:1 (two planted trees for each existing tree saved) whenever the existing tree exceeds the minimum size tree at planting.

(6) Shrubbery may be used to satisfy landscaping requirements at a 4:1 ratio (four shrubs for one required tree).

(j) *Outdoor display areas.* Include outdoor display of automobiles, boats, manufactured homes, mobile homes, RVs, motorcycles, ATVs, and other similar products. All outdoor product display areas shall be considered parking areas but shall not be considered when calculating parking space requirements. Outdoor product display areas shall be divided into subareas by a ten-foot landscape strip for each 6,000 square feet of paved area, plus a landscape island for each 900 square feet of paved area.

(k) *Loading docks.* Loading docks, bays, and maneuvering areas shall be screened from abutting public streets.

(l) *Lighting.* All lighting shall be sufficient for safe use of the facilities and shall not create a traffic hazard glare for any and all surrounding areas.

(m) *Signs.* See article IV of this chapter for sign provisions.

(Code 1981, app. A, art. V, § 7; Code 1998, § 114-252; Ord. No. 4498, § 3, 4-7-1998)

Sec. 114-231. - Development plan and building permit.

No building permit for a B-4P district use shall be issued by the zoning administrator in a planned business district until a preliminary zoning development plan for the entire district has been submitted and approved by the planning commission and a final zoning development plan has been submitted and approved by the planning manager and certified to the zoning administrator. Such plans approved by the planning manager shall conform to the requirements of this article, the article on zoning development plan provisions, and any other applicable provisions of this chapter. Should the owner or agent for the development desire or the planning manager desire, the planning commission may be asked to consider approval of the final zoning development plan. For clarification purposes, a district is defined in section 114-6. The zoning map atlas will be used in determining the boundaries for the B-4P planned business district.

(Code 1998, § 114-253; Ord. No. 4498, § 3, 4-7-1998; Ord. No. 6009, § I, 10-5-2010)

Secs. 114-232—114-237. - Reserved

Division 4. – Historic District Overlay (H-20)

Sec. 114-238. - Intent.

Within the H-2O, Historic District Overlay, as shown on the zoning map, it is the intent to preserve and protect historic sites and structures. The requirements of the district are designed to protect and preserve historical and architectural values, provide protection from uses that would lessen the significance of the surrounding uses, create an aesthetic atmosphere, strengthen the economy and promote education and knowledge of heritage of the present and future citizens of the community.

(Code 1981, app. A, art. VI, § 1; Code 1998, § 114-281)

Sec. 114-239. - Underlying district requirements apply.

The H-2O, Historic District Overlay is superimposed as an overlay on any other zoning district, and the use, dimensional and other requirements of such other district shall apply.

(Code 1981, app. A, art. VI, § 2; Code 1998, § 114-282)

Sec. 114-240. - Historic zoning commission.

(a) *Appointment, membership, compensation.* The board of mayor and aldermen shall create a seven-member historic zoning commission which shall consist of:

(1) A representative of a local patriotic or historic organization;

(2) An architect, if available; a member of the planning commission at the time of the appointment; and

(3) The remaining members shall be appointed from the community in general.

Members shall be appointed by the mayor, subject to confirmation by the board of mayor and aldermen. Appointment shall be arranged so that the term of one member shall expire each year, and his successor shall be appointed in like manner for a term of five years. All members shall serve without compensation.

(b) *Organization and meetings.* The commission shall elect a chairperson and any other officers desired. Meetings shall be held at the call of the chairperson or by a majority of the members. Minutes shall be kept of all meetings, and all meetings and records shall be open to the public. A quorum shall consist of four members, and official actions may be carried by a majority vote in the presence of a quorum.

(c) *Powers and duties.* The historic zoning commission shall:

(1) Make recommendations to the planning commission, the board of mayor and aldermen or others in regard to all matters relating to the:

a. Preservation and enhancement of structures, premises and areas of substantial historical or architectural significance;

b. Establishment of historic districts and regulations to be enforced thereunder; and

(2) Have any other powers and duties as provided in this chapter.

(Code 1981, app. A, art. VI, § 3; Code 1998, § 114-283)

Sec. 114-241. - Procedures for establishing district.

The procedure for establishing an historic district shall involve the historic zoning commission, the planning commission and the board of mayor and aldermen. Consideration for designating a site, structure or area as an historic district shall be considered first by the historic zoning commission. Any person, group or agency desiring such a designation shall submit an application to the historic zoning commission containing any relevant information as may be desired by the historic zoning commission, and the historic zoning commission shall inform the occupants and owners of the property involved of the consideration that is being given for designating the property as an historic district. After appropriate review, the historic zoning commission shall forward its report and recommendation to the planning commission. The

planning commission and board of mayor and aldermen shall then follow the procedure established for designating any zoning district or for amendment to this chapter.

(Code 1981, app. A, art. VI, § 4; Code 1998, § 114-284)

Sec. 114-242. - Building permits.

In an historic district, any building permit issued shall be in conformance with the following:

(1) *Permit required.* No alteration, moving, demolition, addition or new construction shall take place in an historic district until an application for a certificate of appropriateness has been filed with the building official and an approved permit obtained for the proposed work. In addition, an application shall be made in the same manner for any work, including but not limited to alterations, additions, demolition, removal or new construction which alters or contributes to the exterior appearance of existing structures, including but not limited to exterior painting or finishing of structures and their roofs, guttering, siding, trim and foundations, or their environment, including but not limited to isolated features such as chimneys, walls, trees, streams, foundations, roadbeds and general grading, and an approved building permit shall be obtained before work can begin.

(2) *Application for certificate of appropriateness.* An application for a certificate of appropriateness shall be referred directly by the building official to the historic zoning commission. In applying to the building official for a certificate of appropriateness, the applicant shall submit a dimensional scale plan indicating the shape, size and location of the lot to be built upon and the shape, size, height and location of all buildings to be erected, altered or moved and of any building already on the lot. The applicant shall also state the existing and intended use of all such buildings and shall provide preliminary exterior elevations indicating material, color, architectural features, signs and such other information as may be required by the building official or the historic zoning commission for determining whether this chapter is being observed.

(3) *Historic zoning commission action.* Upon receiving the application, the historic commission shall, within 30 days following the availability of sufficient data, issue to the office of the building official a letter stating its approval, with or without attached conditions, or disapproval with the grounds for disapproval stated in writing.

a. *Commission review.* In its review of material submitted, the historic zoning commission shall give consideration to:

1. The historic and architectural value of the present structure;

2. The relationship of exterior architectural features of such structure to the rest of the structures of the surrounding area;

3. The general compatibility of exterior design, arrangement, texture and materials proposed to be used; and

4. Any other factor, including aesthetics, which is deemed pertinent.

b. *Disapproval.* If disapproval is being considered, the historic zoning commission shall describe to the applicant, if possible, the types of changes in the application that would be necessary for the historic zoning commission to consider approval.

c. *Limitations on historic zoning commission.* The historic zoning commission shall not consider or make any requirements pertaining exclusively to the interior of a structure, shall not grant variances from the terms of this chapter and shall not make any requirement except for the purpose of preventing developments obviously incongruous to the historic aspects of the district.

(Code 1981, app. A, art. VI, § 5; Code 1998, § 114-285)

Sec. 114-243. - Appeal.

Anyone who may be aggrieved by any final order or judgment of the historic zoning commission under this division may have the order or judgment reviewed by the courts by the procedure of statutory certiorari as provided for in state law.

(Code 1981, app. A, art. VI, § 6; Code 1998, § 114-286)

Secs. 114-244—114-250. – Reserved

Division 5. – Floodplain Zoning

Subdivision I. – In General

Sec. 114-251. - Definitions.

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

Accessory structure means a subordinate structure to the principal structure on the same lot and, for the purpose of this division, shall conform to the following:

(1) Accessory structures shall only be used for parking of vehicles and storage.

(2) Accessory structures shall be designed to have low flood damage potential.

(3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(4) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(5) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

Addition (to an existing building) means any walled and roofed expansion to the perimeter or height of a building.

Appeal means a request for a review of the local enforcement officer's interpretation of any provision of this division or a request for a variance.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See *Special flood hazard area.*

Area of special flood-related erosion hazard means the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as zone E on the flood hazard boundary map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, zone E may be further refined.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one-percent annual chance flood.

Basement means any portion of a building having its floor subgrade (below ground level) on all sides.

Building. See *Structure.*

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Emergency flood insurance program or *emergency program* means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

Exception means a waiver from the provisions of this division which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this division.

Existing construction means any structure for which the start of construction commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

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, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

Existing structures. See *Existing construction.*

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 inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation determination means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent 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, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

Flood hazard boundary map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

Flood insurance study means the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood-related erosion means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-related erosion area or *flood-related erosion prone area* means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

Flood-related erosion area management means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall 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.

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 and structures and their contents.

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 a designated height.

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 a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert 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. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding 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, adjacent 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 U.S. 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 to 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 the state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on the city inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

a. By the approved state program as determined by the Secretary of the Interior or

b. Directly by the Secretary of the Interior.

Levee means a manmade 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 a basement. An unfinished or flood resistant enclosure used 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 division.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two 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 FEMA.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this

division, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the start of construction commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

New 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) is completed on or after the effective date of the ordinance from which this division is derived or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

North American Vertical Datum (NAVD), as corrected in 1988, means a vertical control used as a reference for establishing varying elevations within the floodplain.

100-year flood. See *Base flood.*

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towable by a light duty truck;
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zone A, AO, AH, A1-30, AE or A99.

Special hazard area means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, or AH.

Start of construction 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 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial 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 building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means the state department of economic and community development's local planning assistance office, as designated by the governor of the state at the request of FEMA to assist in the implementation of the NFIP for the state.

Structure, for purposes of this division, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds 50 percent of the market

value of the structure before the start of construction of the initial improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring. 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 pre-identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home parks or subdivisions means the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this division.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this division 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 (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Code 1998, § 114-320; Ord. No. 5414, § II, 6-20-2006; Ord. No. 5992, § I(art. II), 8-3-2010)

Sec. 114-252. - Statutory authorization.

T.C.A. §§ 13-7-201 through 13-7-210 delegates the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Code 1998, § 114-316; Ord. No. 5414, § I(A), 6-20-2006; Ord. No. 5992, § I(art. I, § A), 8-3-2010)

Sec. 114-253. - Findings of fact.

(a) The city wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, § 60.3.

(b) Areas of the city are subject to periodic inundation which could result 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.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Code 1998, § 114-317; Ord. No. 5414, § I(B), 6-20-2006; Ord. No. 5992, § I(art. I, § B), 8-3-2010)

Sec. 114-254. - Statement of purpose.

It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This division is designed to:

(1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1998, § 114-318; Ord. No. 5414, § I(C), 6-20-2006; Ord. No. 5992, § I(art. I, § C), 8-3-2010)

Sec. 114-255. - Objectives.

The objectives of this division are:

(1) To protect human life, health, safety and property;

(2) To minimize expenditure of public funds for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(6) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(7) To ensure that potential homebuyers are notified that property is in a floodprone area;

(8) To maintain eligibility for participation in the NFIP.

(Code 1998, § 114-319; Ord. No. 5414, § I(D), 6-20-2006; Ord. No. 5992, § I(art. I, § D), 8-3-2010)

Sec. 114-256. - Conflict with other ordinances.

In case of conflict between this division or any part thereof, and the whole or part of any existing or future ordinance of the city the most restrictive shall in all cases apply.

(Code 1998, § 114-350.26; Ord. No. 5414, § VII(A), 6-20-2006; Ord. No. 5992, § I(art. VII, § A), 8-3-2010)

Sec. 114-257. - Application.

This division shall apply to all areas within the incorporated area of the city.

(Code 1998, § 114-326; Ord. No. 5414, § III(A), 6-20-2006; Ord. No. 5992, § I(art. III, § A), 8-3-2010)

Sec. 114-258. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard within the city are identified by FEMA, in its flood insurance study (FIS) and flood insurance rate map (FIRM), Community Panel Number(s) 47073C0110D, 47073C0120D, 47073C0140D dated July 3, 2006, and 47163C0020D, 47163C0030D, 47163C0035D, 47163C0040D, 47163C0045D, 47163C0055D, 47163C0060D,

47163C0065D, 47163C0070D, 47163C0210D, 47163C0230D, 47163C0235D, 47163C0245D, 47163C0255D, 47163C0260D, dated September 29, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this division.

(Code 1998, § 114-327; Ord. No. 5414, § III(B), 6-20-2006; Ord. No. 5992, § I(art. III, § B), 8-3-2010)

Sec. 114-259. - Requirement for development permit.

A development permit shall be required in conformity with this division prior to the commencement of any development activities.

(Code 1998, § 114-328; Ord. No. 5414, § III(C), 6-20-2006; Ord. No. 5992, § I(art. III, § C), 8-3-2010)

Sec. 114-260. - Compliance.

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this division and other applicable regulations.

(Code 1998, § 114-329; Ord. No. 5414, § III(D), 6-20-2006; Ord. No. 5992, § I(art. III, § D), 8-3-2010)

Sec. 114-261. - Abrogation and greater restrictions.

This division is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this division conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(Code 1998, § 114-330; Ord. No. 5414, § III(E), 6-20-2006; Ord. No. 5992, § I(art. III, § E), 8-3-2010)

Sec. 114-262. - Interpretation.

In the interpretation and application of this division, all provisions shall be:

(1) Considered as minimum requirements;
(2) Liberally construed in favor of the board of mayor and aldermen; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1998, § 114-331; Ord. No. 5414, § III(F), 6-20-2006; Ord. No. 5992, § I(art. III, § F), 8-3-2010)

Sec. 114-263. - Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This division shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made hereunder.

(Code 1998, § 114-332; Ord. No. 5414, § III(G), 6-20-2006; Ord. No. 5992, § I(art. III, § G), 8-3-2010)

Sec. 114-264. - Penalties for violation.

Violation of the provisions of this division or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute an offense and any person who violates this division or fails to comply with any of its requirements shall, upon adjudication therefor, pay a penalty of $50.00 for each offense and all costs and expenses involved in the case, and each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful actions to prevent or remedy any violation.

(Code 1998, § 114-333; Ord. No. 5414, § III(H), 6-20-2006; Ord. No. 5992, § I(art. III, § H), 8-3-2010)

Secs. 114-265—114-270. - Reserved

Subdivision II. - Administration

Sec. 114-271. - Designation of administrator.

The city building official is hereby appointed as the administrator to implement the provisions of this division.

(Code 1998, § 114-341; Ord. No. 5414, § IV(A), 6-20-2006; Ord. No. 5992, § I(art. IV, § A), 8-3-2010)

Sec. 114-272. - Permit procedures.

Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) *Application stage.*

a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this division.

b. Elevation in relation to mean sea level to which any nonresidential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this division.

c. A FEMA floodproofing certificate from a state-registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in sections 114-283 and 114-284

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) *Construction stage.*

a. Within AE zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a state-registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a state-registered professional engineer or architect and certified by same.

b. Within approximate A zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a state-registered professional engineer or architect and certified by same.

c. For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

d. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Code 1998, § 114-342; Ord. No. 5414, § IV(B), 6-20-2006; Ord. No. 5992, § I(art. IV, § B), 8-3-2010)

Sec. 114-273. - Duties and responsibilities of the administrator.

Duties of the administrator shall include, but not be limited to, the following:

(1) Review all development permits to ensure that the permit requirements of this division have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Review proposed development to ensure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(3) Notify adjacent communities and the state department of economic and community development, local planning assistance office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(4) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(5) Ensure that the flood-carrying capacity within an altered or relocated portion of any watercourse is maintained.

(6) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with section 114-272

(7) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with section 114-272

(8) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a state-registered professional engineer or architect, in accordance with section 114-272

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.

(10) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in zone A on the city FIRM meet the requirements of this division.

(11) Maintain all records pertaining to the provisions of this division in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this division shall be maintained in a separate file or marked for expedited retrieval within combined files.

(Code 1998, § 114-343; Ord. No. 5414, § IV(C), 6-20-2006; Ord. No. 5992, § I(art. IV, § C), 8-3-2010)

Sec. 114-274. - Board of zoning appeals; variance procedures.

(a) *Authority.* The city board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this division.

(b) *Procedure.* Meetings of the city board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the city board of zoning appeals shall be open to the public. The city board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the city board of zoning appeals shall be set by the legislative body.

(c) *Appeals, how taken.* An appeal to the city board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this division. Such appeal shall be taken by filing with the city board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of $50.00 for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the city board of zoning appeals all papers constituting the record upon which the appeal action was taken. The city board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than ten days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) *Powers.* The city board of zoning appeals shall have the following powers:

(1) *Administrative review.* To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this division.

(2) *Variance procedures.* In the case of a request for a variance the following shall apply:

a. The city board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this division.

b. Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this division to preserve the historic character and design of the structure.

c. In passing upon such applications, the city board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this division, and:

1. The danger that materials may be swept onto other property to the injury of others;

2. The danger to life and property due to flooding or erosion;

3. The susceptibility of the proposed facility and its contents to flood damage;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

8. The safety of access to the property in times of flood for ordinary and emergency vehicles;

9. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

10. 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, water systems, and streets and bridges.

d. Upon consideration of the factors listed above, and the purposes of this division, the city board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this division.

e. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) *Conditions for variances.*

(1) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in section 114-274

(2) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as $25.00 for $100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(4) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

(Code 1998, §§ 114-350.16, 114-350.17; Ord. No. 5414, § VI(A), (B), 6-20-2006; Ord. No. 5992, § I(art. VI, §§ A, B), 8-3-2010)

Note—*The provisions of this section shall apply exclusively to areas of special flood hazard within the city.*

Secs. 114-275—114-282. – Reserved

Subdivision III. – Provisions for Flood Hazard Reduction

Sec. 114-283. - General standards.

In all areas of special flood hazard, the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
(2) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
(5) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
(9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this division, shall meet the requirements of new construction as contained in this division;

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this division, shall be undertaken only if said non-conformity is not further extended or replaced;

(11) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(12) All subdivision proposals and other proposed new development proposals shall meet the standards of section 114-284

(13) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(14) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(Code 1998, § 114-350.1; Ord. No. 5414, § V(A), 6-20-2006; Ord. No. 5992, § I(art. V, § A), 8-3-2010)

Sec. 114-284. - Specific standards.

In all areas of special flood hazard, the following provisions, in addition to those set forth in section 114-283, are required:

(1) *Residential structures.* In AE zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section. Within approximate A zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet above the highest adjacent grade (as defined in section 114-320). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section.

(2) *Nonresidential structures.* In AE zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or

nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section. In approximate A zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet above the highest adjacent grade (as defined in section 114-320). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: Enclosures. Nonresidential 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 are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A state-registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in section 114-272

(3) *Enclosures.* All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, 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.

a. Designs for complying with this requirement must either be certified by a state professional engineer or architect or meet or exceed the following minimum criteria.

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above the finished grade;

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of section 114-284

(4) *Standards for manufactured homes and recreational vehicles.*

a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

1. In AE zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot above the level of the base flood elevation; or

2. In approximate A zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet in height above the highest adjacent grade (as defined in section 114-320).

c. Any manufactured home, which has incurred substantial damage as the result of a flood, must meet the standards of sections 114-283 and 114-284

d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

e. All recreational vehicles placed in an identified special flood hazard area must either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

3. The recreational vehicle must meet all the requirements for new construction.

(5) *Standards for subdivisions and other proposed new development proposals.* Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

d. In all approximate A zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data (See section 114-287).

(Code 1998, § 114-350.2; Ord. No. 5414, § V(B), 6-20-2006; Ord. No. 5992, § I(art. V, § B), 8-3-2010)

Sec. 114-285. - Standards for special flood hazard areas with established base flood elevations and with floodways designated.

Located within the special flood hazard areas established in section 114-258 are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A state-registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the city and certification, thereof.

(2) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of sections 114-273 and 114-274

(Code 1998, § 114-350.3; Ord. No. 5414, § V(C), 6-20-2006; Ord. No. 5992, § I(art. V, § C), 8-3-2010)

Sec. 114-286. - Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated.

Located within the special flood hazard areas established in section 114-258, where streams exist with base flood data provided but where no floodways have been designated (zones AE), the following provisions apply:

(1) No encroachments, including fill material, new construction and substantial improvements, shall be located within areas of special flood hazard, unless certification by a state-registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(2) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of sections 114-283 and 114-284

(Code 1998, § 114-350.4; Ord. No. 5414, § V(D), 6-20-2006; Ord. No. 5992, § I(art. V, § D), 8-3-2010)

Sec. 114-287. - Standards for streams without established base flood elevations and floodways (A zones).

Located within the special flood hazard areas established in section 114-258, where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(1) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (2) of this section), as criteria for requiring that new construction, substantial improvements, or other development in approximate A zones meet the requirements of sections 114-283 and 114-284

(2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots

or five acres, whichever is the lesser, include within such proposals base flood elevation data.

(3) Within approximate A zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet above the highest adjacent grade (as defined in section 114-320). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in section 114-272. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of section 114-284

(4) Within approximate A zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 feet, whichever is greater, measured from the top of the stream bank, unless certification by a state-registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the city. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(5) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of sections 114-283 and 114-284. Within approximate A zones, require that those subsections of section 114-284 dealing with the alteration or relocation of a watercourse, ensuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(Code 1998, § 114-350.5; Ord. No. 5414, § V(E), 6-20-2006; Ord. No. 5992, § I(art. V, § E), 8-3-2010)

Sec. 114-288. - Standards for areas of shallow flooding (AO and AH zones).

Located within the special flood hazard areas established in section 114-258, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in sections 114-283 and 114-284, apply:

(1) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at

least one foot above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of section 114-284

(2) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet above the highest adjacent grade. A state-registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this division and shall provide such certification to the administrator as set forth above and as required in accordance with section 114-272

(3) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(Code 1998, § 114-350.6; Ord. No. 5414, § V(F), 6-20-2006; Ord. No. 5992, § I(art. V, § F), 8-3-2010)

Sec. 114-289. - Standards for areas protected by flood protection system (A-99 zones).

Located within the areas of special flood hazard established in section 114-258 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 zones) all provisions of sections 114-271 through 114-273 and subdivision III of this division shall apply.

(Code 1998, § 114-350.7; Ord. No. 5414, § V(G), 6-20-2006; Ord. No. 5992, § I(art. V, § G), 8-3-2010)

Sec. 114-290. - Standards for unmapped streams.

Located within the city are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(1) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a state-registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the locality.

(2) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with sections 114-271 through 114-273 and subdivision III of this division.

(Code 1998, § 114-350.8; Ord. No. 5414, § V(H), 6-20-2006; Ord. No. 5992, § I(art. V, § H), 8-3-2010)

Secs. 114-291—114-297. – Reserved

Division 6. – Planned Development District (PD)

Sec. 114-298. - Intent.

The intent of this division is to allow flexibility and provide performance criteria for planned developments. This division permits design innovation, encourages a maximum choice of types of environment and living areas available to the public, provides open space and recreational areas, and optional methods of land development which encourage imaginative solutions to environmental design problems. The goal is a development in which buildings, land use, transportation facilities, utility systems and open spaces are integrated through an overall design. The total parcel, rather than a single lot, is the unit into which the public control is directed. Public regulation through a system of overall site plan review permits flexibility in building siting, a mixture of housing types and uses and the grouping of units to create more usable open spaces for the preservation of significant natural features. The PD, Planned Development District allows for placement of buildings on land without adherence to the conventional lot-by-lot approach common to traditional subdivisions. Such concerns as density are determined on a project basis utilizing the characteristics of the surrounding neighborhood and physical characteristics of the location allowing for the clustering of buildings which not only may create more useful open spaces but also may reduce public facility cost.

(Code 1981, app. A, art. VIII, § 1; Code 1998, § 114-351)

Sec. 114-299. - Establishment of districts.

A PD, Planned Development District may be established, as provided in section 114-304, prior to submission of development plans by a property owner.

(Code 1981, app. A, art. VIII, § 2; Code 1998, § 114-352)

Sec. 114-300. - Qualifying requirements for development.

The qualifying requirements for the PD, Planned Development District shall be:

(1) Consistent with the adopted land use plan.
(2) At a minimum, one acre of contiguous land.
(3) Harmonious with the area surrounding the development site, and the demand on public facilities and services shall not exceed the capabilities of such facilities and services.

(Code 1981, app. A, art. VIII, § 3; Code 1998, § 114-353)

Sec. 114-301. - Application for development.

A zoning application for a PD, Planned Development District shall include the following items:

(1) A statement that the applicant holds title to the entire parcel of land proposed for development or has a legally recognized option to the entire parcel of land proposed for development.
(2) A pre-application conference held by the planning department to provide for a mutual understanding of the PD, Planned Development District regulations and to discuss the proposed plans of the applicant.
(3) A written statement outlining the main features of the proposed enterprise, including goals and objectives.
(4) A legal description of the total site requested for approval.

(Code 1981, app. A, art. VIII, § 4; Code 1998, § 114-354)

Sec. 114-302. - Preliminary development plan.

(a) A preliminary development plan for a PD, Planned Development District shall contain the following:

(1) Location, size and shape of the subject property with distances and bearings of the boundary of the site.

(2) Pedestrian and vehicular circulation patterns including common parking areas.

(3) Location of structures and open spaces for the district.

(4) Landscape drainage calculations and erosion control plans.

(5) A development schedule indicating the sequential order for stages of development within the district.

(b) The following items shall be adequately explained in written or graphic form: relationship of the proposed development to the adjacent land uses, accesses to major streets, approximate locations and sizes of the existing and proposed on-site and off-site public utilities, density and housing characteristics of the project.

(Code 1981, app. A, art. VIII, § 5; Code 1998, § 114-355)

Sec. 114-303. - Final development plan.

A final development plan for a PD, Planned Development District shall:

(1) Be drawn to a scale of not less than one inch equals 50 feet using black ink and containing information as described for the preliminary development plan and including all revisions required by the planning commission. Property lines shall carry accurate bearings, distances and other pertinent physical features. Easements shall carry accurate dimensions.

(2) Be prepared and signed (with seal) by a registered architect or engineer or land surveyor, as licensed by state law.

(3) Meet all the applicable federal, state and city regulations.

(4) Contain quantitative data for the total amount of open space, including separate figures for private open space, public open space and common open space.

(5) Contain the treatment of the periphery of the PD, Planned Development District, including materials and techniques utilized such as screens, fences and walls.

(Code 1981, app. A, art. VIII, § 6; Code 1998, § 114-356)

Sec. 114-304. - Development standards.

(a) *Height.* The maximum height of buildings and structures in a PD, Planned Development District shall be harmonious with the adjoining districts.

(b) *Density.* The intensity of land uses, bulk of buildings, concentration of population and amount of open space shall be generally harmonious to those requirements associated with the neighboring districts.

(c) *Frontage.* Every dwelling unit shall adjoin a public or private street or common open space providing access to a public street.

(d) *Periphery yards.* The distance between structures and the nearest periphery boundary shall not be less than 30 feet or a distance equal to the height of the building, whichever is greater. Periphery boundaries, yards and height restrictions shall be required as needed to provide for an appropriate transition from adjoining districts. Fences, walls and vegetation may be required by the planning commission.

(e) *Parking.* Adequate parking spaces shall be provided at a minimum ratio of 2.0 spaces per unit. All required parking shall be off the street. Parking located within the periphery yard of the development district shall be provided with screening from neighboring districts.

(f) *Open spaces.* Open spaces shall be classified as public open space, common open space or private open space. At least 20 percent of the development shall be devoted to permanent public or common open space required for recreation. However, in no event shall the periphery yard be considered in meeting these requirements.

(g) *Commercial uses within (Residential) Planned Development District.* In a Residential Planned Development District of 20 acres or more, commercial uses may be permitted. Such commercial uses shall be governed by the following:

(1) Commercial facilities may be permitted in developments of 200 dwelling units or more.

(2) A ratio of one acre of commercial use, including parking, drive and landscaping, is required for each 200 residential units.

(3) All access to commercial facilities shall be from internal streets or drives.

(4) Construction of such facilities may begin after 25 percent of the residential units have been occupied.

(5) Commercial areas shall have architectural designs compatible with surrounding residential development as determined by the planning commission.

(h) *Screening.* Screening (fencing, walls or vegetation) shall be provided as required by the planning commission.

(i) *Street development.* The planning commission may approve private streets as follows:

(1) No present or future impediment exists to through traffic movement in the general area.

(2) The adjoining properties in the general area have or are capable of providing an efficient and safe street system that will in no way depend upon the private street network.

(3) For private streets that are to be submitted for public dedication at a later date, additional space should be devoted for the development of street rights-of-way and building setbacks.

(4) All private streets shall conform to the following:

a. Roadway pavement for two-way traffic shall be at least 20 feet in width and for one-way traffic at least 12 feet in width.

b. All roadways, travel ways and parking areas shall be paved with a hard-surface material as required by the city engineer.

c. Curbs, gutters, retention facilities, paved or sodded swales or other methods to control stormwater runoff may be required if determined to be needed by the city engineer.

(j) *Responsibilities for private streets, utility access, open space.* The following certificate shall be signed, dated and placed on the final development plan:

(1) *Responsibilities for owners.* The owners of this property agree to assume full liability and responsibility for maintenance, reconstruction, drainage, and other needs relative to the private streets so designated on this plan, and hereby relieve the local government from any such responsibility. Should the private streets be dedicated for public use at a later date, the owners will bear the full expense of reconstruction or other action necessary to make the streets and drainage facilities fully conform to the current public street standards. The owners (signed and dated) also agree that the streets shall be dedicated to public use without compensation.

(2) *Government and utility access.* The owners of this property (signed and dated by owners) hereby agree to grant full rights of access to this property over the designated street utilities, and other easements for governmental and utility agencies to perform their normal responsibilities.

(3) *Maintenance of common open space.* The owners of this property (signed and dated by owners) hereby agree to assume full liability and responsibility for the improvement, maintenance and operation of all common open space.

(Code 1981, app. A, art. VIII, § 7; Code 1998, § 114-357)

Sec. 114-305. - Procedure for development plans.

(a) *Preliminary development plan.* Approval of the preliminary plan of a PD, Planned Development District shall be for a period of 24 months, during which time a final development plan shall be filed. If the development plan and zoning map amendment are disapproved by the commission and the zoning map amendment is subsequently approved by the board of mayor and aldermen, the commission shall take timely action to consider a preliminary development plan for the subject property.

(b) *Final development plan.* The final development plan required in this division shall be submitted to the planning commission within 24 months of the approval of the zoning map amendment by the board of mayor and aldermen, and the commission shall approve a final development plan for the subject property with such conditions as are found necessary. If construction plans have not been submitted in accordance with requirements of this division, the planning commission may institute action for rezoning the property to its previous classification or any other appropriate classification.

(Code 1981, app. A, art. VIII, § 8; Code 1998, § 114-358)

Sec. 114-306. - Development control following the approval of final development plan.

(a) No building permit shall be issued until the final development plan of the PD, Planned Development District has been approved by the planning commission and its approval and recommendation is certified to the building official. Such plan shall then limit and control the issuance of all building and occupancy permits and restrict the construction, location and continuing use of all land, structures and other facilities to the conditions as set forth in the plan.

(b) The building official shall periodically inspect the site and review all building permits issued to ensure that the development schedule is followed.

(c) The provision and construction of the common open space and recreational facilities shown on the final development plan must proceed at the same rate as the construction of the dwelling units. If the building official finds that the development schedule has not been followed, no additional permits shall be issued until the owner or developer complies with the development schedule or unless a performance bond or other similar instrument has been accepted by the planning commission to guarantee that such common open space and recreational facilities will be provided at a specific date.

(d) The planning commission may require a bond, corporate surety, irrevocable letter of credit or other acceptable financial guarantee in a form and amount sufficient to complete the development of a common open space or recreational facilities.

(Code 1981, app. A, art. VIII, § 9; Code 1998, § 114-359)

Sec. 114-307. - Amendments to development plans.

(a) Under this division, amendments may be made to a development plan only by official action of the planning commission, except that amendments which fully meet the requirements set forth in this section may be approved when signed by the director of planning without further action by the commission. If any question arises as to compliance with this section, the director shall refer the plan to the commission for action.

(b) Action by the director of planning is intended to expedite approval in those situations where amendments are of minor significance and generally related to the shifting of previously approved spaces. Such amendments shall not:

(1) Decrease the overall land area in yards, parking or other open spaces;

(2) Increase building ground area coverage, floor area or height;

(3) Increase the number or change the location of street access points; and

(4) Increase the density of the district.

(c) Such amended plans shall also have written on them the exact change made and the director's signature, signifying his approval under this section for the amendments as noted. Any plans approved by the director shall be fully described to the commission at its next meeting and properly entered into the minutes of the meeting.

(Code 1981, app. A, art. VIII, § 10; Code 1998, § 114-360)

Secs. 114-308—114-315. – Reserved

Division 7. – Mobile Home Park District (R-1MP)

Sec. 114-316. - Intent.

The intent of the R-1MP, Mobile Home Park District is to permit the establishment of mobile home parks and subdivisions in areas providing a residential setting and convenient access to major traffic arteries. Because of their unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the development of the community and as to the circumstances and conditions under which each use may be permitted. The standards contained in this division represent an attempt to provide adequate protection for and consideration of both the community and the mobile home dweller.

(Code 1981, app. A, art. IX, § 1; Code 1998, § 114-391)

Sec. 114-317. - Permitted uses.

The uses permitted in R-1MP, Mobile Home Park District are single-family residential uses, both traditional and manufactured; mobile home housing; and uses and structures which are customarily accessory, clearly incidental and subordinate to a mobile home park, such as playgrounds, swimming pools, tennis courts and community centers.

(Code 1981, app. A, art. IX, § 2; Code 1998, § 114-392)

Sec. 114-318. - Conditional uses.

In the R-1MP, Mobile Home Park District, permission for the following uses, may be considered by the board of zoning appeals if the mobile home park is properly zoned and has an approved development plan carrying the notation that conditional use sites as shown on the plan may be used as such only if subsequently approved by the board of zoning appeals:

(1) *Retail and service uses.* Incidental retail uses such as barbershops and beauty shops, self-service laundries, news and novelty stands, snack bars and commissaries conducted for convenience of the residents of any mobile home park containing 150 or more mobile homes when located wholly within a main building with access only to an interior arcade or open court and having no exterior display space or identification sign visible from any adjacent public right-of-way, and provided that such uses do not exceed a total of 2,500 square feet in area.

(2) *Child care.* Nursery schools, day nurseries and child care centers for five or more children conducted for the convenience of the residents of the mobile home park, provided there is a fenced and screened play lot.

(Code 1981, app. A, art. IX, § 3; Code 1998, § 114-393)

Sec. 114-319. - General standards for parks.

(a) In the R-1MP, Mobile Home Park District, travel trailers and recreational vehicles shall not be permitted in a mobile home park as residences.

(b) Each mobile home shall be installed and shall be securely anchored, in the manner required in the building code adopted by the city, so as to prevent the mobile home from shifting or overturning and shall be suitably treated so as to conceal the undercarriage.

(c) A mobile home development may either offer subdivided recorded lots for sale for the accommodation of mobile homes or it may offer mobile home spaces for rent, but no mobile home park shall originally include both kinds of accommodations.

(Code 1981, app. A, art. IX, § 4; Code 1998, § 114-394; Ord. No. 4199, § I, 5-7-1996)

Sec. 114-320. - Locational standards.

(a) *Frontage and access.* Mobile home developments of less than or equal to 150 spaces must be sited within 1,250 feet of a street designated by the planning commission as an arterial

or collector. Those developments greater than 150 spaces shall be located adjacent to a designated arterial or collector and shall have a minimum of two accesses from a public street. Principal accesses shall be at locations where traffic congestion does not exist and the possibility of such congestion in the future shall be minimized by provision in the development plans for property entrances and exits and by internal provisions for traffic circulation and parking.

(b) *Utilities and services.* A mobile home park shall be well drained and properly graded to ensure proper drainage, shall have water service and sanitary sewer service and shall be located so as to provide for the availability of community facilities and services such as schools, parks, shopping facilities and police and fire protection.

(Code 1981, app. A, art. IX, § 5; Code 1998, § 114-395; Ord. No. 4199, § II, 5-7-1996)

Sec. 114-321. - Minimum design standards.

(a) *Land area.* All new R-1MP, Mobile Home Park Districts shall have a minimum site area of five acres. There shall be no area limitation on additions to existing parks containing ten or more mobile home spaces.

(b) *Space per unit and density.*

(1) There shall be a minimum of 2,400 square feet for each mobile home space, and a maximum overall density of eight units per gross acre.

(2) Mobile homes on individual lots within a mobile home district shall have a minimum lot size of 5,000 square feet.

(c) *Frontage, depth and building height.*

(1) Each mobile home space within a mobile home park shall have a minimum of 20 feet of frontage on an improved interior access road or driveway. Mobile home spaces must have access from an interior road or driveway. The average depth of all spaces shall not be less than 40 feet, and no structure shall exceed 25 feet in height.

(2) Each lot within a mobile home subdivision shall have a minimum lot frontage of 50 feet on a public street, and no structure shall exceed 25 feet in height.

(d) *Setback.* Each mobile home shall observe the following setbacks at a minimum:

(1) Ten feet from any access road or driveway;

(2) 18 feet from any other mobile home, except that end-to-end clearance shall not be less than 20 feet;

(3) 20 feet from any service building or area;

(4) Eight feet from any common recreation area;

(5) Ten feet from any lake or waterway;

(6) 15 feet from any property line or other zoning district;

(7) 20 feet from any street or public right-of-way.

(e) *Roads and driveways.* All access roads and driveways within a mobile home park shall be improved in accordance with the requirements of the city engineer. Minimum paving widths for private roads and driveways are as follows:

(1) 24 feet for residential roads with no off-street parking;

(2) 26 feet for local roads with parking on one side;

(3) 36 feet for local roads with parking on two sides;

(4) Dead-end streets shall have a maximum length of 1,250 feet measured along the centerline from the entrance street right-of-way to the center of the cul-de-sac. The diameter of the paved area for the cul-de-sac shall be a minimum of 65 feet;

(5) Along one side of each access road or driveway, a sidewalk not less than five feet in width shall be provided for pedestrian circulation throughout the mobile home park;

(6) All private roads shall be lighted at night with electric lamps of no less than 100 watts each, spaced at intervals of no more than 100 feet or the equivalent as approved by the transportation department.

(f) *Landscaping.* The mobile home development shall have a buffer of shrubbery, evergreen screening or opaque fencing of wood, brick or stone, four feet in height, between it and any adjacent residential areas. The planning commission may require street trees along all roads, public or private, not exceeding one tree per 50 feet of road frontage. Planting strips and other landscaping shall be as required by the planning commission and other sections of this chapter.

(g) *Parking.* Required parking of 1½ spaces shall be provided on the same space with the mobile home or on a designated adjacent common area. The required parking may be provided along an access road or driveway, provided that the road or driveway width is increased to a minimum of 26 feet and improved according to the requirements of the city engineer.

(h) *Attachments.* No accessory building shall be constructed as a permanent part of a mobile home or trailer nor shall any other structure be attached to a trailer other than a wooden deck, metal awning or similar temporary device. However, this shall not include upgrade to the home itself such as the addition of a room.

(i) *Common recreation areas.* In all mobile home parks accommodating or designed to accommodate 25 or more dwellings, there shall be at a minimum one recreation area which shall be easily accessible to all residents. The size of the recreation area shall be based upon a minimum of 100 square feet for each dwelling space. No outdoor recreation area shall contain less than 2,500 square feet. Recreation areas shall be so located as to be free of traffic hazards and should, where topography permits, be centrally located. Suitable landscaping or fencing should be provided to demarcate the recreation area.

(j) *Cabanas, etc.* Cabanas and other similar permanent structures may be erected in conjunction with a trailer parking space and shall not be closer to any other such structure or any mobile home, other than the one it is intended to serve, than the minimum distance required between mobile homes.

(Code 1981, app. A, art. IX, § 6; Code 1998, § 114-396; Ord. No. 4199, § III, 5-7-1996)

Sec. 114-322. - Building permit and development plan; certificate of occupancy.

(a) No building permit shall be issued in a R-1MP, Mobile Home Park District by the building official until mobile home park zoning development plans (preliminary and final) have been submitted to and approved by the planning commission and such approval certified to the building official. Plans submitted for new mobile home parks shall be designed for a minimum of 25 mobile home units. Zoning development plans shall conform to the this article, division 3 of article II of this chapter, zoning development plans, and any other applicable sections of this chapter.

(b) No certificate of occupancy shall be issued until a minimum of ten mobile home spaces have been completed, have sanitary sewer service available and are otherwise ready for occupancy, unless a performance bond in an amount specified by the building official has been submitted to the planning commission in order to ensure completion of all improvements for the ten spaces.

(Code 1981, app. A, art. IX, § 7; Code 1998, § 114-397; Ord. No. 4199, § IV, 5-7-1996)

Sec. 114-323. - Mobile homes in other zones.

No mobile home shall be parked or maintained and used as a dwelling unit in any zone other than an R-1MP, Mobile Home Park District, except that in any industrial zone not more than one mobile home or trailer for each establishment may be occupied as sleeping quarters for a caretaker or watchman, and in an agricultural zone one mobile home may be occupied as a residence, provided that one or more of the occupants thereof is employed fulltime in agricultural activity on the property on which such mobile home is located and that any such mobile home shall be located no closer than 20 feet to any property line.

(Code 1981, app. A, art. IX, § 8; Code 1998, § 114-398; Ord. No. 4199, § V, 5-7-1996)

Sec. 114-324. - Enlargement of existing parks.

Except as provided in section 58-2, any enlargement or extension of an existing mobile home park shall be in accordance with the requirements of this division.

(Code 1981, app. A, art. IX, § 9; Code 1998, § 114-399; Ord. No. 4199, § VI(art. IX, § 9), 5-7-1996)

Secs. 114-325—114-351. - Reserved.

Division 8. – Mixed-Use District (MX)

Sec. 114-352. - Intent.

The intent of the MX, Mixed-Use District is to allow flexibility in the development of compatible mixed-use areas of light manufacturing, professional office and limited commercial uses and to do so by developing a self-contained, campus-like atmosphere which protects the adjacent land uses.

(Code 1981, app. A, art. X, § 1; Code 1998, § 114-426)

Sec. 114-353. - Permitted uses.

Uses permitted in the MX, Mixed-Use District are as follows:

(1) Offices for brokers, businesses, computers, data processing, credit agencies, finance, government, law, medical, photography, real estate and travel agencies.
(2) Single-family, two-family and multifamily residential.
(3) Retail or service uses such as hotels, motels, limousine service, motor vehicle rental, restaurants, service stations, vehicle storage and day care facilities.
(4) Public uses such as armories, auditoriums, meeting halls, coliseums, recreational facilities, stadiums, governmental uses, public parks and public or private utilities to serve the area.
(5) Manufacturing, assembling, processing, packaging or similar treatment of such products as: appliances, automobiles (including rebuilding and reconditioning), bolt or screw thread rolling or cutting, bottle making, box and crate assembly, bronze casting, canvas, carpets, rugs, celluloid and pyroxyline, ceramics, china or figurines, cosmetics, die casting and making, drafting instruments, electrical parts, electronic instruments, fiberglass, forge, foundry, furniture, heating equipment, laboratories (experimental), medical and dental instruments, musical instruments, parcel delivery stations, pharmaceuticals, phonograph records, pottery, radios, record players, rubber and metal stamps, scientific instruments and equipment, shoes, television receivers, textiles, toiletries, tools, toys, watches, clocks and woven wire.
(6) Warehousing, ministorage and trucking terminals.
(7) On-premises and off-premises alcoholic beverage sales.
(8) Communication facilities.

(Code 1981, app. A, art. X, § 2; Code 1998, § 114-427; Ord. No. 4018, § V, 3-21-1995; Ord. No. 4276, § I, 9-3-1996)

Sec. 114-353. - Permitted uses.

Uses permitted in the MX, Mixed-Use District are as follows:

(1) Offices for brokers, businesses, computers, data processing, credit agencies, finance, government, law, medical, photography, real estate and travel agencies.

(2) Single-family, two-family and multifamily residential.

(3) Retail or service uses such as hotels, motels, limousine service, motor vehicle rental, restaurants, service stations, vehicle storage and day care facilities.

(4) Public uses such as armories, auditoriums, meeting halls, coliseums, recreational facilities, stadiums, governmental uses, public parks and public or private utilities to serve the area.

(5) Manufacturing, assembling, processing, packaging or similar treatment of such products as: appliances, automobiles (including rebuilding and reconditioning), bolt or screw thread rolling or cutting, bottle making, box and crate assembly, breweries, bronze casting, canvas, carpets, rugs, celluloid and pyroxyline, ceramics, china or figurines, cosmetics, craft breweries. die casting and making, distilleries, drafting instruments, electrical parts, electronic instruments, fiberglass, forge, foundry, furniture, heating equipment, laboratories (experimental), medical and dental instruments, musical instruments, parcel delivery stations, pharmaceuticals, phonograph records, pottery, radios, record players, rubber and metal stamps, scientific instruments and equipment, shoes, television receivers, textiles, toiletries, tools, toys, watches, clocks, wineries, woven wire.

(6) Warehousing, ministorage and trucking terminals.

(7) On-premises and off-premises alcoholic beverage sales.

(8) Communication facilities.

(Code 1981, app. A, art. X, § 2; Code 1998, § 114-427; Ord. No. 4018, § V, 3-21-1995; Ord. No. 4276, § I, 9-3-1996; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-354. - Accessory uses.

In the MX district, accessory uses shall be subordinate or incidental to the principal use or structure and may include such uses as on-site cafeterias for employees, incidental retailing of products manufactured on site, permanent caretaker residences or substantially similar uses.

(Code 1981, app. A, art. X, § 3; Code 1998, § 114-428)

Sec. 114-355. - Special exceptions.

When determined to be a use necessary for the service or convenience of the MX district employees or patrons, public utilities and food product packaging may be permitted by the board of zoning appeals, to be subject to any conditions set forth by this board.

(Code 1981, app. A, art. X, § 4; Code 1998, § 114-429)

Sec. 114-356. - Prohibited uses.

The following uses have been determined to be incompatible with the intent of the MX district: wrecking yards and junkyards; recycling; tanneries; tobacco, wax, wire, wood (as in sawmills), and yarn production.

(Code 1981, app. A, art. X, § 5; Code 1998, § 114-430)

Sec. 114-357. - Locational standards.

The following standards shall apply in the MX district:

(1) *Size.* The district shall be 25 acres or greater in size.

(2) *Frontage/access.* The mixed-use district shall have frontage on and access from a street designated in the major street and road plan as a collector, arterial or expressway/freeway.

(3) *Utilities.* The provider of sewer and water services to the site proposed for rezoning to the district must be identified. A timeframe for installation of utilities shall be submitted with the rezoning request and shall include a statement by the utility provider that water and sanitary sewer service can be provided to the site within the timeframe proposed.

(Code 1981, app. A, art. X, § 6; Code 1998, § 114-431)

Sec. 114-358. - Design standards.

The following dimensional standards shall apply in the MX district:

(1) *Lot area.* The minimum lot area within the mixed-use district shall be one acre.

(2) *Periphery yard.* The district shall have a 30-foot landscaped development-free buffer. Structures or parking shall not be permitted in this periphery yard.

(3) *Building setback.* The setbacks to be observed are a:

a. 30-foot front yard;

b. 30-foot rear yard, not required if the rear property line is a railroad right-of-way boundary; and

c. 15-foot side yard.

(4) *Building height.* A height to side yard ratio of 2:1 shall be observed above 30 feet.

(5) *Ground coverage.* Ground coverage for each use in the mixed-use district shall not exceed 50 percent of the lot.

(6) *Parking and loading.* Parking and loading facilities shall be as required by article VI of this chapter.

(7) *Lighting.* All lighting shall be sufficient for the safe use of the facilities, which shall not create a traffic hazard or glare for any surrounding residential area.

(8) *Signs.*

a. Single tenant businesses are permitted freestanding signs provided that:

1. The sign surface area does not exceed 32 square feet per side or a total of 64 square feet for all sides;

2. Lots with multiple street frontages are allowed a total of two signs;

3. Height shall not exceed five feet above the ground; and

4. Signs shall be indirectly illuminated.

b. Each mixed-use park within the district shall be permitted access identification signs, provided:

1. Only one such sign is located at each major access point.

2. The sign shall not exceed 50 square feet per side or a maximum of 100 square feet total of all sides.

3. The maximum height of such signs shall be 20 feet.

4. Signs shall be indirectly illuminated.

5. The sign shall be permitted in a grassed median within a right-of-way, provided the sign does not interfere with traffic.

c. Each mixed-use park within the district shall be permitted one master identification sign which shall be permitted up to 50 feet in height and 300 square feet per side with a two-side maximum. This sign may be located within a

grassed median within a right-of-way. If located on a lot, the master identification sign shall not be included in the total of freestanding signs for single-tenant businesses.

d. Wall signs are permitted equivalent to one percent of the building ground coverage area. A business having less than 4,000 square feet of area may utilize up to 40 square feet of signage.

(9) *Access.* Access to individual lots shall be by interior streets, either private or public, which have been approved by the planning commission, subject to the following:

a. The roadway pavement for two-way traffic on private streets shall be at least 24 feet in width and for one-way traffic at least 14 feet in width, with no on-street parking permitted.

b. All private roadways, travel ways and parking areas shall be paved with a hard-surface material as required by the city engineer.

c. Curbs, gutters, retention facilities, paved or sodded swales or other methods to control stormwater runoff from private streets may be required if determined to be needed by the city engineer.

d. Private streets shall be constructed to meet the typical cross section requirements of the city for industrial streets.

(Code 1981, app. A, art. X, § 7; Code 1998, § 114-432)

Sec. 114-359. - Master plan approval.

The planning commission shall grant approval of a master plan before the establishment of the mixed-use district. The contents of the master plan shall include:

(1) Signage;
(2) Ingress/egress;
(3) Availability and adequacy of utilities;
(4) Buffer strip (periphery yard);
(5) Adjacent transportation network;
(6) Internal street layout; and
(7) A conceptual layout of the varying types of land uses (i.e., general location of offices, multifamily residential, retail/service, public, manufacturing and warehousing).

(Code 1981, app. A, art. X, § 8; Code 1998, § 114-433)

Sec. 114-360. - Final development plan and building permit.

For the MX district, a final zoning development plan shall be submitted which conforms substantially to the master plan. No building permit for a development in a mixed-use district shall be issued by the building official until such a plan is submitted and approved by the building official and determined to be in conformance with this chapter.

(Code 1981, app. A, art. X, § 9; Code 1998, § 114-434)

Secs. 114-361—114-378. – Reserved

Division 9. – Business Conference Center District (BC)

Sec. 114-379. - Intent.

The intent of the BC, Business Conference Center District is to provide diversity in the permitted uses and variations in the relationship of uses, structures and open space while providing coordinated growth in an urban environment. The developments are intended to be unified projects designed with land use, transportation patterns, surrounding terrain and operations functioning cohesively in a carefully planned environment. This district is designed to accommodate a range of activities such as a regional convention center, employment based offices, commercial services, recreational facilities, educational uses and cultural events.

(Code 1981, app. A, art. XI, § 1; Code 1998, § 114-461)

Sec. 114-380. - Permitted principal uses.

The following principal uses are permitted which will ensure compatibility between the internal operations of the Business Conference Center District and the character of the community at large and provide opportunities for employment, cultural and convention events:

(1) Publicly or privately owned or operated buildings and uses, such as convention centers, conference centers, civic centers, auditoriums, theaters, movie theaters, meeting centers and other public gathering places.

(2) Museums, art galleries and libraries.

(3) Corporate headquarters, business and professional offices, training centers, colleges and business/trade schools, research laboratories, research and development facilities when not

objectionable due to noise, odor, dust, smoke, vibration or other reasons, as determined by the planning commission.

(4) Hotels, full-service restaurants, provided that drive-in or drive-through windows are excluded, brewpubs, craft breweries, wineries, and distilleries.

(5) Financial institutions, brokerages.

(Code 1981, app. A, art. XI, § 2; Code 1998, § 114-462; Ord. No. 6388, § I, 4-1-2014)

Sec. 114-381. - Accessory uses.

In the Business Conference Center District, accessory uses will be permitted that are incidental and necessarily supportive and related to principal permitted uses and shall not exceed 15 percent of the total proposed square footage of permitted principal structures. These include but are not limited to the following:

(1) Alcoholic beverages, on-premises and off-premises sale.
(2) Commercial services oriented toward personal appearance and care, car rental, golf pro shops, business services such as paint shops and stationery stores.
(3) General and specialty shops.
(4) Antennas and satellite dishes (confined to rooftops or rear yards).
(5) Catering establishments and banquet facilities.

(Code 1981, app. A, art. XI, § 3; Code 1998, § 114-463)

Sec. 114-382. - Special exceptions.

Certain uses may be permitted in the Business Conference Center District upon the granting of a special exception by the board of zoning appeals:

(1) Elderly and child day care, nursery schools and kindergartens, elderly day care.
(2) Helistops and pay parking lots, when not objectionable due to noise, odor, dust, smoke, vibration or other reasons.
(3) Recreational facilities, health clubs, golf courses, golf driving ranges, stadiums and civic fairs.
(4) Telecommunication facilities such as cell towers.
(5) Outside storage yards; storage yards for vehicles exceeding a gross vehicle weight rating of 15,000 pounds and construction equipment are prohibited.
(6) Hospital and health care centers.

(7) Parking structures.

(Code 1981, app. A, art. XI, § 4; Code 1998, § 114-464)

Sec. 114-383. - Prohibited uses.

The following principal uses have been determined to be incompatible with the intent of the Business Conference Center District:

(1) Outdoor markets, wrecking yards and junkyards, auto sales, mobile home sales and other retail, which includes outdoor storage of items for sale.

(2) Trucking terminals, warehousing, recycling facilities.

(3) Industrial, manufacturing, processing and assembly of any kind, except as incidental and accessory to a research and development facility or brewpubs, craft breweries, wineries, and distilleries.

(4) Shopping centers, department or discount stores other than those which are allowed in sections 114-380 and 114-381

(5) Assembly of any kind, except as incidental and accessory to uses as enumerated in sections 114-380 and 114-381

(Code 1981, app. A, art. XI, § 5; Code 1998, § 114-465, Ord. No. 6388, § I, 4-1-2014)

Sec. 114-384. - Locational standards.

The following locational standards shall apply in the Business Conference Center District:

(1) *Size.* The district shall be 50 acres or greater in size.

(2) *Access.* The district shall have a minimum of 100 feet of frontage and principal access from a street designated in the major street and road plan as an arterial, collector or expressway.

(Code 1981, app. A, art. XI, § 6; Code 1998, § 114-466)

Sec. 114-385. - Design standards.

The following dimensional standards shall apply in the Business Conference Center District:

(1) *Multiple uses.* Multiple principal uses, structures and accessory uses per lot are permitted.

(2) *Lot area.* Minimum lot area within this district shall be one acre.

(3) *Periphery yard.* The district shall have a 30-foot landscaped, development-free buffer. Structures, including parking areas, shall not be permitted within the district periphery yard.

(4) *Setbacks.* The following minimum setbacks shall be observed:

a. *Front yard.* The minimum front yard setback from a public street or right-of-way for vehicular travel shall be 30 feet.

b. *Side yard.*

1. The minimum side yard setback from a public street or right-of-way for vehicular travel shall be 12 feet.

2. Zero lot lines in lieu of the side yard setback may be permitted on one side only when complimentary joint uses are approved by the planning commission; the opposite side yard shall have a minimum setback of 24 feet.

c. *Rear yard.* The minimum rear yard setback from a public street or right-of-way for vehicular travel shall be 12 feet.

d. *Loading areas.* Loading docks, bays or maneuvering areas shall not be visible from abutting public streets.

e. *Transit facilities.* Transit stops and transit shelters may encroach into the setback.

(5) *Building height.* There shall be no maximum building height. However, all minimum yards are increased by five feet for each story over three stories.

(6) *Density.* Building ground coverage for each use in this district shall not exceed 35 percent of the lot or the average area of several lots when an integrated complex is developed, including all buildings and parking structures. A maximum floor area ratio (FAR) of 1:3 shall be observed for buildings, including parking structures.

(7) *Parking and loading.* Parking and loading provisions for the business conference center district shall be as set out in article VI of this chapter.

(8) *Lighting.* All lighting shall be sufficient for the safe use of the facilities and shall not create a traffic hazard. Lighting facilities shall be required for all employee parking areas.

(9) *Signs.*

a. All signs within the district shall be reviewed by the planning commission as part of the site plan approval process.

b. Complex freestanding signs are permitted in the Business Conference District as follows:

1. A complex freestanding sign is permitted on the parcel adjacent to an interstate right-of-way, and only one such freestanding sign may be permitted per lot.

2. Each business on the same parcel will be allowed one sign on the complex sign supports. Signs allowed placement on the complex sign base will be classified as a primary sign or a secondary sign as follows:

(i) Only one primary sign will be allowed and it shall not exceed 150 square feet per side or a maximum of 300 square feet total on all sides.

(ii) Each additional business will be allowed one secondary sign and it shall not exceed 100 square feet per side or a maximum of 200 square feet total on all sides.

3. The maximum height of such sign shall be 15 feet above average ground level.

4. Complex freestanding signs shall not be located closer than ten feet to any public street or permanent easement.

c. Business identification monument signs may be located within setbacks of each individual business located on the same parcel. Each business is permitted one business identification sign and the sign shall comply with the following:

1. The sign shall not exceed 32 square feet per side or a maximum of 64 square feet total of all sides.

2. The maximum height of such sign shall be eight feet above existing grade and the sign must be a monument sign.

3. The sign shall not be located closer than ten feet to any public street.

4. Monument signs shall require landscaping around the base of the monument equal in square footage to both sign faces.

d. Wall-mounted signs are permitted equivalent to a maximum of one percent of the building ground coverage area per side. Uses having less than 4,000 square feet of area may utilize up to 40 square feet of signage.

e. One freestanding electronic message board to convey information by words, letters, or pictures:

1. The maximum height of the sign is to be 35 feet above the roadway and a minimum height of 12 feet.

2. The maximum allowable sign surface area is to be 150 square feet per side or 300 square feet total of both sides.

3. The sign must be located along an interstate highway and a part of the complex freestanding sign.

f. Traffic/directional or location signs are allowed and shall comply with the following:

1. All signs shall not exceed two square feet in area.
2. Signs shall be used to identify parking areas, direct traffic movements onto the premises and within the premises, service areas, freight entrances or to a particular location on the premises.
3. No signs shall be placed in the public right-of-way.

(10) *Lot frontage.* Access to individual lots shall be from public streets or permanent easements which have been approved by the planning commission. Fifty feet of frontage on a public street or permanent easement shall be required for each lot.

(Code 1981, app. A, art. XI, § 7(A)—(F), (H)—(J); Code 1998, § 114-467; Ord. No. 4077, §§ I, II, 7-5-1995; Ord. No. 4714, § IV, 11-16-1999; Ord. No. 5065, § III, 11-5-2002; Ord. No. 6186, § I(114-467), 3-20-2012)

Sec. 114-386. - Development plans and building permits.

(a) *Final plan required for issuance of building permit.* No building permit for a Business Conference Center District shall be issued by the building official until a final zoning development plan has been approved by the planning commission and certified to the building official. Such plan shall conform to the requirements of the city subdivision standards (on file in the clerk's office), major street and road plan and local/state driveway standards.

(b) *Preliminary plan contents.* The preliminary zoning development plan shall reflect the conceptual development scheme for the district and may provide schemes for phased development. Preliminary zoning development plans shall contain the following:

(1) A location map sufficient in size and content to quickly relate others to the subject phase development/location within the district and community.

(2) Access plans showing the relationship of the site to the existing and proposed street network, either public or permanent easements.

(3) Internal transportation systems, both vehicle and pedestrian, shall be illustrated.

(4) An erosion control plan showing existing and proposed elevations, areas of cut or fill, critical areas (streams, sinkhole, etc.) and methods to be implemented to control erosion.

(5) Distances and dimensions at existing property lines, setbacks, driveway access, parking lot design and traffic flow, landscape areas, walkways, buildings, signage, loading and storage areas, flood areas including base floor elevations and all other proposed improvements.

(6) Legend information showing ownership (name and address), north arrow, scale and identification of the project contact persons.

(7) On-site information will include topography at five-foot intervals or less, proposed floor area ratio factors and ground coverage computations.

(8) The providers of sewer and water service, natural gas, power and other utilities to the site proposed for development in the district must be identified. A timeframe for installation of utilities shall be submitted with the preliminary zoning development plan and shall include a statement by the utility providers that services can be provided to the site within the timeframe proposed. All new utility facilities for electrical, gas, telephone, water and other similar services shall be placed underground. Only underground power service shall be considered for new development. Provided the owner/developer provides sufficient information to design a preliminary service plan, Kingsport Power Company would be in a position to provide a general timeframe for the installation of facilities to accompany the preliminary zoning development plan. On-site sewage disposal of any kind is prohibited.

(c) *Final plan contents.* Final zoning development plans shall provide the planning commission and building official with the information needed to make decisions concerning the scope and detail of the project. Final zoning development plans shall contain the following:

(1) Information required for preliminary plans, and the plans shall be stamped by an architect or engineer licensed by the state.

(2) Utilities plan showing existing or proposed sewer lines, water lines, power service, natural gas, outdoor lighting and other utilities. The owner/developer will have to provide sufficient electrical load information needed for reasonable service design and provide property rights for right-of-way easements for city power company facilities.

(3) Stormwater plan providing runoff calculations and proposed improvements.

(4) Landscape plan showing details for screening, landscaping and treatment of buffer areas that meet the city's landscape requirements.

(5) Elevation drawings of sign structures, their location, design and the dimensions of signage.

(6) Elevation drawings of buildings or structures for the purpose of determining scale of the project.

(d) *Amendment to development plans.* Amendments can be made to any zoning development plan for this district only by official action of the planning commission, except that amendments which fully meet the requirements of this chapter may be approved and signed by the director of planning without further action by the planning commission. If any question arises as to the compliance, however, or if the proposed use differs from the use noted on the approved zoning development plan, the director shall refer the plan to the commission for action. Action by the director of the planning department is intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved sites. Such amendments must meet the requirements of this chapter. Such amended plans also

shall have written on them the exact changes made, and a note for the director's signature shall be added signifying his approval under this subsection for the amendments as noted. Any plans approved by the director shall be fully described to the commission at its next regular meeting and properly entered into the minutes of that meeting.

(Code 1981, app. A, art. XI, § 8; Code 1998, § 114-468)

Secs. 114-387—114-415. – Reserved

Division 10. – Gateway District Overlay (GDO)

Sec. 114-416. - Intent.

(a) The city takes pride in being a community in control of its future. The city affirms that the quality of the physical environment has a direct bearing on its livability and its economic prospects. Through the Northeast Tennessee Corridor Review Commission, referred to in this division as the "gateway review commission," the city has forged a clear consensus about the desire and character of its environment. It is the intent of this division to implement the recommended policies that are relevant to the decisions, which affect the community. These include the desire to:

(1) Provide for improved management of the natural and manmade resources required for the attraction, expansion and continued support of industrial and commercial development;

(2) Provide for the creation and expansion of employment opportunities for city citizens through the promotion of business and industrial development;

(3) Protect residential property from any negative impact which may result by adjoining or being in close proximity to commercial development;

(4) Create an attractive and efficient environment through sound land use planning and design standards;

(5) Ensure consistently high-quality design and harmonious relationships among the different development components, as well as design elements of MeadowView, including architecture, signage and landscaping;

(6) Facilitate development and minimize delay by establishing a rational basis for preparing and evaluating plans;

(7) Serve as a model for high quality development and surrounding properties and for other mixed-use developments in the area;

(8) Create a positive image of the city for visitors utilizing the gateway; and

(9) Maintain and preserve natural vistas.

(b) The city believes that design review is an important process for ensuring that these policies are carried out. In all cases, the Americans with Disability Act shall be observed and will be in effect concerning proposed developments that fall within the Gateway District Overlay of the city.

(Code 1998, § 114-501; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-417. - District permitted.

Provisions to establish a special Gateway District Overlay which can be applied over any zoning district located along the designated area, referred to in this division as the "Northeast Tennessee Corridor Overlay District," which is further referred to as the "Gateway District Overlay."

(Code 1998, § 114-502; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-418. - Gateway review commission.

(a) *Appointment; membership; compensation.* The board of mayor and aldermen shall create a seven-member Northeast Tennessee Corridor Overlay District Commission, referred to in this division as the "gateway review commission." The gateway review commission shall be composed of seven members:

(1) Five of whom shall be appointed by the board of mayor and aldermen:

a. One who is in private business;

b. One from an educational or research institution; and

c. One who is an architect.

(2) The sixth member shall be the director of planning.

(3) The seventh member shall be a member of the board of mayor and aldermen.

No person, whether or not a landowner or developer, with an interest in any property within the corridor shall be appointed to serve as a commissioner. The term of office of the member appointed from the board of mayor and aldermen shall coincide with his term of office. The remaining commissioners shall serve term of five years. Commissioners appointed to the gateway review commission shall be appointed for staggered terms of five years, except as otherwise provided in this section. All commissioners shall be residents of the city. Any vacancy because of nonresidency, incapacity, resignation, or death shall be filled in like manner for the unexpired term. Subsequent commissioners shall be appointed by the board of mayor and aldermen. Commissioners may serve more than one term.

(b) *Organization and meetings.* The gateway review commission shall elect from its members a chairperson and any other officers desired, who shall continue to be voting members,

and shall adopt its own bylaws and rules of procedure. A majority of the commissioners shall constitute a quorum for the transaction of business. Meetings shall be held at the call of the chairperson or by a majority of the members. Minutes shall be kept of all meetings, and all meetings and records shall be open to the public.

(c) *Powers and duties.* The gateway review commission shall adopt and oversee implementation for the comprehensive development of the entire corridor overlay zones for the purpose of developing a systematic land management policy and guidance for any person in the development process in regard to all matters relating to accepting, considering, approving or denying applications for certificate of appropriateness to ensure development consistent with the policies and plans of the gateway review commission and to administer in force such development, architectural standards, regulations and related rules and procedures as the commissioners may adopt.

(Code 1998, § 114-503; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-419. - Established.

The state general assembly, by Private Acts of 1995, chapter 77, created the Northeast Tennessee Corridor Overlay District in the city.

(Code 1998, § 114-504; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-420. - Powers and duties of the commission.

(a) In order to accomplish the purpose of the act, corridor overlay zones shall be established by the board of mayor and aldermen within which the commission shall exercise powers described herein to effect the purposes of this act. The powers described shall be exercised in cooperation with the board of mayor and aldermen and other police powers. The board of mayor and aldermen's zoning resolution shall be amended to establish corridor overlay zones in accordance with the provision of its zoning resolution and the general laws of the state. Where design and development standards, regulations, policies, and procedures are adopted for the corridor overlay zone by the commission pursuant to this act, said standards, regulations, policies and procedures shall apply; provided that, the permitted and prohibited property uses, zoning, land management procedures and regulations applicable within the city shall also apply. These adopted design and development standards are available through the planning department of the city.

(b) All business, commercial, manufacturing and industrial development and changes to existing developments located in the Gateway District Overlay shall be reviewed by the gateway review commission, or their designee, except for residential structures or agricultural uses and

structures. Such new and existing business, commercial, manufacturing and industrial developments shall receive the gateway review commission's approval by issuance of a certificate of appropriateness before receiving an erosion control, grading, building permit or certificate of occupancy.

(Code 1998, § 114-505; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-421. - Development guidelines.

(a) *Generally.* All businesses, commercial, manufacturing, and industrial development and changes to existing developments located in the Gateway District Overlay shall be reviewed by the gateway review commission, or their designee, except for residential structures or agricultural uses and structures. Such new and existing businesses, commercial, manufacturing and industrial developments shall receive a gateway review commission's approval by issuance of a certificate of appropriateness before receiving an erosion control, grading, building permit or certificate of occupancy.

(b) *Design strategies for development within P-1, TA, B-1, B-3, B-4P and BC districts.* The following shall apply to P-1, TA, B-1, B-3, B-4P and BC zoning districts within the Gateway District Overlay:

(1) *Grading plan.* Improvements on the site should be developed to minimize changes in existing topography and the loss of existing mature vegetation. All existing trees with trunks over 12 inches in diameter measured four feet above the lowest grade should be shown on the grading plans. Incentives are provided to retain healthy existing trees. Smooth topographic transition should be provided at the edges of property. Minimum changes in topography are recommended with no slopes exceeding 1:3 ratio (one-foot rise to a three-foot run). All grading plans require approval by the engineering department. All grading plans over one-acre require approval by the state department of environment and conservation before a grading permit can be issued. See the erosion control provisions of this Code for additional requirements.

(2) *Site plan.* A building setback of a minimum of 50 feet from the right-of-way shall be maintained for all buildings locating adjacent to any interstate, expressway or principal arterial street. Where the need exists for retaining an open image, protecting views, creating a high quality image, and maintaining natural edges along the roadway's borders a wider setback may be requested. Developments are encouraged to be located and configures in a visually harmonious manner with surrounding developments, existing terrain, and not to impede scenic views within the corridor. Additional district setback information is in this chapter. For details regarding the required information for development plan submittals, see the zoning development plan, parking and landscaping provisions of this chapter.

(3) *Drainage plan.* To minimize runoff and provide adequate green space, impervious surfaces such as roofs and pavement should not cover more than 75 percent of the site area. Undeveloped right-of-way immediately adjoining the site may be used in calculation of the impervious area, provided it is not more than 15 percent of the calculation and is maintained by the occupant. Stormwater entry and exit points must be protected to avoid erosion. An open space system of ridges, steep slopes, drainage corridors, periphery yards, buffers and landscaped areas provide natural stormwater absorption and filtration zones avoiding the need for large scale piping and retention systems. When such designs are not possible, stormwater areas will be landscaped to blend with natural features of the site. Retention or detention ponds, if needed, are encouraged to be graded gradually enough not to require fencing. Appropriate stormwater and drainage calculations shall be provided by a licensed professional, as permitted by the state, and approved by the city engineer.

(4) *Landscape plan.* Visual buffers shall be provided along interstates, expressways or major arterial streets by using a combination of opaque fencing, natural vegetation, berming, and/or informal plantings as recommended by the landscape specialist. The property owners shall maintain all plant material within the right-of-way, when used as a credit for pervious area, and on the property for the lifetime of the proposed use. For any new use, this maintenance responsibility must continue. Visual buffers used to soften the appearance of structures and parking lots from interior streets are recommended. Options for landscaping are made available for developers who create dedicated open public spaces, walkways, or other creative, resourceful, land uses in the landscape and buffer provisions of this division. For additional requirements of landscape plans, see the article VII of this chapter, landscaping.

(5) *Architectural design.* A compatible relationship for proposed developments in the Gateway District Overlay is of critical public concern for any building or site improvements. The intent of the design review is not to stifle innovative architecture but to ensure respect while reducing incompatible and adverse impacts on the visual experience from the roadways. The commission may alter corporate colors or architectural designs within the district to create a compatible visual image. To accomplish this, the gateway review commission shall exercise the following guidelines for review of such proposed developments:

a. *Materials.* Selection and use of building materials should respect the climate and heritage of the area.

1. Exterior building materials, which are encouraged include: brick, stone and stone veneers, plate glass, precast concrete panels, architectural block, glass block, and EIFS (commonly known as Dryvit).

2. Materials considered unacceptable include: plywood or plywood-based products, pre-engineered metal, painted or natural concrete block, and composite building parcels, and vinyl siding.

Designers are encouraged to vary materials from building to building while limiting the number of different materials to three on any individual structure.

b. *Colors.* In general, neutral or muted tones should be used. A maximum of three predominant colors should be used. Painted or factory-finished metal should be used only in dark colors with a matte finish.

c. *Accessory buildings.* Metal buildings shall be an accessory to the principal structure without public access, typically used for storage and must be concealed from view. Large areas of exposed concrete are discouraged.

d. *Architectural elements.* All development designs are to be consistent or compatible within a development in terms of architectural design, exterior building materials, colors and/or arrangement of buildings.

1. Rooflines shall be strongly defined. Canopies and other architectural elements, such as brick or rockwork details, which define the roof, are encouraged. All mechanical/electrical equipment and rooftop- or ground-mounted equipment and protrusions are to be screened from view from entrances and pedestrian pathways as viewed from on-site ground level. Roof-mounted equipment must be screened on all sides. Sloped roofs may be used in combination with flat roofs to enliven the building profile and to provide screening.

2. Large blank walls shall be avoided. Recessed or articulated wall surfaces, columns and beams are encouraged to visually segment exterior wall surfaces. Windows and other openings should reflect the character and style of the building.

3. Service areas, including storage, special equipment, maintenance and loading area, shall be completely screened so as not to be visible from the interstate, expressway or arterial highway.

4. Refuse collection areas shall be visually screened using materials and colors compatible with those of the primary structure and shall be roofed if the contents are visible from any public street, interstate, expressway or arterial street.

(6) *Signs.* Although signs occupy little space, they have a major impact on the image of the Gateway District Overlay. For this reason, signage systems must be designed to create a consistent quality image throughout the district. Specific requirements can be found in article IV of this chapter, signs, additional requirements are set forth in this

document that also apply within the Gateway District Overlay. The intent is to create a cohesive image and to consistently decrease the amount of clutter and visual disturbance within the district. Any appeals to the following standards must be presented to the gateway review commission:

a. Permanent signs will be reduced by up to 50 percent of the square footage allowed in the underlying zoning district by the gateway review commission, and are limited to one freestanding sign and one wall mounted sign.

b. Monument style signs are required with the signs height and square footage being in scale with the building or site. Signs are required to be internally illuminated block letters mounted on a raceway. Backlit letters and indirectly illuminated signs are acceptable. A three-color maximum is allowed for signs with up to two font styles. Ground-mounted building identification signs shall have fully enclosed solid bases of either brick or stone, mounted at the ground plane. No supporting structural members are to be exposed. Specific underlying zoning requirements for signs can be found in article IV of this chapter.

c. The following signs are prohibited: A-frame signs; roof-mounted signs or portico-mounted signs; bench signs; off-premises signage; captive balloon signs; inflatable signs; portable signs and portable signs converted to permanent locations; lollipop signs; paper, cloth, plastic streamers and canvas; painted signs on primary walls; pendants; traffic sign replicas; high-rise signs; permanent come-on signs (sale today, stop, look, etc.). Strings with continuous flags shall not be permitted.

d. Changeable copy signs are allowed for automobile service stations, theaters, and conference centers. Electronic message board signs may be considered with the review of the commission if they are allowed by the underlying zoning district.

e. Landscaped areas are required around the base of signs. The minimum landscaped area shall not be less than the square footage of the sign. The landscaped area must be protected from vehicular traffic and approved by the city landscape specialist.

f. Interim signs. While signs of a nonpermanent nature are generally not permitted, any sign that is not permanent in nature and fails to meet permanent sign requirements must meet the following respective specifications:

1. For sale and for lease signs shall be limited to two per parcel. The size shall be limited to one square foot of sign for every four feet of lot road frontage up to a maximum of 64 square feet for one surface, or 32 square feet per side with two faces maximum. Real estate signs shall

have a maximum height of six feet, measured from the ground level (average grade).

2. Temporary signs for construction sites shall not exceed 64 square feet total and shall be removed upon completion of construction activity and before occupancy of the building.

g. Special event signs must be removed following the event and are permitted only on the premises during the event, but in no case longer than 15 days. See section 114-528(2)d for size allowances.

(7) *Landscaping and screening.* The landscape guidelines are designed to maintain overall visual continuity within the Gateway District Overlay. The intent is to reflect the traditional character of the area with informal groupings of plants amidst green lawns and woodlands. Landscape design should complement this image.

a. A performance bond is required for a period of one-year, with extensions granted when necessary, for landscaping not installed at the time of issuance of a certificate of occupancy. Landscaping must be maintained for the lifetime of the intended use. Landscaped areas are required around the base of signs. The minimum landscaped area shall not be less than the square footage of the sign. The landscaped area must be protected from vehicular traffic and approved by the city landscape specialist.

b. Healthy existing trees should be retained whenever possible and may be counted as credit (two trees for every saved tree) for other required landscaping. Grading and construction shall avoid the disturbance of such trees. Larger trees or up to double the amount of required number of trees and vegetation may be required by the commission if it is shown the site was clear cut within three years prior to submittal of a development plan.

c. Landscape incentives may be utilized to encourage the preservation of existing healthy vegetation and innovative site design. Existing healthy vegetation and the area of land used to maintain the vegetation may be counted towards meeting performance criteria for buffers, streetscapes, open space, and interior parking areas.

1. A five to 20 percent reduction in the number of parking spaces required on the site may be allowed to the extent that the reduction in the amount of pavement will preserve existing healthy trees in an undisturbed natural condition.

2. A ten percent reduction in the amount of pervious area is required on the site if public art/space in a compatible manner is included in the development.

3. A reduction in required landscaping may be considered if the development includes innovative site/building design concepts, substantial redevelopment of a site, or if natural constraints exist.

4. The area used for preservation of existing healthy vegetation in the interior parking area may be used as credits for other landscaping.

5. Substitutions for both trees and shrubbery amounts and locations may be considered by the commission with a recommendation from the landscape specialist.

d. Fencing and screening. Long fences (50 feet or more) should be broken up by landscaping or undulation in the fence line. Chain link and unfinished wood fences are not allowed.

1. Fencing and screening shall not be placed within 25 feet of any street corner. Fencing and screening shall not block access to aboveground, pad-mounted transformers and should provide 15 feet of clear access to the transformer doors.

2. Fencing and screening shall not impede or divert the flow of water in any drainageway.

3. The maximum height of fences should generally be six feet, except for tennis courts, storage screening, and similar uses which may be up to 12 feet in height. No fences over two feet six inches shall be placed in any front yard.

4. The Gateway District Overlay approved standard for right-of-way border fencing or frontal fencing is required along interstate, expressways or arterial highways.

(8) *Lighting and utilities.* Lighting should be used as a landscape element and for security purposes and should be designed to reduce impacts on adjacent sites. Consistency in style and design of fixtures shall be maintained throughout a site.

a. Lighting levels should be as even as possible. For all private roadways, parking lots and entrances, the lighting system should provide a minimum ratio of 4:1 uniformity or better, or with the current Institute of Electrical Standards (IES) recommendations for office and mixed-use developments. General parking lot lighting shall not exceed an average of 2½ footcandles overall. All lighted canopies shall have recessed, indirect lights within the canopy.

b. Lights placement must avoid glare on-site or light spillage onto adjacent sites. Where necessary, cutoff boxes should be specified to reduce throw on adjacent sites.

c. Neon lighting is not encouraged; however, soft and/or muted colors may be allowed.

d. Light poles are to be neutral, preferably dark in color and not made of wood. All parking and security lights are to be cutoff luminaries. The height of light fixtures should be in proportion to the building mass, preferably no taller than the building height. Lighting for pedestrian areas should be 12 to 15 feet in height. Ground-oriented pedestrian scale lighting should be considered as an alternative to pole-mounted fixtures along pedestrian walkways at three to four feet in height.

e. Outside speakers shall not be permitted for use as paging or public address systems. Outside speakers may only be used under certain conditions, with the commission's approval, for special/cultural or public events.

f. All utility lines, including but not limited to electric, telephone and TV cable shall be placed underground.

(9) *Parking.* The desire of the gateway review committee is to visually shield parking areas from public streets and residential areas.

a. All parking lots and drives shall be hard surfaced with concrete or asphalt, unless an acceptable alternative is approved by the commission, and shall have concrete extruded curbs. Special paving or marking is required for accent areas such as: entrance dropoff zones and pedestrian walkways.

b. Innovative design concepts to improve parking area appearance are encouraged. All parking areas shall be visually screened from roadways with plantings or earth mounding (berms) 2½- to three-feet high. Where planting material is used exclusively, 60 percent opacity must be achieved in the winter and 80 percent in the summer.

c. A landscaped area with a minimum of ten feet shall be provided between parking and internal roadways and entry drives.

d. Large parking areas shall be broken into smaller sections, using berms and landscape medians for separation. On wooded sites, preservation of groups of trees is encouraged to frame smaller parking cells and to screen the parked cars.

e. Outdoor display areas may require up to 50 percent greater landscape requirements as established by these provisions.

f. On-street parking is not permitted.

g. Parking lots of contiguous developments should, where possible, interconnect among the differing developments to encourage continuous movement of traffic among developments to reduce traffic flow on public streets and to minimize the need for excessive curb cuts.

(c) *Design strategies for development within M-1, M-1R and M-2 districts.* The following shall apply to all M-1, M-1R and M-2 zoning districts within the Gateway District Overlay:

(1) *Grading plan.* Improvements on the site should be developed to minimize changes in existing topography and the loss of existing mature vegetation. Smooth topographic transition should be provided at the edges of property. Sites should be located to minimize destruction of existing vegetation. All existing trees with trunks over 12 inches in diameter measured at four foot above the lowest grade should be shown on the grading plans. Incentives are provided to retain healthy existing trees. Minimum changes in topography are recommended healthy existing trees. Minimum changes in topography are recommended with no slopes exceeding 1:3 ratio (one-foot rise to a three-foot run). All grading plans require approval by the engineering department. Plans for sites over one-acre require approval by the state department of environment and conservation before a grading permit can be issued. See the erosion control provisions of this Code for additional requirements.

(2) *Site plan.* The purpose of the gateway regulations in industrial areas is to minimize impacts on adjacent properties by providing adequate green space, buffering, and screening around the area proposed for development. A combination of opaque fencing, topography, berming or informal plantings, as recommended by the landscape specialist, is encouraged to be used. The site plans must meet all city requirements for grading, erosion control, and stormwater management.

(3) *Architectural design and materials.* Permanence in quality should be evident in both the building design and construction materials. Permanence implies that buildings should age without deteriorating, given a minimum level of maintenance. This can be achieved through the use of quality building materials and methods of construction.

a. The building facade shall be finished with brick, precast or cast in place concrete textured panels, glass, prefinished architectural panels (without exposed fasteners), stone or other materials acceptable to the committee.

b. No building shall be constructed of exposed concrete block unless it is split face, fluted, or such blocks are covered with stucco, Dryvit or equivalent.

c. The use of metal buildings is acceptable provided the facade shall be finished with acceptable materials listed in subsection (b)(5)a of this section.

d. Dumpsters shall be screened or fenced. Loading docks will be permitted on the main elevation of a building that faces the street. Landscaping and screening should be provided to soften the visual impact.

e. All HVAC or other equipment located on the roof of any building, or other equipment affixed to, or located on the ground, shall be landscaped or screened from public view.

(4) *Landscape plan.* Plans and specifications for any building or structure to be constructed on any lot shall include a detailed landscape plan indicating the location, size, type and height of each planting. The area between the lot property line and the

street curbline shall be grassed except for areas covered by pavement, sidewalks, and landscaping. All landscaping required on any lot shall be completed within 60 days of substantial completion of construction, or within schedules set forth in the approved plans.

(5) *Parking areas.* Off-street parking will be determined by the underlying zoning district with review by the commission as part of the overall site plan review process. Parking shall be provided on the lot to accommodate all parking needs of employees, visitors, and company vehicles. All parking areas will be paved, curbed and appropriately marked.

(6) *Signage.* Signage shall be determined by the underlying zoning district subject to commission review as part of the overall site plan review process.

(7) *Lighting and utilities.* Plans and specifications for any building or structure to be constructed on any lot shall include a detailed lighting plan indicating the location, type and footcandle strength of the lights. Lighting may be used as a landscape element and for security purposes. Light placement must avoid glare on site or light spillage onto adjacent sites or roadways. Where necessary, cutoff boxes should be specified to reduce throw onto adjacent sites. All utilities from the service lines to the improvements on each lot shall be underground.

(d) *Design strategies for development within the MX district.* The following shall apply within MX districts:

(1) *Site plan.* The planning commission and the gateway review commission shall approve a master site plan for the entire district. The district allows flexibility in the development of compatible mixed uses with areas of light manufacturing, professional office, and commercial uses, and to do so by developing a self-contained campus-like atmosphere that protects adjacent uses.

(2) *Grading plan.* A master-grading plan shall be submitted which incorporates design features described in this article. The plan shall be designed to meet the erosion control provisions of the subdivision regulations (on file in the clerk's office) and this chapter and shall have the approval of the state department of environment and conservation, and the city engineering department prior to being submitted to the gateway review commission.

(3) *Landscape plan.* The master plan shall address the MX district as viewed from the surrounding road network and adjacent land uses. It is important that an image be presented that complements the sites natural setting. In order to achieve a natural edge, landscape treatments should be designed within the setback buffers and the periphery yard and aimed at providing an entry statement into the park. Earth contours and landscape plantings are to be organized to shield large buildings, parking areas, and lay down yards, which may be visible from adjacent areas.

(4) *Architectural design.* Within the MX district, architectural design is not specified; however, the materials, colors, architectural elements, and treatment of accessory buildings shall be provided on the master plan. It is encouraged that previous sections of this article be used in designing these elements.

(5) *Signs.* The number and size of signs shall be as permitted with the underlying zoning ordinance. Signs within the district shall be monument style and landscaped.

(6) *Landscaping and screening.* Where land uses change within the district, a densely planted strip of 15 to 25 feet in width, depending on the use, shall be created to screen areas from each other. Interstates, expressways, or arterial highways shall be screened with landscaping or architectural elements so that service areas including special equipment, maintenance, and loading areas are obscured from view. Where landscaping is used exclusively for this purpose it must achieve 60 percent opacity in the winter and 80 percent opacity in the summer.

(7) *Lighting and utilities.* Lighting should be used as a landscape element and for security purposes and should be designed to reduce impacts on adjacent sites. Consistency in style and design of fixtures shall be maintained throughout the site. All utility lines shall be underground.

(8) *Parking.* Parking areas shall be designed and landscaped as required by the MX district parking provisions. The use of berms and landscaping is encouraged to shield parking areas from public streets and residential areas.

(Code 1998, § 114-506; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-422. - Submission requirements and review process.

(a) *Review of applications.* Certificates of appropriateness are required for building permits and certificates of occupancy. All applications for permits for construction, alteration, repair, rehabilitation or relocation of a building, structure or other improvements to real estate situated within the Gateway District shall be reviewed by the gateway review commission, and approved or disapproved, with findings of fact for the disapproval stated in writing. No building permit may be issued by the city for signage, landscaping, new or redeveloped structures, site grading, or other exterior improvements within the Gateway District without issuance of a certificate of appropriateness by the Gateway District commissioners, or their designee, or by the board of mayor and aldermen on appeal, as provided in these guidelines.

(b) *Mixed-use district.* For developments within mixed-use zoning districts that receive comprehensive approval by the commission, the planning manager will have the authority to issue a certificate of appropriateness for individual uses within the park, on finding that the

requirements of this division have been met. This will be reported to the commission at its next meeting.

(c) *Plan review procedures and applications.* All applications for corridor review shall be submitted and reviewed according to the following procedures:

(1) A complete application shall be submitted not less than 30 working days before the gateway review commission meeting with complex developments, and ten working days before the gateway review commission meeting at which the applicant wishes to be reviewed for minor external changes, signs, and previously reviewed projects.

(2) Gateway review commission approval shall be in effect for two years from the date of the certificate of appropriateness for small developments. If the project is not completed within the two-year timeframe, the certificate of appropriateness shall be voided. Large ongoing industrial or mixed-use developments shall have approval for a period of five years and approval shall be reinstated under the previously approved development plans, unless significant changes have taken place.

(3) If the gateway review commission denies granting a certificate of appropriateness, the gateway review commission will not accept a reapplication for a certificate unless significant changes have been made to the site plan.

(4) The planning director, or the gateway review commissions' designee, shall have the authority to amend site plans after certificates of appropriateness have been issued, provided the amendments are minor in scope. The planning director, or the designee, shall report to the gateway review commission any amendments to the plans that have received a certificate of appropriateness.

(5) Failure of the corridor overlay review commission to act on an application within the time required in this section shall constitute approval of the certificate, without undue circumstances, and that an extension be granted upon concurrence of the applicant.

(6) Applicants will be informed in writing of the outcome of their review within one week.

(d) *Application requirements.* Applicants shall submit the following information, as required, for review by the gateway review commissioners before the application shall be considered complete:

(1) Plans, drawings, color and material samples, photographs and or a narrative showing new development and alterations/additions as set out in this subsection (d).

(2) Survey (drawn at a minimum scale of one-inch equals 30 feet) of property lines, existing topography maps (with five-foot contour intervals or less), zoning boundaries, locations of adjoining properties and its uses, nearby locations of streets, utilities, the approximate location of trees (meeting the 12-inch dbh requirement) the location of bordering streets and existing and proposed access points, proposed grading as

approved by a licensed engineer and other pertinent information or revisions, as may be required by the commission.

(3) Site plan (drawn at a minimum scale of one inch equals 30 feet) of property lines, existing topography maps (with five-foot contour intervals or less), zoning boundaries, locations of adjoining properties and its uses, nearby locations of streets, utilities, the approximate location of trees (meeting the 12-inch dbh requirement) the location of bordering streets and existing and proposed access points, proposed grading as approved by a licensed engineer and other pertinent information or revisions, as may be required by the commission.

(4) Architectural plans depicting elevation drawings including exterior building materials and colors and depictions of the front and sides that are exposed to public roads with accurate dimensions and bearings and prepared and signed (with seal) by a registered engineer or architect as licensed by state law.

(5) Filing fee in an amount as specified by the city.

(6) For minor external changes:

a. Photographs and/or drawings of existing development.

b. Site plan showing location of existing development.

c. Drawings, material samples and color samples of proposed changes.

(7) For sign applications:

a. Accurate color rendering of the proposed signs showing dimensions, type of lettering materials and actual color samples.

b. For freestanding signs, a site plan (showing the location of the signs in addition to buildings, parking, existing signs, property lines and proposed landscaping.

c. For wall signs, a rendering of the building depicting the proposed location and proportions of the signs.

d. Fixture type and wattage of lighting with light intensity in footcandles.

e. Filing fee in an amount as specified by the city.

f. In multitenant centers, project signs may be used that incorporate the overall scheme of the project. Each user with the project that stays within the approved criteria may seek approval from planning department staff, or the gateway review commission's designee, without revisiting the gateway review commission for additional signage.

g. All freestanding signs must be monument style with permanent bases of rock or brick, except small directional signs.

(e) *Minor amendments.* Minor changes to previously approved plans and/or projects may be submitted by the applicant to the planning manager and will be considered using the following guidelines:

(1) Amendments may be made to any previously approved project where a certificate of appropriateness has been issued after review and approval by a minimum of two members of the gateway review commission without submittal to the full commission. If any question arises as to compliance with the previously approved certificate, the planning director shall refer the amendment to the full commission for action.

(2) This action is intended to expedite approval in those situations where amendments are of minor significance and generally relate to minor improvements or changes. Such amendments must meet the Gateway District Overlay development guidelines. Such amended plans shall have written on them the exact changes made, and a note for the planning director's and the two gateway review commissioner's signatures, signifying their approval under this section for the amendments as noted. Any plans approved by this group shall be fully described to the full commission at its next meeting and properly entered into the minutes of the meeting.

(Code 1998, § 114-507; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-423. - Gateway review commission—Appeal of actions.

Any interested party who is aggrieved by any action of the commission, including the approval or denial of a certificate of appropriateness, may appeal its decision to the board of mayor and aldermen for the city by filing an appeal on a designated form and paying such filing fee as may be required within 30 days of the action of the commissioners. The action that is appealed may be overruled by an affirmative majority vote of board of mayor and aldermen for the city. All appeals shall be heard within 60 days of filing of an application for appeal. Appeal from the action of the board of mayor and aldermen for the city shall be by writ of certiorari as provided in general law and shall be filed within 30 days of such action.

(Code 1998, § 114-508; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-424. - Same—Enforcement of decisions.

In case any building or structure is erected, constructed, reconstructed, altered, maintained, or used, or any land is used in violation of this act or of any regulation or provisions enacted or adopted by the commission under the powers granted by this act, the board of commissioners, the attorney general, the district attorney general for the judicial circuit in which such violation occurs, or is occurring, the mayor, the city manager with approval of the board, the department of code administration and inspection, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions,

proceeding or proceedings to prevent, enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

(Code 1998, § 114-509; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-425. - Changes to the Gateway District Overlay development guidelines.

(a) The gateway review commission recognizes that development is a dynamic, not static enterprise. To accommodate changes and innovations in the development process, these guidelines will need to be modified from time to time.

(b) The process to amend these guidelines shall require a public hearing to be held by the commission. Notification outlining the changes shall be mailed to all affected property owners within the district at least 15 days prior to the hearing. The notifications will also include the time, date and location of the public hearing.

(c) A notice of public hearing shall also be published in the local newspaper providing the details specified in subsection (b) of this section, at least 15 days prior to the public hearing.

(Code 1998, § 114-510; Ord. No. 5464, § I, 11-7-2006)

Sec. 114-426. - Legal description of the district.

(a) The zoning map of the city is zoned to provide a GDO, Gateway District Overlay, to be superimposed upon the existing area in the city, described within the following boundary:

Beginning at a point, said point located at the intersecting centerline of Cox Hollow Road and Snapps Ferry Road as shown on Sullivan County tax map 119 dated 2003; thence in a westerly direction following the centerline of Snapps Ferry Road for a distance of approximately 3,350 feet to a point, said point being the intersection of Rock Springs Road and Snapps Ferry Road; thence in a southerly direction crossing the right-of-way of Interstate 81 for a distance of approximately 520 feet to a point, said point located on the southerly right-of-way of Interstate 81, said point also being the northwesterly corner of parcel 75 as shown on Sullivan County tax map 119; thence following said parcel line and interstate right-of-way for a distance of approximately 500 feet to a point, said point being the southwesterly corner of parcel 75, said point also being located on the Urban Growth Boundary as approved by the State of Tennessee for the City of Kingsport; thence in an easterly direction following the southerly extent of the Urban Growth Boundary for a distance of approximately 14,780 feet to a point, said point being the southeasterly corner of parcel 40 as shown on Sullivan County tax map 120; thence in a northeasterly direction following the southerly property line of parcels 40, 41, and 44 for a distance of approximately 1,150 feet to a point; thence in a northwesterly

direction following the easterly property line of parcel 44 for a distance of approximately 1,250 feet to a point, said point located on the centerline of Mitchell Road; thence following the centerline of Mitchell Road in a northeasterly direction for approximately 975 feet to a point, said point being an extension of parcel 24.40 shown on Sullivan County tax map 120; thence in a northwesterly direction following said property line extended for a distance of approximately 900 feet to a point, said point limits; thence in a southwesterly direction following the Kingsport City limits as shown on Sullivan County tax map 60 for a distance of approximately 1,650 feet to a point, said point located on the northerly property line of parcel 28 as shown on Sullivan County tax map 60, said point also being located 2,000 feet from the centerline of Interstate 181; thence in a southeasterly direction with and parallel to the centerline of Interstate 181 approximately 11,250 feet to a point, said point being the intersection of Reservoir Road and Jayne Road as shown on Sullivan County tax map 75; thence continuing with and parallel to Interstate 181 for a distance of 1,950 feet to the intersecting centerlines of Diana Road and Hinkle Road; thence in a southerly direction following the centerline of Hinkle Road for a distance of approximately 850 feet to the centerline of Princeton Road as shown on Sullivan County tax map 75; thence in a southerly direction following the westerly property line of parcel 102.02 extended for a distance of approximately 1,500 feet to a point, said point being the southwesterly corner of parcel 102.02 and the city limits as shown on Sullivan County tax map 90; thence in a westerly direction following the southerly property line of parcel 99 and the city limits for a distance of approximately 100 feet to a point, said point being the northeasterly corner of parcel 64 as shown on Sullivan County tax map 90; thence in a southerly direction following the westerly property boundary of Gaylemont Subdivision for a distance of approximately 1,800 feet to a point, said point located on the northerly right-of-way of Sullivan Gardens Parkway; thence in a southeasterly direction crossing Sullivan Gardens Parkway for a distance of approximately 200 feet to a point, said point being the northwesterly corner of parcel 61 as shown on Sullivan County tax map 90; thence following the westerly property line of parcel 61 for a distance of approximately 300 feet to a point located on Horse Creek; thence following the northerly shore of Horse Creek for a distance of approximately 800 feet to a point, said point also being the Kingsport City limit; thence in a southeasterly direction following the westerly property line of parcel 61 and Kingsport City limits for a distance of approximately 2,000 feet to a point, said point being the northwesterly corner of parcel 12 as shown on Sullivan County tax map 91; thence in a northeasterly direction following the northerly property lines of parcels 12, 11, 10 and 9 as shown on Sullivan County tax map 91 for a distance of approximately 2,500 feet to a point, said point being the northeastern corner of parcel 9 and the northwestern corner of Timberidge Subdivision; thence in a southeasterly direction following the common property line of

parcel 9 and Timberidge Subdivision for a distance of approximately 1,500 feet to a point located in the centerline of McCulley Lane; thence in a northeasterly direction following the centerline of McCulley Lane to its intersection with Shadyview Road, said point also being approximately 2,000 feet from the centerline of Interstate 181; thence in a southerly direction of parallel with the centerline of Interstate 181 for a distance of approximately 8,450 feet to a point, said point located on the centerline of Rock Springs Road as shown on Sullivan County tax map 105; thence continuing with and parallel to Interstate 181 for a distance of 5,225 feet to a point located on the centerline of Cox Hollow Road; thence following the centerline of Cox Hollow Road for a distance of approximately 1,250 feet to a point as shown on Sullivan County tax map 105; thence following the centerline of Cox Hollow Road for a distance of 2,700 feet as shown on Sullivan County tax map 119 to the point of being the common corner of parcels 24.10/24.40 and 27.25 and the city limits as shown on Sullivan County tax map 120; thence in a northeasterly direction following the city limits for a distance of approximately 4,450 feet to a point located on the centerline of Fordtown Road as shown on Sullivan County tax map 106, dated 2003; thence following the centerline of Fordtown Road in an easterly direction and the city limits for a distance of 125 feet to a point, said point being an extension of the southwesterly property line of parcel 26 as shown on Sullivan County tax map 106 and the city limits; thence following the city limits for a distance of 4,825 feet to a point, said point located on the centerline of Interstate 81; thence following the centerline of Interstate 81 in a southwesterly direction for a distance of 650 feet to a point, said point being located 2,000 feet from the intersecting centerlines of Interstate 181 and Intestate 81; thence in a northerly direction with and parallel to the centerline of Intestate 181 for a distance of approximately 17,500 feet to a point, said point being the southeasterly corner of tax parcel 2 as shown on Sullivan County tax map 91 and the city limits; thence in a northeasterly direction crossing the right-of-way of John B. Dennis Highway for a distance of 400 feet to a point, said point being the southeasterly corner of parcel 3.2-A-76J; thence following the northerly property lines of parcels 3.2-A-76J and 3.25-A-76J for a distance of 1,500 feet to a point, said point being the northeasterly corner of parcel 17-A-76G; thence following the northerly property line of parcel 17-A-76G and the northerly boundary of Whispering Hills Addition for a distance of approximately 1,500 feet to a point located on the centerline of South Eastman Road; thence following the centerline of South Eastman Road in a northeasterly direction for a distance of approximately 2,850 feet to a point located in the center of the Sluice as shown on Sullivan County tax map 76; thence in a northwesterly direction following the center of the Sluice for a distance of approximately 2,850 feet to a point located on the centerline of Wilcox Drive; thence continuing along the center of the Sluice for a distance of approximately 1,550 feet to a point which is the confluence of the Sluice and Horse Creek as shown on Sullivan County tax map 61;

thence in a southwesterly direction following the center of Horse Creek as shown on Sullivan County tax map 61 for a distance of approximately 2,550 feet to a point, said point being the northeasterly corner of tax parcel 14 as shown on Sullivan County tax map 61; thence following the northwesterly property line of said parcel for a distance approximately 1,100 feet to a point, said point being the southwesterly corner of parcel 14; thence continuing in a southwesterly direction following the northwesterly property line of parcel 14 extended for a distance of approximately 550 feet to a point; thence continuing in a southwesterly direction for a direction for a distance of approximately 300 feet to a point being the intersection of the northerly property line of parcel 6.9 and Horse Creek Lane as shown on Sullivan County tax map 76, said point also being approximately 2,000 feet from the centerline of Intestate 181; thence in a northerly direction with and parallel to the centerline of Interstate 181 for a distance of approximately 6,500 feet to a point, said point being located on the property line of tax parcels 60-4 and 5; thence in a westerly direction for a distance of approximately 2,000 feet to a point located on the centerline of Interstate 181; thence continuing a westerly direction from the centerline of Interstate 181 for a distance of approximately 650 feet to a point, said point located on the Huntington Place Subdivision boundary and the city; beginning, and being that area proposed to be designated as the gateway area.

(b) All property located within the city planning region with an elevation over 1,400 feet above mean sea level shall also be subject to the provision of the Gateway Overlay District. These provisions for elevations in excess of 1,400 feet will not apply to single-family detached homes or agricultural uses.

(c) The board of commissioners shall regulate the portion of the overlay district found within the corporate limits of the city. If the corporate limits of the city should change in the future due to annexation, the commissioners shall, upon the effective date of the annexation, regulate the new portions pursuant to the provisions of the act.

(Code 1998, § 114-511; Ord. No. 5464, § I, 11-7-2006)

Secs. 114-427—114-450. – Reserved

Division 11. – Conservation District Overlay (CO)

Sec. 114-451. - Intent.

Within the city there are unique and distinctive older in-town residential neighborhoods and commercial districts which contribute significantly to the overall character and identity of the

city and are considered worthy of conservation and protection. Some of these areas may lack sufficient historical, architectural or cultural significance at the present time to be designated as historic districts. As a matter of public policy, the city aims to preserve, protect, enhance, and perpetuate the value of these residential neighborhoods or commercial districts through the establishment of a Conservation District Overlay as provided in T.C.A. § 13-7-401 et seq. The purposes of the Conservation District Overlay are as follows:

(1) To promote and provide for economic revitalization and/or enhancement;
(2) To protect and strengthen desirable and unique physical features, design characteristics, and recognized identity, charm and flavor;
(3) To protect and enhance the livability of the area;
(4) To reduce conflict and prevent blighting caused by incompatible and insensitive development, and to promote new compatible development;
(5) To stabilize property values;
(6) To stabilize housing in areas surrounding downtown;
(7) To provide residents and property owners with a planning bargaining tool for future development;
(8) To promote and retain affordable housing;
(9) To encourage and strengthen civic pride; and
(10) To encourage the harmonious, orderly and efficient growth and redevelopment of the city.

(Code 1998, § 114-520; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-452. - Authority and review.

The city regional planning commission is authorized to make, promulgate, alter, amend or repeal rules and regulations for the enforcement of this division and it shall administer the provisions of this division and the rules and regulations made by it and shall have and exercise the duties and powers set forth in this division.

(Code 1998, § 114-521; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-453. - Area designation.

To be designated a Conservation District Overlay the area must meet the following criteria:

(1) The area must contain a minimum of one block face (all the lots on one side of a block);

(2) The area must have been platted or developed at least 25 years ago; and

(3) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association:

a. Scale, size, type of construction, or distinctive building materials;

b. Lot layouts, setbacks, street layouts, alleys or sidewalks;

c. Special natural or streetscape characteristics;

d. Land use patterns, including mixed or unique uses or activities; or

e. Abuts or links designated historic landmarks and/or districts.

(Code 1998, § 114-522; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-454. - Zoning authority.

(a) Guidelines for each Conservation District Overlay shall identify the designated boundaries of the Conservation District Overlay and specify the individual purposes and standards for that Conservation District Overlay. In case of conflict between this division, or any part thereof, and the whole or part of any existing or future ordinance of city, the most restrictive shall in all cases apply.

(b) The Conservation District Overlay is designed as an overlay to the regular zoning district. Properties designated within these districts are also designated as being within one of the established zoning districts. Authorized uses must be permitted in both the zoning district and the Conservation District Overlay. Such property shall comply with all applicable use restrictions pursuant to the individual district plan.

(1) The zoning designation for property located within a Conservation District Overlay shall consist of the base zone symbol and the district overlay symbol (CO) as a suffix. The Conservation District Overlay shall be designated using the letters of the initials of the district overlay plan name to distinguish among different overlay districts, i.e., R-1 (CO-DK), R-4 (CO-RS), etc.

(2) The designation of property within the Conservation District Overlay places such property in a new zoning district classification and all procedures and requirements for zoning/rezoning must be followed.

(3) Upon designation of an area as a Conservation District Overlay, the district shall be placed on the city's official zoning map.

(Code 1998, § 114-523; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-455. - Guidelines.

(a) Proposals for designation as a Conservation District Overlay may be initiated as follows:

(1) At the direction of the city regional planning commission or the board of mayor and alderman;

(2) At the request of property owners representing 51 percent of the land area within the proposed district; or

(3) At the request of 51 percent of property owners in a proposed district.

(b) A district land use plan shall be approved as part of the Conservation District Overlay unless the area is an approved redevelopment district or other unique or special area as determined by the board of mayor and alderman or the city regional planning commission.

(c) Following a request for designation of a Conservation District Overlay, the city regional planning commission may approve an individual area plans, with maps, lines, words and figures, which shall be kept on file with the city and made part of this division as though copied herein, that may include the following:

(1) Maps indicating the boundaries and land uses of the proposed district;

(2) Maps and other graphic and written materials identifying and describing the distinctive area and building characteristics of the proposed district; and

(3) Design standards and guidelines for new construction, rehabilitation, additions or alterations of existing buildings or structures within the proposed district.

(d) All property owners within the proposed district may participate in drafting the design standards by participation in public hearings that are held for that specific purpose.

(Code 1998, § 114-524; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-456. - Area plan standards.

(a) The area land use plan that may be approved as part of the process of creating an individual Conservation District Overlay shall include, but not be limited to design standards and guidelines for new construction or placement of any building, structure, foundation, sign, public art or outdoor apparatus or equipment including:

(1) Visible utility boxes or mechanical equipment;

(2) Trucks;

(3) Lawn or landscaping equipment; and

(4) Any additions, alterations, relocation or rehabilitation to the street facades of existing buildings, structures, foundations, sign, public art or outdoor apparatus or equipment.

(b) The area land use plan, and requisite design standards shall not apply to those activities which constitute ordinary repair and maintenance, i.e., use of the same material and design and the temporary (less than five days) storage of maintenance equipment.

(c) The design standards for each Conservation District Overlay shall include, but shall not be limited to, the following elements governing the physical characteristics and features of all property (public or private) within the proposed district:

(1) Building height, number of stories, orientation;

(2) Building size, massing, frontage and entrance location/features and entrance lighting;

(3) Lot size, lot coverage, lot setbacks, FAR, density;

(4) Landscaping, fences, walls, and street furniture;

(5) Off-street parking and loading requirements;

(6) Roofline and pitch, front window, dormer size and location;

(7) Paving, and nonpervious ground covering including driveways and sidewalks;

(8) General site planning of primary, ancillary structures, signage, public art;

(9) Architectural style, details, and building materials;

(10) Location of garage entrance, satellite dishes, and utility boxes.

(Code 1998, § 114-525; Ord. No. 5501, § I, 2-6-2007)

Sec. 114-457. - Administration.

(a) No building permit shall be issued for new construction or an alteration or addition to an existing building or structure within a designated Conservation District Overlay without the submission and approval of such design plans to the planning manager or designee.

(b) The planning manager or designee, shall review design plans to determine compliance with the adopted standards contained in the design standards for a particular Conservation District Overlay.

(c) If the planning manager or designee, determines that the design plans are in conformance with the standards adopted for the district, the zoning administrator may issue a building permit.

(d) If the planning manager or designee, determines that the design plans are not in conformance with the design standards adopted for the overlay district, the planning manager shall not approve the plans, and shall issue notification of noncompliance, identifying the specific standards violated and the zoning administrator shall not issue a building permit until the design plans are approved.

(e) Applicants may appeal the planning manager's determination of noncompliance to the city regional planning commission for a final determination.

(Code 1998, § 114-526; Ord. No. 5501, § I, 2-6-2007)

Secs. 114-458—114-482. – Reserved

Division 12. – Planned Village District (PVD)

Sec. 114-483. - Definitions.

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

Civic building means a building that houses an organization that includes but is not limited to, educational, cultural, social, services and religious not-for-profit organizations.

Civic use means premises reserved for use by organizations considered to support the common good and therefore accorded special treatment within the Planned Village District. Civic uses include, but are not limited to, educational, cultural, social, service organizations, and religious not-for-profit organizations.

Conservation easement means the grant of a property right stipulating that the described land will remain in its natural or existing state and limiting further future or additional development.

Green means an open space, available for unstructured recreation. The green is surrounded by roadways or the fronts of buildings, has a naturalized landscape consisting of grassy areas and trees, and requires only limited maintenance.

Greenway means a linear open space, at least 30-feet wide, established along either a natural corridor, such as a riverfront, stream valley, or ridge line, or overland along a railroad right-of-way converted to recreational use, a scenic road, or other route designed and managed for public use including wildlife habitat. A greenway is an open space connector linking parks, nature preserves, cultural features or historic sites with each other and with populated areas.

Gross acreage means the total area of a development site.

Live/work unit means a mixed-use structure held in single ownership and containing:

(1) Commercial, or office use, and
(2) Residential use which shall include the balance of the remaining building floor area. Residential use may utilize up to 100 percent of the building floor area.

Meeting hall means a building designed for public assembly.

Net acre means the total area of a development site, excluding wetlands, slopes over 20 percent average grade that are not proposed for development and conveyance zones.

Open space means any publicly dedicated or privately owned area of land or water (excluding roadways, medians and rights-of-way) that is permanently preserved. Such an area may be predominantly in a natural condition or improved or modified for uses such as recreation, education, aesthetic, cultural or natural resource management or public health and safety as designated on the plan.

Plaza means an open space at the intersection of important streets, set aside for civic purposes and short-term incidental commercial activity such as a farmers' market or public celebrations. It is surrounded by the fronts of buildings and/or streets and its landscape consists of durable pavement, formally disposed trees and other landscape elements.

Square means an open space at the intersection important streets set aside for civic purposes and surrounded by the fronts of buildings, its landscape consisting of paved walks, lawns, trees and civic buildings, all formally disposed.

Village means a self-contained community having an identifiable boundary and containing a village edge, village general, and a village center.

Village center (a required component of the village) serves as the focal point and informal gathering place of the village. It is made up of higher density residential uses, village serving shops and services, civic building, and more formal open space such as plazas or squares. The village center is not required to be in the general physical center of the village; it may typically be located at a central location (roughly within a five- to ten-minute walk of most residents) and/or where it can intercept traffic coming and going from the village.

Village edge (a required component of the village) is made up of lower density residential uses, civic uses, and permanent open space. It provides a discernible boundary for the village and preserves sensitive natural features and ensures compatibility with the surrounding pattern of land uses.

(Code 1998, § 114-543; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-484. - Intent.

(a) The PVD, Planned Village District is designed to promote diversity and integration of uses and structures in a planned traditional neighborhood development through flexible design

standards. This can be accomplished by promoting a variety of land uses, housing types, and density. This district is also created to avoid negative impacts of suburban sprawl by minimizing infrastructure costs, traffic congestion, and to encourage infill development.

(b) The purposes of a PVD include:

(1) Create new communities that are livable, diverse, and sustainable in proximity to existing neighborhoods, and developments;

(2) Provide for a variety of housing types, density, and cost;

(3) Respect and reinforce existing communities by integrating new development with the existing development to ensure compatibility;

(4) Provide flexibility to meet changing needs, technologies, economics, and consumer preferences;

(5) Promote lower development and building cost by permitting smaller networks and utilities and streets and use of shared facilities;

(6) Promote development patterns and land uses, which reduce transportation needs, conserve energy and natural resources;

(7) Take advantage of existing infrastructure that is underutilized.

(Code 1998, § 114-541; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-485. - Authority and review.

The city regional planning commission is authorized to make, promulgate, alter, amend or repeal rules and regulations for the enforcement of this division, and it shall administer the provisions of this division and the rules and regulations made by it, and it shall have and exercise the duties and powers set forth in this division.

(Code 1998, § 114-542; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-486. - Area designation.

An applicant for establishment of a PVD should submit a prospectus for consideration by the planning commission showing the character and use or mixture of uses proposed in the requested PVD. The planning commission shall make the recommendation for a zone change according to the law. The board of mayor and aldermen may approve or reject the recommendation of any proposal, together with any conditions, requirements, or limitations thereon which the planning commission and/or the board of mayor and aldermen deems appropriate.

(Code 1998, § 114-544; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-487. - Permitted principal and accessory uses and structures.

(a) The following uses are for buildings and structures that are permitted, subject to approval of the development plan:

(1) Single-family dwellings;

(2) Townhouses;

(3) Multifamily dwellings;

(4) Garage apartments having a unit size which should not exceed 1,000 square feet;

(5) Commercial and office uses;

(6) Civic and religious buildings; and

(7) Open space, including squares, greens and other recreational uses (as provided for in section 114-488).

(b) For detached single-family dwellings, the ground floor area of the accessory buildings shall not exceed 600 square feet. The accessory buildings shall not exceed the number of stories of the principal structure. Accessory buildings for boats, recreational vehicles and other large items shall be in keeping with the dimensions outlined in the building codes governing the appropriate zoning.

(Code 1998, § 114-545; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-488. - Development guidelines and standards.

The village pattern consists of two distinct required components; the village edge and the village center. A master plan shall include the following components:

(1) Limited size. A complete village has most dwellings within roughly a five- to ten-minute walk of the village center;

(2) A variety of housing types which allows younger and older people, singles and families, and people with a wide range of income to have places to live. Examples include detached housing on small, standard, or large lots, duplexes, row houses, live/work units;

(3) A network of connected streets and walkways, which include small lots and a variety of buildings generate a cohesive pattern that allows streets to be civic places. Building heights vary with one- and two-story structures;

(4) Cultural resources such as historic buildings and structures, districts and landscapes are to be preserved and reused in the village;

(5) Designated sites for civic buildings. Building such as schools, libraries, meeting halls, places of worship and day care facilities should occupy prominent places in the village and be planned in coordination with open spaces; and

(6) Open space and natural features, such as significant tree stands, wetlands, streams and slopes are encouraged to be retained, linked where possible and incorporated in a village pattern.

(Code 1998, § 114-546; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-489. - Development standards.

The following standards are intended for use in preparing for a master plan of the PVD:

(1) *Size of site.* A village shall not have a minimum or maximum size; however, it would generally be about 20 to 200 acres. Parcels significantly larger than 200 acres should be developed as multiple villages with each village designated and designed to integrate into an overall plan. Application for sites less than 20 acres shall be considered when adjacent to integrated with an existing or approved village.

(2) *Density.* The maximum number of residential dwelling units permitted in a village district shall be eight dwelling units per net acre.

(3) *Village edge.* The village edge is a required component and should make up 70 to 98 percent of the total acreage of the village. It can include a combination of publicly or commonly owned land such as parks and greenways, and privately owned lands such as areas that have been protected by conservation easements and residential lots. However, the specific size, location, and design of the village is intended to be flexible based on the context of the adjacent pattern of the development in the presence of sensitive natural features. Transition between adjacent land uses and the village can be achieved through a village edge containing a combination of residential lots, and permanent open space. Landscape buffers shall be provided at the village edge regardless of the type of adjacent land use; however, transition between an existing neighborhood and the village can be achieved by creating a tree line boulevard or landscape buffer.

(4) *Village center.* The village center should be compact and located roughly within a five- to ten-minute walk of most village residents. It may also be located where it can intercept traffic coming and going from the village. The location of the village center may be altered where natural features are an existing pattern and development includes such a location. A minimum of two percent but not more than 30 percent of the gross acreage in the village should be designated as village center. To ensure a mixture of uses in the village center, the following guidelines shall apply:

a. Some dwelling units shall be located in the village center (at least ten percent of the total number of dwelling units in the village is recommended but not required).

b. Retail, office and service uses should be sized in area intensity to meet the needs of the village residents.

c. The maximum amount of individual commercial, office and service use to be located in the village center shall be provided by the applicant; however, single retail uses with building footprint of greater than 50,000 square feet shall be discouraged.

d. Home occupation uses and nonresidential uses within a live/work unit shall not be included in the gross feasible area calculations when determining maximum and minimum area.

(5) *Schedule of area regulations.* The following table sets forth the area regulations for the Planned Village District:

Area Regulations

	Single-Family	Two-Family	Townhouse	Live/Work Unit	Lodging Use	Office Use	Commercial Use	Civic Use
Minimum lot size	5,000 sq. ft.	7,000 sq. ft.	2,000 sq. ft.	5,000 sq. ft.	3,500 sq. ft.	3,500 sq. ft.	3,500 sq. ft.	3,500 sq. ft.
Maximum lot size	None	None	4,000 sq. ft.	10,000 sq. ft.	43,560 sq. ft.	43,560 sq. ft.	43,560 sq. ft.	43,560 sq. ft.
Minimum lot width	40 feet	50 feet	20 feet	40 feet	25 feet	25 feet	25 feet	40 feet
Maximum height	2½ stories	2½ stories	2 stories	2½ stories	3½ stories	3½ stories	3½ stories	3½ stories
Maximum front yard setback	25 feet	25 feet	10 feet	10 feet	10 feet	10 feet	10 feet	25 feet

Minimum front yard setback	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet	5 feet
Minimum street side yard setback	8 feet	6 feet	6 feet	8 feet	6 feet	0 feet	0 feet	8 feet
Minimum rear yard setback	5 feet	5 feet	5 feet	5 feet	10 feet	0 feet	0 feet	5 feet
Maximum building coverage	50%	55%	70%	55%	70%	70%	70%	70%
Maximum impervious cover	65%	65%	90%	65%	90%	90%	90%	65%

;le=2;1. For privacy, the ground level of town houses should be at least 18 inches above access roadway.

;le=2;2. Each setback on a block or street shall be the same to promote a uniformed design.

(6) *Schedule of permitted uses.* The following table lists the uses permitted within a village:

a. The letter P designates the use that is permitted, subject to standards of design and location.

b. The letter S denotes a special exception, which must be approved by the board of zoning appeals. Subsequent requests for special exception uses shall require an amendment of the master plan.

c. The letter X means the use is not permitted.

Uses	Village Edge	Village Center

Residential			
	Single-family dwelling	P	P
	Two-family dwelling	X	P
	Townhouse	X	P
	Accessory residence	P	P
	Live/work unit	X	P
Lodging			
	Bed and breakfast inn	S	P
	Hotel	X	P
	Motel	X	P
Office			
	Home occupation	P	P
	Office	X	P
Commercial			

	Neighborhood	X	P
	General	X	P
Civic			
	Churches	S	P
	Clubs	S	S
	Colleges, schools	S	S
	Day care center	S	P
	Family day care home	P	P
	Nursing homes	S	S
	Historical buildings	P	P
	Historical grounds	P	P
	Libraries, museums	S	P
	Art galleries	S	P
	Meeting hall	X	P

	Utilities	P	P
	Government uses	P	P
	Agriculture	P	P

(Code 1998, § 114-547; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-490. - Site design.

Site design should be regulated in order to ensure compatibility of building types regardless of use and to create a cohesive development pattern. In addition to allow maximum flexibility, site design standards are not specified for the PVD. Instead, standards compatible with the village pattern shall be provided by the applicant in the prospectus and approved by the planning commission at the time of approval of the master plan.

(1) *Housing density, composition and location.*

a. The overall housing density of all principal units shall not exceed eight units per net acre. The planning commission may require fewer overall residential units per acre, based on the surrounding patterns of development, adopted plans, and traffic environmental constraints.

b. Composition location of housing:

1. Detached single-family dwellings and live/work units shall comprise at least 50 percent of the total number of residential units;

2. The location of the various types of unit shall be depicted on the master development plan.

Residential units, which are above commercial uses, shall not be considered as single-family dwellings.

(2) *Parking regulations.*

a. Single-family dwelling units require two off-street parking spaces per unit.

b. Townhouse and multifamily dwellings require 1½ off-street parking spaces per unit unless the planning commission finds that one of the spaces per unit can be accommodated by on-street parking.

c. Garage doors and carports which face the front of the property shall be placed 20 feet beyond the setback of the principal structure. The planning commission may modify this requirement for no more than 25 percent of dwelling units in a development if warranted by topographic or other environmental conditions.

(3) *Parking provisions for nonresidential uses.*

a. Parking lots shall be located at the rear or the side of buildings. Side parking lots shall account for no more than 25 percent of parking and shall be screened from pedestrian and vehicular travel ways, by a combination of low walls or fences and landscaping.

b. Parking lots shall not abut a street intersection, the front yards of multifamily, civic or religious buildings, and shall not be adjacent to squares or parks, greens or public open spaces.

c. The minimum required parking spaces shall be governed by section 114-564

(Code 1998, § 114-548; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-491. - Procedures.

The following procedures shall be part of the approval process before the planning commission:

(1) *Concept review.* The applicant or designee may choose to request a pre-application conference with the planning staff prior to formal application for amendment of the zoning map, to discuss the effect of the comprehensive plan, the district regulations (in this article), the subdivision regulations (on file in the clerk's office) and other land development controls would have on the proposed development. It is intended that the pre-application conference also address apparent characteristics of the site that would affect the proposed development. In addition, the pre-application conference may be used to determine what elements may be required in the required master plan.

(2) *Requirements of the concept plan.* The applicant shall prepare a concept plan demonstrating compliance with the PVD purposes and standards for review in the pre-application conference. The concept plan shall include the following:

a. Scale, date, north arrow and vicinity map with measurements to nearest existing streets;

b. Boundaries land approximate acreage of subject property;

c. General location and description streams, wetlands conveyance zones, regulatory floodplains, topography and woodlands;

d. Existing uses of the property;

e. Location of site plan components required in the PVD (for example, village edge, village center, streets);

f. Number of residential units proposed and approximate square footage of commercial, office and service uses proposed; and

g. General location, size and type of open space.

(3) *Master plan review.* Prior to development, the applicant shall submit a master plan. No master plan application shall be deemed accepted unless complete and containing all of the following:

a. *Boundary.* A boundary of the proposed (stamped by a surveyor) plan development shall be submitted, along with the signatures of property owners.

b. *Existing conditions map.* A map or series of maps shall be drawn to the scale as a master plan and shall include the following:

1. Title of the proposed development and names of the applicants; scale, date, north arrow and vicinity map with measurements to existing streets; bounded description including area and bearings and dimensions of all property lines;

2. Existing topography with two-foot contour lines. Sloped category analysis for areas of 20 percent slope or greater; a location and names of all existing and proposed streets; location and use of all existing buildings; and

3. Features on adjacent property, which might affect the design of the development.

(4) *Master plan map.* The master plan map or maps shall be drawn as submitted at a scale not less detailed than one inch equals 100 feet or a scale acceptable to the planning commission, and shall include:

a. Delineation of site plan components required by a PVD (for example, village edge and village center);

b. Layout of proposed streets, landscaping and a pedestrian plan;

c. The location and acreage of open space with the indication of whether it is privately owned, a common area or dedicated for public use; and

d. Location and acreage of civic uses.

(5) *Master plan report.* The master plan report shall be part of the master plan, and shall include:

a. A statement indicating the purpose and intent of the project and the applicant's statement of how the project complies with the comprehensive plan and with guidelines specified for the PVD option;

b. A description of land uses and factors which ensure compatibility both within a development site and with adjacent land uses;

c. Statistical information including:

1. Gross acreage of site, plus net acreage of site excluding wetlands, floodplains, and slopes in excess of 20 percent;

2. Maximum number of dwelling units;

3. Maximum amount (gross feasible area) of retail, office and service uses;

4. Amount of land devoted to open space; and

5. Amount of land devoted to civic uses.

(6) *Schedule.* A schedule of the proposed development (for each section, if the development is to be developed by sections), which schedule shall not be binding but shall be provided in order to show generally how the applicant will complete the project and containing the following information:

a. The order of construction by section delineated on the master plan;

b. The anticipated time required developer sections;

c. The proposed schedule for construction of improvements for open spaces; and

d. Proposed schedule for installation of required improvements.

(Code 1998, § 114-549; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-492. - Development procedures after plan approval.

(a) Construction plans designed to meet city standards, including grading, erosion control, stormwater management, streets, and utilities must be submitted and to and approved by the city engineer.

(b) A landscape plan must be submitted to and approved by the landscape specialist and zoning administrator.

(c) All infrastructure indicated on the approved plans shall be installed, and approved by the city engineer. The city engineer may allow the submission of a performance bond for the construction of the infrastructure improvement in lieu of the construction of the infrastructure improvements in certain situations. Performance bonds shall be partially or fully released by the planning commission only on a recommendation by the city engineer that work is completed and acceptable to the city.

(d) Building permits for the PVD shall be issued once the construction of the infrastructure is completed and approved or bonded, and a final plan is approved by the planning commission.

(e) A certificate of occupancy shall be issued only after a final subdivision plat dedicating streets, infrastructure, and establishing property lines is approved by the planning commission and recorded in the appropriate county register of deeds' office.

(Code 1998, § 114-550; Ord. No. 5554, § I, 6-19-2007)

Sec. 114-493. - Administration.

(a) No building permit shall be issued for new construction or an alteration or addition to an existing building or structure within a designated PVD without the submission and final approval of such design plans to the planning manager or planning commission. All buildings, infrastructure, etc., will be built to the approved final plan. No employee or city official has the authority to amend the final plan without the expressed authorization of the planning commission or planning manager.

(b) The planning manager, shall review design plans to determine compliance with the adopted standards contained in the design standards for a particular PVD.

(c) If the planning manager determines that the design plans are in conformance with the standards adopted for the district, the zoning administrator may issue a building permit.

(d) If the planning manager determines that the design plans are not in conformance with the design standards adopted for the district, the planning manager shall not approve the plans, and shall issue a notification of noncompliance, identifying the part of the design plan not in compliance with the specific standards, and the zoning administrator shall not issue a building permit until the design plans are approved.

(e) Applicants may appeal the planning manager's determination of nonconformance to the city regional planning commission for a final determination.

(f) Any interested party who is aggrieved by any action of the city regional planning commission may appeal its decision to the chancery court in the city by filing a common law writ of certiorari within 60 days of the action of the commission.

(Code 1998, § 114-551; Ord. No. 5554, § I, 6-19-2007)

Secs. 114-494—114-524. – Reserved

Article IV. - Signs

Sec. 114-525. - Purpose and intent.

The purpose of this article is to regulate all exterior signs and interior signs positioned for exterior observance, so as to protect property values and the visual character of city development

and the public health, safety and welfare. Signs are deemed to be an accessory and incidental use to the land or building which they identify or advertise for a use thereon, and it is intended that such signs will be appropriate and adequate, but not excessive, in performing their identification or advertising function.

(Code 1981, app. A, art. XIII, § 1; Code 1998, § 114-561)

Sec. 114-526. - Administration.

(a) *Fees and permits.* Fees shall be charged for sign permits and for annual inspections. A permit for a sign shall become null and void if the sign is not installed within six months. In the lower righthand corner of a sign shall appear the permit identification number and date installed, the name of the person or owner responsible for such sign and any other appropriate information.

(b) *Removal or repair of signs.* Any sign which is erected not in conformance with this chapter or any sign which because of improper maintenance or disrepair becomes nonconforming or unsafe shall be removed or repaired pursuant to the provisions of the building code, and all amendments thereto, as incorporated by reference in section 22-96

(c) *Building and electrical code compliance.* Any sign authorized by this chapter shall meet city building and electrical codes.

(d) *Maintenance.* Regular maintenance shall be performed to prevent deterioration. Signs not maintained in a state of good repair shall be removed at the property owner's expense within 30 days of notification. Any abandoned sign shall be removed within 30 days after notification by the city at the property owner's expense.

(Code 1981, app. A, art. XIII, § 10; Code 1998, § 114-562)

Sec. 114-527. - Permit required.

No sign, except as described in section 114-528, shall be erected, remodeled, relocated or expanded until an application, containing information as required, is made and a permit issued by the building official.

(Code 1981, app. A, art. XIII, § 2; Code 1998, § 114-563)

Sec. 114-528. - Permit exceptions.

The following signs shall not require a sign permit and are allowed in all zoning districts:

(1) *Permanent signs.* Signs which generally are permanent in nature as follows:

a. *Official signs.* Signs of a constituted governmental body, including traffic signs and signals, historical markers, informational directions, official notices, governmental flags or emblems, property identification, recreational activity signs.

b. *Directional or location signs.* Small signs, not exceeding two square feet in area, to identify underground public utilities, public telephones and restrooms, parking areas, freight entrances, etc., or to direct traffic movement onto a premises, within a premises or to indicate similar directional or location signs.

c. *Ownership.* Name and address identification signs, not to exceed two square feet in area, for a property owner or occupant.

d. *Decorations.* Seasonal displays not advertising a product, service or entertainment.

e. *Warning signs.* Signs, no larger than four square feet in area, warning the public against hunting, fishing, trespassing, swimming, etc., or to advise of dangerous animals, hazardous wastes, unsafe conditions, etc., on the applicable property.

(2) *Temporary signs.* Signs which shall exist for only limited time period as follows:

a. *Official notices and campaigns.* Official notices of government, to be removed within ten calendar days of notice action date; and civic, philanthropic, educational or religious campaign signs, not to exceed three months duration.

b. *Real estate signs.* One real estate sign on premises of property for sale, lease or rental, not to exceed six square feet in a residential district or 32 square feet in any other district. Such signs shall be removed within 14 calendar days of the sale, rental or lease of such premises.

c. *Construction signs.* No more than three on-site signs identifying the owner, financiers, professional design firms and contractors associated with the construction and building or subdivision or identifying the development's character or purpose, but no product advertisement. Each permitted sign shall not exceed 32 square feet and shall be removed within 14 calendar days after construction completion and shall not be displayed longer than two years from the date erected.

d. *Business announcements.* Temporary signs not exceeding 32 square feet, announcing going out of business, grand opening, under new management and similar announcements, shall be allowed two times per calendar year per proprietor, for a maximum of 15 days per event.

(Code 1981, app. A, art. XIII, § 3; Code 1998, § 114-564; Ord. No. 5497, § I, 2-6-2007)

Sec. 114-529. - Prohibited signs.

Under this chapter, the following signs are prohibited:

(1) *Effect of other laws.* Any sign prohibited by any other law or regulation or any level of government. When this chapter is in conflict with other local ordinances, regulations or laws, the more restrictive ordinance or law shall govern and shall be enforced by the appropriate agencies.

(2) *Portable signs.* Portable or mobile signs, as defined in this chapter, shall be prohibited.

(3) *Roof mounted signs.* Signs shall not be located upon the roof of any building.

(4) *Animated signs.* A sign of which any part is in motion, flutters, or rotates is prohibited, except for the hands of a clock or a weather vane.

(5) *Temporary signs.* Except as provided by this chapter, any sign, banner, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, shall be prohibited.

(6) *Other signs.* Any sign not provided for in this chapter shall be prohibited.

(Code 1981, app. A, art. XIII, § 4; Code 1998, § 114-565)

Sec. 114-530. - Applicability to all zoning districts.

The following shall apply in all zoning districts:

(1) *Operations.* The changing of copy on an approved sign or marquee specifically designed for use of replaceable copy and the painting, repainting, cleaning and other normal maintenance, unless a structural change is made, shall not require a building permit.

(2) *Traffic hazards.* Signs are prohibited which may interfere with, mislead or confuse traffic through use of improperly working graphics, location, size, shape or color and thereby interfere with traffic signals, control signs or other aspects of safe street driving conditions. No sign shall use the words "Stop," "Go," "Caution," "Yield," etc., when such would be confused with traffic signs or devices.

(3) *Obstruction.* Any sign shall be prohibited which is considered a safety hazard due to obstruction of any window, door, fire escape ladder or opening intended for light or air or for ingress to or egress from any building.

(4) *Lighting.* Any lighting arrangement shall be prohibited with exposed tubes, excluding neon-type signs, or strings of lights; any sign or illumination shall be prohibited that causes direct glare upon an unrelated building, as determined by the zoning administrator. Electronic message boards, and signs indicating time, temperature and

barometric pressure shall be permitted if they do not interfere with public safety or create a traffic hazard.

(5) *Trees and poles.* No sign shall be attached to a tree, and no sign shall be attached to a utility pole except for official governmental notices or warning signs.

(6) *Height clearance.* All signs shall have a minimum clearance of nine feet above a walkway.

(7) *Setback.* Unless otherwise restricted, no sign shall project beyond a property line, and no part of any sign shall be closer than five feet to any street right-of-way. Wall signs shall not project more than 12 inches from the face of the building.

(8) *Window signs.* Signs placed in windows or glass walls shall not cover more than 25 percent of the glass area to which they are attached.

(9) *Marquees.* Signs may be on the vertical face of a marquee, but shall not extend below the lower edge or the upper edge of the marquee or exceed seven feet in height. The bottom of a marquee sign shall be not less than ten feet above a walkway or grade at any point.

(10) *Projecting signs.* No projecting sign shall be erected or maintained from the front of a building a distance of more than 36 inches.

(11) *Sign content.* Signs that contain statements or words of an obscene, pornographic or immoral character; that contain advertising matter which is untruthful; or that emit audible sound, odor or visible matter are prohibited.

(12) *Devices.* Any streamer, flag, air- or gas-filled device, searchlight or any other device whose purpose is to attract the attention of the public shall be allowed two times per calendar year per proprietor, for a maximum of 15 days per event, and such devices shall require a permit issued by the building official.

(Code 1981, app. A, art. XIII, § 5; Code 1998, § 114-566; Ord. No. 4714, § I, 11-16-1999)

Sec. 114-531. - Nonconforming signs.

(a) Any lawfully erected sign, the continuance of which does not conform to this chapter, may continue to be maintained exactly as it existed on June 16, 1981. No nonconforming sign shall:

(1) Be changed to another nonconforming sign;

(2) Have any changes made in the words or symbols used or the message displayed on the sign unless the sign is an off-premises advertising sign or a bulletin board or substantially similar type of sign, specifically designed for periodic change of message;

(3) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign;

(4) Be reestablished after the activity, business or usage to which it relates has been discontinued for 30 days or longer or shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the reproduction cost.

(b) The board of zoning appeals may permit variances from subsection (a)(2) of this section or variances permitting the erection or maintenance of a nonconforming sign only upon the grounds established by law for the granting of zoning variances or upon a finding that the grant of a variance will reduce the degree of nonconformance of an existing sign or will result in the removal of one or more lawfully nonconforming signs and replacement by a sign more in keeping with the spirit, purpose and provisions of this chapter.

(Code 1981, app. A, art. XIII, § 6; Code 1998, § 114-567; Ord. No. 4319, § I, 12-17-1996)

Sec. 114-532. - Off-premises signs.

Off-premises advertising signs advertise products or services for businesses or organizations not connected with the site at which they are located. The following shall govern the placement of all off-premises signs.

(1) *Zoning development plan approval.* Signs shall require zoning development plan approval by the regional planning commission prior to issuance of a building permit.

(2) *Districts where permitted.* Signs shall be permitted in:

a. Highway Oriented Business Districts (B-3);

b. Light Manufacturing Districts (M-1);

c. Light Manufacturing Restricted Districts (M-1R); and

d. General Manufacturing Districts adjacent to interstate highways (M-2).

(3) *Location.* Signs shall only be permitted within 760 feet of an interstate highway as measured from the center of sign base to the interstate right-of-way line. No off-premises sign shall be located within a 2,640-foot radius of an interstate interchange as measured according to the state department of transportation definition of primary point of intersection.

(4) *Placement.* Signs shall be the principal use of a lot and shall maintain a minimum 15-foot setback from all property lines measured from the sign area.

(5) *Height.* Signs shall not exceed 15 feet in height above the average road level. The average road level shall be measured as a 1,320-foot radius from the center of the sign base and the average road level shall be determined from the interstate highway to which the sign is oriented.

(6) *Surfaces.* Sign surfaces shall be one per side, and the maximum total surface area shall not exceed 100 square feet per side or 200 square feet for all sides.

(7) *Content.* Signs shall only contain messages and inferences to lawful activities and shall not contain reflective materials on any portion of the sign face.

(8) *Relation to other districts.* Signs shall be no closer than 500 feet to any residential district or 1,000 feet to any historical district or historical site listed in the National Register of Historic Sites and Places. Signs shall be prohibited within the Gateway District and within 1,000 feet of the city greenbelt as measured from the center of the sign base.

(9) *Distance from other signs.* No off-premises advertising sign shall be permitted closer than 1,000 linear feet to any other off-premises advertising sign on the same side of the street or within 500 feet as measured in a radius as measured from the center of the sign base.

(10) *Conformance with other restrictions.* Signs are subject to all rules and regulations of the state department of transportation and this Code. Conflicting regulations will result in a compliance with the most restrictive regulation.

(Code 1981, app. A, art. XIII, § 7; Code 1998, § 114-568; Ord. No. 4520, § 1, 5-5-1998)

Sec. 114-533. - On-premises signs.

The following shall govern the placement of all on-premises signs:

(1) *Agricultural District (A-1).* No more than four signs shall be permitted, provided that:

a. Signs are to identify a farm or advertise a product grown thereon;

b. The surface area does not exceed 32 square feet;

c. The height of a freestanding sign does not exceed five feet; and

d. Signs shall be indirectly illuminated.

(2) *Single-Family Residential Districts (R-1A, R-1B and R-1C).*

a. Home occupations conducted in a dwelling are permitted one sign, provided:

1. The area of one side of the sign does not exceed three square feet; and

2. The sign shall not be illuminated by any means.

b. Single-family residences are permitted one garage-sale-type sign, provided:

1. The area of one side of the sign does not exceed three square feet;

2. The sign shall not be illuminated by any means; and

3. The sign shall be placed no more than two days prior to the day the sale is to take place.

c. Single-family residential subdivisions are permitted one permanent identification sign at each major street access, provided:

1. Such sign does not exceed 32 square feet per side with a maximum number of two sides;

2. The height of the sign shall not exceed five feet;

3. The sign shall be set back a minimum of 20 feet from any property line, except that a sign may be permitted in a grassed median provided the sign does not interfere with traffic; and

4. The sign shall not be illuminated by any means.

(3) *Multifamily Residential Districts (R-2, R-3 and R-4).*

a. Signs are permitted the same as for single-family residential districts.

b. Multifamily developments are permitted one permanent identification sign at each major street access, provided:

1. Such sign does not exceed 32 square feet per side with a maximum number of two sides;

2. The height of the sign shall not exceed 12 feet;

3. The sign shall be set back a minimum of 20 feet from any property line, except that such sign may be permitted in a grassed median provided the sign does not interfere with traffic; and

4. The sign shall be indirectly illuminated.

(4) *Residential districts which permit limited commercial uses (R-5 and PD).*

a. Signs are permitted the same as for multifamily residential districts.

b. Business establishments within a development are permitted one identification sign, provided:

1. The sign area does not exceed three square feet per side;

2. The sign is mounted on the face of the building; and

3. The sign shall be indirectly illuminated.

(5) *Professional Office District (P-1).*

a. Signs are permitted the same as for multifamily residential districts.

b. Single-tenant businesses are permitted one freestanding sign, provided:

1. The sign surface area shall not exceed one-half square foot per linear foot of street frontage to a maximum of 32 square feet per side or 64 square feet total of all sides;

2. A lot with a multiple-street frontage, including a corner lot, uses only one frontage in computing the sign surface area;

3. The sign shall be indirectly illuminated; and

4. The height of the sign shall not exceed five feet.

c. Multitenant centers are permitted one freestanding sign, provided:

1. The area of the sign does not exceed one-half square foot per foot of linear street frontage to a maximum of 50 square feet per side or a total of 100 square feet for all sides;

2. A lot with a multiple-street frontage, including a corner lot, uses only one frontage in computing the sign surface area;

3. The sign shall be indirectly illuminated; and

4. The height of the sign shall not exceed 12 feet.

d. Single-tenant businesses and multitenant centers are permitted a wall sign equivalent to one percent of the business's building ground coverage area up to 60 square feet total signage. A business having less than 2,000 square feet in area may utilize up to 20 square feet of signage. Signs shall be indirectly illuminated.

(6) *Neighborhood Business District (B-1).*

a. Signs are permitted the same as for multifamily residential districts.

b. Single-tenant businesses and multitenant centers are permitted one freestanding sign, provided:

1. The sign surface area shall not exceed one square foot per linear foot of street frontage to a maximum of 50 square feet per side or a total of 100 square feet for all sides;

2. A lot with a multiple-street frontage, including a corner lot, uses only one frontage in computing the surface area; and

3. The height of the sign shall not exceed 12 feet.

c. Single-tenant businesses and multitenant centers are permitted wall signs equivalent to one percent of the business's building ground coverage area up to 100 square feet total signage. Businesses having less than 6,000 square feet in area may utilize up to 60 square feet of signage.

(7) *Central Business District (B-2).*

a. Single-tenant businesses are permitted either of the following:

1. One freestanding sign, provided:

(i) The sign surface area does not exceed one square foot per linear foot of frontage not to exceed a maximum of 50 square feet per side or 100 square feet total of all sides;

(ii) A lot with a multiple-street frontage, including a corner lot, uses only one frontage in computing the surface area; and

(iii) The maximum height of signs shall be 20 feet or shall not exceed the height of the building, whichever is less; or

2. Wall signs, as provided.

b. Multitenant centers are permitted one freestanding sign, provided:

1. The sign surface area shall not exceed one square foot per linear foot of frontage, and no such sign shall exceed 64 square feet per side or 100 square feet total of all sides;

2. A lot with a multiple-street frontage, including a corner lot, uses only one street frontage for computing the sign surface area; and

3. The height of the sign shall not exceed 20 feet.

c. Single-tenant businesses and multitenant centers are permitted wall signs equivalent to one percent of the business's building ground coverage area up to 100 square feet total signage. Businesses having less than 5,000 square feet area may utilize up to 50 square feet of signage.

d. Murals and banners shall not be permitted in the B-2 district, except as approved by the board of mayor and aldermen.

(8) *Highway Oriented Business District (B-3).*

a. Single-tenant business and multitenant centers are permitted one freestanding sign, provided:

1. The sign surface area shall not exceed one square foot per lineal foot of frontage for the first 100 feet of frontage;

2. The maximum sign surface area shall be 100 square feet per side or 200 square feet total of all sides;

3. A lot with a multiple-street frontage, including a corner lot, uses only one street frontage for computing the sign surface area; and

4. The height of the sign shall not exceed 30 feet above the ground.

b. Single-tenant businesses and multitenant centers are permitted wall signs equivalent to one percent of the business's building ground coverage area up to 300 square feet of total signage. Businesses having less than 8,000 square feet of area may utilize up to 80 square feet of signage.

(9) *Planned Shopping Center District (B-4P).*

a. All signs within the B-4P district shall be reviewed by the planning commission as part of the site plan approval process.

b. Freestanding signs are permitted at major access points provided:

1. There are no more than two signs per center with a minimum separation of 250 feet from one sign's side to the other sign's side;

2. One square foot of sign area per one linear foot of road frontage, up to 200 square feet of sign area per side, with a maximum of 400 square feet of total sign area for all sides;

3. Lots with multiple street frontages, including corner lots, use street frontage on which sign is mounted in computing sign area; and

4. Maximum height of freestanding sign shall be 35 feet.

c. If the building ground coverage of a business is 30,000 square feet or more, the maximum wall sign area permitted is 300 square feet. If the building ground coverage of a business is 8,000 square feet or less, the maximum wall sign area permitted is 80 square feet. In all other situations, the area of wall signs shall not exceed one percent of the building ground coverage of a business.

(10) *Light Manufacturing Restricted District (M-1R).*

a. Single-tenant businesses are permitted freestanding signs, provided:

1. The sign surface area does not exceed 32 square feet per side or a total of 64 square feet for all sides;

2. For a lot with a multiple-street frontage, a total of two signs are permitted;

3. The height shall not exceed five feet above the ground; and

4. The signs shall be indirectly illuminated.

b. The area of wall signs shall not exceed one percent of the business' building ground coverage area. If a business' building ground coverage is less than 4,000 square feet, the business may utilize up to 40 square feet of sign area.

c. Industrial parks shall be permitted signage as for single-tenant businesses and, in addition, master identification signs, provided:

1. Only one such sign is located at each major access point;

2. Such sign shall not exceed 50 square feet per side or a maximum of 100 square feet total of all sides;

3. The maximum height of such signs shall be 20 feet; and

4. Signs shall be indirectly illuminated.

(11) *Light Manufacturing District (M-1) and General Manufacturing District (M-2).*

a. M-1 and M-2 districts shall be permitted one freestanding sign for each street frontage, and at each major access point, and in an industrial park for each building located therein provided:

1. The individual sign surface shall not exceed one square foot of sign area per one linear foot of road frontage, up to 200 square feet of sign area per side, with a maximum of 400 square feet total sign area for all sides;

2. Maximum height shall be 35 feet.

b. The area of wall signs in a M-1 and M-2 districts shall not exceed one percent of the business' building ground coverage area. If a business' building

ground coverage is less than 4,000 square feet, the business may utilize up to 40 square feet of sign area.

(12) *Historic Districts (H-1, H-2).* Within historic districts no sign shall be erected, altered, restored or moved within the district until a certificate of appropriateness as to the exterior architectural features has been approved by the historic zoning commission.

(13) *Tourist Accommodation District (TA).*

a. All signs within the TA district shall be reviewed by the planning commission as part of the site plan approval process.

b. Each mixed-use park within the district shall be permitted access identification signs, provided:

1. Only one such sign is located at each major access point.

2. Such sign shall not exceed 50 square feet per side or a maximum of 100 square feet total of all sides.

3. The maximum height of such signs shall be 20 feet.

4. Signs shall be indirectly illuminated.

5. The sign shall be permitted in a grassed median within a right-of-way, provided the sign does not interfere with traffic.

c. Each mixed-use park within the district shall be permitted one master identification sign which shall be permitted up to 50 feet in height and 300 square feet per side with a two-side maximum. This sign may be located within a grassed median within a right-of-way. If located on a lot, the master identification sign shall not be included in the total of freestanding signs for single-tenant businesses.

d. Wall signs are permitted equivalent to one percent of the building ground coverage area. Businesses having less than 4,000 square feet of area may utilize up to 40 square feet of signage.

e. Signs for Tourist Accommodation Districts (TA) adjacent to an interstate highway shall be as follows:

1. Single-tenant businesses and multitenant centers within a commercial center will be allowed one freestanding sign. The sign area shall not exceed one square foot per one linear foot of road frontage with a maximum of 100 square feet of sign area per side or 200 square feet total of all sides; and the maximum height shall not exceed 30 feet. In addition, subsections (13)e.2 through 5 of this section may apply as well.

2. A commercial center sign with a maximum of 700 square feet of sign area per side, with a maximum number of two sides. The maximum dimension of sign area per side for each business is 400 square feet.

The sign must be oriented to the interstate. The location of the sign must be designated on the preliminary plat.

3. A commercial center sign is allowed anywhere within the commercial development, but no part of the sign can cross over any property line and/or into the right-of-way.

4. If a single-tenant business within a commercial center has a minimum of 150 feet of street frontage to an interstate, then that business will have the option of either its own high-rise sign, or signage on the commercial center sign, but not on both. If the business desires to have its own high-rise sign, then the maximum height allowed for the high-rise sign is 100 feet from the earth's surface to the top of the sign. The sign area shall not exceed 400 square feet per side with a maximum of two sides. The sign shall be of monopole construction.

5. The area of wall signs shall not exceed one percent of the business' building ground coverage. If a business' building ground coverage is 30,000 square feet or more, the business may utilize up to 300 feet of sign area.

(14) *Mixed-Use District (MX).*

a. Single tenant businesses are permitted freestanding signs, provided that:

1. The sign surface area does not exceed 32 square feet per side or a total of 64 square feet for all sides;

2. A lot with a multiple-street frontage is allowed a total of two signs;

3. The height shall not exceed five feet above the ground; and

4. Signs shall be indirectly illuminated.

b. Each mixed-use park within the district shall be permitted master identification signs, provided:

1. Only one such sign is located at each major access point;

2. Such sign shall not exceed 50 square feet per side and a maximum of 100 square feet total of all sides;

3. The maximum height of such signs shall be 20 feet; and

4. Signs shall be indirectly illuminated.

c. The area of wall signs shall not exceed one percent of the business' building ground coverage area. If a business' building ground coverage is less than 4,000 square feet, the business may utilize up to 40 square feet of sign area.

(Code 1981, app. A, art. XIII, § 8; Code 1998, § 114-569; Ord. No. 4470, § 1, 12-16-1997; Ord. No. 4714, §§ II, III, 11-16-1999; Ord. No. 5065, §§ I, II, 11-5-2002; Ord. No. 5497, § II, 2-6-2007)

Sec. 114-534. - Computation of sign area.

The area of all signs permitted under this chapter shall be computed as follows:

(1) The supports or uprights and covering thereon on which a sign is supported shall not be included in the display surface area of a sign.

(2) Signs of the same shape and dimensions mounted or displayed back to back and parallel shall use only one such face in computing the total display surface area of the sign.

(3) Sign surface area of wall signs consisting of individual letters, each attached directly to the wall facade, shall be measured by the smallest rectangle which encloses all the letters. The total area shall be the sum of each word, logo or emblem forming the display.

(4) Sign surface area of a sign consisting of connected letters or letters enclosed by a box or an outline shall be the total area of the sign including the background, box or outline.

(5) Height of signs, except off-premises signs, shall be measured from the finished grade at the base of the sign or curb level, whichever provides the least height.

(Code 1981, app. A, art. XIII, § 9; Code 1998, § 114-570; Ord. No. 4714, § II, 11-16-1999)

Sec. 114-535. - Electronic message board signs.

Except as otherwise provided in this section, electronic message boards are allowed only in the following zoning districts: B-2, Central Business District, B-3, General Business District, BC, Business Conference Center Districts, B-4P, Planned Business Districts, and TA, Tourist Accommodation Districts as follows:

(1) Only one freestanding electronic message board to convey information by words, letters, or still pictures shall be permitted for each development, provided that at least one parcel within the development has a minimum frontage of 150 feet and the electronic message board sign is mounted along the parcel front.

(2) The electronic message board must be a part of the primary freestanding sign and must not exceed 50 percent of the total sign square footage permitted in the underlying zoning district.

(3) The maximum height of the sign is as permitted in the zoning district.

(4) Electronic message boards located within a Conservation or Gateway District shall conform to the Design Guidelines for that district.

(5) Electronic message boards shall include an automatic dimmer. The maximum allowable brightness of an electronic message board shall not exceed 4,000 Nits during the hours between sunrise and sunset and 1,000 Nits after sunset and before sunrise.

(6) Electronic message board shall not interfere with traffic signal devices as determined by the city traffic engineer.

(7) Electronic message boards shall not be used for off-premises advertising.

(8) Signage shall be limited to text, images and still pictures only. Video or animation of any type is prohibited. Animated signs are prohibited.

(9) Scrolling or flashing text shall be prohibited.

(10) Any display on an electronic message board shall be for a minimum of five seconds in duration. Any message change shall be completed within one second, shall be simultaneous, and fixed in place for a minimum five seconds.

(11) Electronic message boards shall not be allowed in any historic district as designated by the city.

(Code 1998, § 114-571; Ord. No. 5065, § IV, 11-5-2002; Ord. No. 5097, § II, 4-1-2003; Ord. No. 5616, § II, 11-6-2007)

Secs. 114-536—114-545. – Reserved

Article V. – Watershed Protection Program

Sec. 114-546. - Property dedicated to city program.

Property, part of which is dedicated to the city's watershed protection program, may have a reduction in the zoning setback adjacent to the property line created by such dedication. The purpose is to allow structures to be constructed on the property in the same location after property is dedicated to the city as would be permitted prior to dedication. The building official shall make this determination based on an assessment of any negative impacts to adjacent property, or to the health, safety, and welfare to the city as a whole.

(Ord. No. 5955, § I, 5-4-2010)

Secs. 114-547—114-561. – Reserved

Article VI. – Parking and Loading

Sec. 114-562. - Intent and applicability.

It is the intent of this article to provide for on-site provision of parking, loading and unloading of those vehicles reasonably expected to be generated by or the responsibility of the use on the site. This conforms to the city's transportation needs, wherein the community's streets are intended primarily for the movement of vehicular traffic and not for vehicular storage. Thus, to ensure that streets will function efficiently and with minimum hazard, off-street parking and loading facilities shall be provided by all land uses as described in this article.

(Code 1981, app. A, art. XIV, § 1; Code 1998, § 114-601)

Sec. 114-563. - General standards for parking.

Under this chapter, the following general standards shall apply for parking.

(1) *Location of spaces on same lot.* All required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot contiguous thereto which has the same zoning classification and is under the same ownership. However, where there are practical difficulties or if the public safety and public convenience would be better served by the location other than on the same lot or on a contiguous lot with the use to which it is accessory, the building official, acting upon a specific application, may authorize such alternative location subject to the conditions that the required space shall be located:

a. On land in the same ownership as that of the land on which is located the use to which such space is accessory or, in the case of cooperative parking as provided in subsection (2) of this section, in the ownership of at least one of the participants in the combination; and

b. Within 500 feet walking distance of a building entrance to the use that such space serves.

(2) *Cooperative parking.* Required off-street parking facilities may be provided cooperatively for two or more uses, subject to arrangements that will ensure the permanent availability of such spaces to the satisfaction of the building official.

(3) *Central business district parking.* Within the central business district, the board of zoning appeals may waive the requirements for on-site or contiguous parking and loading, provided it finds that sufficient space is provided in the immediate area, under public or private ownership, or other compelling reasons exist.

(4) *Residential areas.* Unless approval has been secured from the board of zoning appeals, no buses, trucks, heavy equipment or for sale vehicles shall be parked or stored in residential areas. Parking and loading requirements for business and industrial activities shall be met on land zoned for such activities, except that the board of zoning appeals may consider permitting such accessory uses on residentially zoned property if such can be effected without creating a public hazard or effectively reducing the value of adjoining residential properties. When permitted, the board shall require any necessary screening, landscaping, lighting, signing, access control or other physical design or operational restrictions that would help ensure the compatibility of the parking activities with adjoining residential activities.

(5) *Parking in yard space.* Except as may be qualified elsewhere in this chapter, off-street parking spaces that are located on the ground and are open to the sky may be located in any required yard but not nearer to any front lot line than eight feet. Except as may be qualified elsewhere in this chapter, parking structures and carports shall be subject to the minimum yard requirements applicable in the zoning district in which located, except parking structures that are completely underground may be located in any required yard, but not closer than one foot to any lot line, provided that no visible indication of the underground structure, to include entrances or ventilation stacks, shall be located closer than 25 feet to any lot line.

(6) *Car repairs.* All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which such parking is accessory. No motor vehicle repair work except emergency service shall be permitted in association with any required off-street parking facilities.

(7) *Access to street.* All off-street parking spaces shall be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings of such dimension, location and construction as shall be approved by the traffic engineering department.

(8) *Geometric design standards.* In no event shall parking area dimensions be less than the following:

Parking Angle in Degrees	Parking Direction	Stall Width (feet)	Stall Depth Perpendicular to Aisle (feet)	Width of Aisle (feet)	Width of Aisle Plus Two Stalls (feet)	Stall Width Parallel to Aisle (feet)

30	Drive-in	9	16.8	9	42.6	18.0
45	Drive-in	9	19.1	11	49.2	12.7
60	Drive-in	9	20.0	17	57.0	10.4
90	Drive-in	9	18.0	23—27	59—63	9.0

(9) *Landscaping and lighting.* Parking areas shall conform to any landscaping requirements and shall provide lighting sufficient for the intended purpose but not so as to create a traffic hazard, glare or to otherwise be offensive. Except for necessary security lighting, such areas shall be lighted only during activity hours of the principal use.

(10) *Parking ratios.* Parking spaces required on an employee/person basis shall be based on the maximum number of employees/persons on duty or residing or both on the premises at any one time or the occupancy load of the building, whichever is greater. Where a given use or building contains a combination of uses, parking shall be provided on the basis of the sum of the required spaces for each use.

(11) *Uncertainty.* If there is uncertainty with respect to the amount of parking space required by this chapter as a result of an indefiniteness as to the proposed use of a building or of land, the maximum requirement for the general type or use that is involved shall govern. Where the required number of parking spaces is not set forth for a particular use in section 114-564 and where there is no similar general type of use listed, the building official shall determine the basis of the number of spaces to be provided.

(12) *Parking surface.* All parking lots other than single- and two-family residential shall be paved with asphalt, concrete, permeable pavers, or other similar material recommended by the city engineer.

(Code 1981, app. A, art. XIV, § 2; Code 1998, § 114-602; Ord. No. 5083, § VIII, 2-4-2003)

Sec. 114-564. - Minimum required parking spaces.

The minimum off-street parking spaces as accessory to the uses designated in this section shall be as follows:

(1) *Residential uses.* Residential uses shall be as follows:

a. Single-family: two spaces per unit, provided that only one such space must have convenient access to a street.

b. Multifamily dwelling and mobile homes: 1½ spaces per unit.

(2) *Lodging uses.* Lodging uses shall be as follows:

a. Tourist home, boarding house, rooming house: one space per guest accommodation.

b. Dormitory, fraternity, sorority: one space for each two sleeping accommodations based on maximum occupancy, plus one space for each housemother, manager or employee.

c. Hotel, motel: one space per rental unit plus four spaces per 50 rental units, plus spaces for any restaurant, assembly room or other facility as determined by the building official.

d. Nursing or convalescent facility: one space per three residents, plus one space per employee.

(3) *Public, semipublic, cultural, recreation, similar uses.* Public, semipublic, cultural, recreation and similar uses shall be as follows:

a. Airport, airpark: one space per employee plus one space per establishment vehicle plus sufficient space for other users as determined by the building official.

b. Ambulance service or rescue squad: adequate space to accommodate all motor vehicles operated in connection with such use and two additional parking spaces per each such vehicle.

c. Church, chapel, temple, synagogue or other place of worship: one space per four seats in the principal place of worship, provided that the number of spaces thus required may be reduced by not more than 50 percent if the place of worship is located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner without charge, during the time of service, to make up the additional spaces required.

d. College or university: one space per employee plus a sufficient number of spaces to accommodate students and visitors as determined by building official.

e. Cultural center, museum or similar: one space per 1,000 square feet of gross floor area.

f. Country club: one space per four members based on maximum anticipated membership.

g. Funeral home: one space per four seats in the main chapel or parlor plus one space per two employees, plus one space for each vehicle used in connection with the business.

h. Group day care: two spaces per each three employees, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions.

i. Hospital: one space per two beds, plus 1.5 spaces per each emergency room examination table or bed, plus one space per employee on the major shift other than doctors, plus one space per doctor assigned to the staff.

j. Intensive special medical or mental care or welfare institution: one space per two patients, based on the occupancy load, plus one space per employee or staff member on a major shift.

k. Library: one space per 2.5 patrons based on the occupancy load plus one space per employee on a major shift.

l. Private, civic, fraternal lodge or club: one space per three members based on maximum anticipated membership.

m. Public utility: one space per 1.5 employees on the major shift, plus one space per company vehicle.

n. School, elementary or intermediate: one space per employee plus four visitor spaces, plus any other space as determined by building official after reviewing total facility.

o. School, secondary: same as elementary plus one space per eight students based on maximum attendance.

p. Swimming pool: one space per employee plus one space per each six persons lawfully permitted in the pool at any one time.

q. Tennis club: four spaces per court plus such additional space as may be required for restaurants or other facilities.

(4) *Business and related uses.* Business and related uses shall be as follows:

a. Automobile service station: two spaces per bay, plus one space per employee, but never less than five spaces.

b. Bowling alley: four spaces per alley, plus one space per employee, plus such additional spaces as may be required in this section for affiliated uses such as restaurants.

c. Business service and supply service establishment: one space per 300 square feet of gross floor area.

d. Carwash: four stacking spaces per bay/stall plus one parking space per employee for self-service establishment.

e. Convenience center: 5½ spaces for each 1,000 square feet of gross floor area or in proportion thereto.

f. Eating establishment: one space per four seats plus one space per two employees where seating is at tables, or one space per two seats plus one space per two employees where seating is at the counter.

g. Eating establishment, drive-in with no seating facilities: one parking space per 60 square feet of floor area; a minimum of four stacking spaces.

h. Financial institution: one space per 500 square feet of net floor area.

i. Financial institution with drive-in lanes: one parking space per 500 square feet of floor area; sufficient area for five stacking spaces if there is only one drive-in-lane, or three stacking spaces for the first drive-in lane and two stacking spaces for each additional lane.

j. Furniture or carpet store: one space per 500 square feet of net floor area plus one space per each employee.

k. Medical, dental practitioner's office: three spaces per practitioner plus one space for each employee.

l. Office: four spaces per 1,000 square feet of net floor area plus one space per company vehicle.

m. Outdoor sales/display area other than vehicle sale, rental and service establishment: one space per 500 square feet of open sales/display area plus one space per employee.

n. Personal service establishment: one space per 200 square feet of gross floor area.

o. Recreational facility other than theater, auditorium, stadium, bowling alley or swimming pool: one space per three seats or three persons based on the occupancy load plus one space per employee.

p. Repair service establishment: one space per 200 square feet of gross floor area.

q. Retail sales establishment except furniture or carpet store: one space per 200 square feet of net floor area for the first 1,000 square feet, plus six spaces per each additional 1,000 square feet.

r. Shopping center, planned: Four parking spaces per 1,000 square feet of building ground coverage (BGC) for all shopping centers.

s. Theater, auditorium or stadium: one space per four seats or similar vantage accommodation provided, plus one space per two employees.

t. Vehicle sale, rental and service establishment: one space per 500 square feet of enclosed sales/rental floor area, plus one space per 2,500 square

feet of open sales/rental display lot area, plus two spaces per service bay, plus one space per employee, but never less than five spaces.

u. Wholesale trade establishment: one space per 1.5 employees, plus one space per company vehicle, but with a minimum of one space per 1,000 square feet of gross floor area.

(5) *Manufacturing, industry and related uses.* Manufacturing, industry and related uses shall be as follows:

a. Manufacturing establishment or establishment for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto: one space per 1.5 employees on major shift, plus one space per company vehicle and piece of mobile equipment.

b. Scientific research and development establishment: one space per 500 square feet of gross floor area.

c. Warehousing, heavy equipment storage yard, lumberyard and building material yard, motor freight terminal or junkyard: one space per 1.5 employees on major shift plus one per company vehicle, plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but with a minimum of one space per 1,000 square feet of gross floor area.

d. Manufacturing, industry, and related uses: Within these districts the board of zoning appeals may waive the requirements for on-site or contiguous parking and loading providing it finds that sufficient space is provided in the immediate area, under public or private ownership, or other compelling reasons exist.

(Code 1981, app. A, art. XIV, § 3; Code 1998, § 114-603; Ord. No. 4031, § 1, 4-18-1995; Ord. No. 5083, §§ IX—XI, 2-4-2003; Ord. No. 6008, § I, 10-5-2010)

Sec. 114-565. - General standards for off-street loading.

Under this chapter, all structures built or expanded and all uses established shall provide accessory off-street loading spaces in accordance with the following:

(1) *Location of spaces on same lot.* All required off-street loading spaces shall be located on the same lot as the use served, except that required off-street loading spaces may be provided cooperatively for two or more uses, subject to arrangements that will ensure the permanent availability of such spaces to the satisfaction of the building official.

(2) *Location.* No loading space or berth shall be located within 40 feet of the nearest point of intersection of the edges of the travel way or the curbs of any two streets or

located in a required front yard. If located in a required rear yard the loading space or berth shall be either underground or open to the sky.

(3) *Relation to parking.* No required off-street loading area shall be used to satisfy the space requirement for any off-street parking facilities, and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.

(4) *Vehicle repair work.* No motor vehicle repair work, except emergency service, shall be permitted in association with any required off-street loading facility.

(5) *Street access.* All off-street loading space shall be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb at such dimension, location and construction as may be approved by the building official.

(6) *Loading area dimensions.* All off-street loading areas shall be no less than 15 feet wide, 25 feet long and 15 feet high, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to and not separated from such first loading space need not be wider than 12 feet.

(7) *Lighting and landscaping.* All lighting and lighting fixtures used to illuminate off-street loading areas shall be sufficient for the purpose intended and shall not present glare or traffic safety hazards, and any landscaping requirements shall be complied with fully and designed for protection from vehicle maneuvering.

(8) *Combination of uses or uncertainty.* Loading facilities shall be provided on the basis of the sum of spaces required for each use where a given use contains a combination of uses as set forth in section 114-566. Where uncertainty exists, the building official shall impose the maximum requirement for the general type of use involved.

(9) *Maximum spaces.* Notwithstanding the standards set forth in this section, in no instance shall more than five off-street loading spaces be required for a given use or building except as may be determined by the building official.

(Code 1981, app. A, art. XIV, § 4; Code 1998, § 114-604)

Sec. 114-566. - Minimum required loading spaces.

(a) *Conformance to loading space schedule.* The minimum off-street loading spaces shall conform to the standards in the following schedule:

Uses	Standard

(1)	Bowling alley and other similar commercial recreational establishment	F
(2)	Business service and supply service establishment	C
(3)	College or university	F
(4)	Dwelling, multiple-family	G
(5)	Eating establishment	D
(6)	Financial institution	C
(7)	Funeral chapel, funeral home	F
(8)	Hospital	F
(9)	Hotel, motel	F
(10)	Manufacturing establishment or establishment for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto	A
(11)	Nursing or convalescent facility	F
(12)	Office	C
(13)	Personal service establishment	B

(14)	Repair service establishment	C
(15)	Retail sales establishment	B
(16)	School	F
(17)	Scientific research and development establishment	C
(18)	Vehicle sale, rental and service establishment	A
(19)	Warehousing establishment	A
(20)	Wholesale trade establishment	E

(b) *Standards.* Loading spaces for the standards noted in the table in subsection (a) of this section shall be as follows:

(1) *Standard A.* One space for the first 5,000 square feet of gloss floor area, plus one space for each additional 30,000 square feet or major fraction thereof.

(2) *Standard B.* One space for the first 10,000 square feet of gross floor area, plus one space for each additional 15,000 square feet or major fraction thereof.

(3) *Standard C.* One space for the first 10,000 square feet of gross floor area, plus one space for each additional 20,000 square feet or major fraction thereof.

(4) *Standard D.* One space for the first 10,000 square feet of gross floor area, plus one space for each additional 25,000 square feet or major fraction thereof.

(5) *Standard E.* One space for the first 10,000 square feet of gross floor area, plus one space for each additional 30,000 square feet or major fraction thereof.

(6) *Standard F.* One space for the first 10,000 square feet of gross floor area, plus one space for each additional 100,000 square feet or major fraction thereof.

(7) *Standard G.* One space for the first 25,000 square feet of gross floor area, plus one space for each additional 100,000 square feet or major fraction thereof.

(Code 1981, app. A, art. XIV, § 5; Code 1998, § 114-605)

Sec. 114-567. - Parking and loading in Business Conference Center District.

(a) Parking and loading provisions for the BC, Business Conference Center District shall be as set out in this article and shall also include the minimum off-street parking spaces following:

(1) Art galleries: one space per 300 square feet of gross floor area.

(2) Child day care, elderly care, nursery school, kindergarten: one space per employee plus one off-street passenger loading space for every eight clients.

(3) Convention/conference centers: one space per 200 square feet of net meeting space plus one space per employee at peak levels and sufficient loading space to accommodate the largest anticipated event as determined by the planning commission.

(4) Golf courses, other than golf courses operated as part of or in conjunction with a country club: three spaces per golf hole plus one space per two employees.

(5) Headquarters, corporate: 3.5 spaces per 1,000 square feet of gross floor area.

(6) Health clubs: one space per each 200 square feet of gross floor area.

(7) Meeting centers: one space per four seats or one space per 30 feet of gross floor area, whichever is greater.

(8) Telecommunications facilities: four spaces per 1,000 square feet of gross floor area.

(9) Training centers: one space per 200 square feet of gross floor area.

(b) Park-and-ride, bus and shuttle service facilities, including bus lanes, shelters and special parking areas, may be required by the planning commission.

(c) Required parking and loading areas shall be paved with a hard-surface material. Vehicular access areas shall be paved with a hard surface material.

(Code 1981, app. A, art. XI, § 7(G); Code 1998, § 114-606)

Secs. 114-568—114-597. – Reserved

Article VII. – Landscaping and Land Use Buffers

Sec. 114-598. - Definitions.

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

Landscape means the planting and retention of live plants, including trees, shrubs, ground cover and low-growing plants that are native species or species adaptable to local climatic conditions. Landscape materials will include a mix of trees, shrubs and ground covers and may consist of both deciduous and evergreen plants for yearround effectiveness. The functions of these landscape materials may include screening of adjacent properties, erosion control, pollution control, glare and temperature moderation and aesthetic appeal.

(Code 1981, app. A, art. XV, § 2; Code 1998, § 114-646)

Sec. 114-599. - Intent.

The intent of this article is to improve the appearance of public rights-of-way, certain commercial developments and multifamily dwellings, and public property through regulations of the planting, protection and maintenance of trees, shrubs and other landscaping materials; to regulate the preservation, replacement and indiscriminate removal of trees on private property and new developments; and to specify policies and procedures for fulfillment of these purposes.

(Code 1981, app. A, art. XV, § 1; Code 1998, § 114-647)

Sec. 114-600. - Landscape requirements.

(a) *Lists of acceptable materials.* The city landscape specialist will prepare and maintain lists of landscape materials which are acceptable for planting on public and private properties, including rights-of-way and parking areas. The lists will be specific for this geographic area and will detail growth patterns, maturity height, rate of growth, disease resistance, site planting requirements and maintenance requirements. No landscape material shall be planted on public or private property as set forth in this section unless it appears on this list or is approved by the landscape specialist. The lists will be available from the building official, planning director and the landscape specialist.

(b) *Public property.* Public property is defined as any street, park or other land or building owned by the city. The city will control the planting, maintenance and removal of all landscape materials on public property. Work will be performed by municipal personnel or by contract with licensed and insured private companies. Any person or company working on public property or private property adjoining or affecting public property is responsible for the protection of any landscape materials located on public property and for restitution of any materials damaged during or as a result of construction or other work.

(c) *Private property.* A complete landscape plan will be submitted to the city manager, or his designee, after the issuance of a building permit; if not, the permit is subject to be revoked in zoning areas R-3, R-4, R-5, R-1MP, P-1, TA, B-1, B-2, B-3, M-1, M-1R and B-4P.

(1) The plan shall be drawn to scale, including the:

a. Location, size and shape of any buildings;

b. Existing or proposed parking spaces or other vehicular use areas;

c. Pedestrian areas; and

d. All sections to be landscaped.

(2) The plan shall specify:

a. The number, size (designated by guidelines of the American Standards for Nursery Stock), and species and cultivar of trees, shrubs, ground covers and other plants;

b. Planting locations; and

c. Size of existing trees that will be saved.

A certification of completion of landscaping must be obtained from the city manager before a certificate of occupancy is issued by the building official. A waiver of the installation of landscape materials may be granted by the city manager if installation is hindered due to adverse weather conditions. The waiver will not exceed a 180-day period.

(d) *Parking areas.*

(1) *Applicability.* This subsection (d) applies to all new parking areas for developments requiring a landscape plan and for existing lots that are enlarged or expanded by more than ten parking spaces, provided that the zoning administrator, assisted by a landscape specialist, does not waive specific landscaping requirements. The zoning administrator may waive this requirement where the requirement can be satisfied by alternative measures.

(2) *Perimeter.* Landscaping for the perimeter of new parking areas requires a planting strip of a minimum width of ten feet abutting public streets excluding access driveways or alleys. This planting strip will include a minimum of one deciduous tree for each 50 linear feet of perimeter and for any fraction of footage over 25 linear feet. These trees may be grouped or placed at intervals appropriate to the species for aesthetic purposes, so long as the total number of trees equals or is greater than the minimum specified by the linear-foot method of determination of trees required. Location of types of landscaping materials is to be compatible with utility lines, sidewalks and the safe use of streets. When a building permit is requested for redevelopment or additions to a previously developed site, where the required perimeter strip does not exist, the required trees may be planted in pavement cutouts of sufficient size for tree survival and growth.

(3) *Interior.*

a. Properties with 5,000 or more square feet of paved area must also have interior tree planting areas. These planting areas must total at least five percent of the total paved area. One tree must be planted for each 600 square feet of interior landscape area or fraction of additional area over 300 square feet.

b. Landscape areas should be located in such a manner as to divide and break up the expanse of paving and to guide traffic flow. The use of terminal islands for rows of parking spaces is encouraged. Landscape islands between parking spaces shall be no less than five feet in width and no less than half the length of parking spaces. Parking area islands containing trees require a minimum width of eight feet. Landscaping must be located in islands or planting strips within ten feet of the paved areas where requirements otherwise would hinder the functioning of the completed development.

c. Of the required landscaping area, a minimum of 20 percent will be building perimeter plantings for any building side fronting an access street. Building perimeter islands will have a minimum width of 2.5 feet. Building perimeter islands will be positioned to be free of vehicle overhang from any adjacent parking areas.

d. Reduction of required new landscaping may be granted by the landscape specialist for sections within the paved areas which are used to provide a protected location for an existing tree which has a caliper measurement of at least three inches. The landscape specialist's decision will be based on criteria such as age, size, type and condition of the tree.

e. When a building permit is requested for redevelopment or additions to a previously developed site, building perimeter plantings are required for any building side fronting an access street. Building perimeter islands will be positioned to be free of vehicular overhang from any adjacent parking sites.

f. Parking lots that are enlarged or expanded by more than ten spaces shall be subject to the same landscape requirements as new developments; provided, however, that the board of zoning appeals may waive specific landscaping requirements for the existing portions of such parking lots when the requirement can be satisfied through alternative measures.

(4) *Property adjoining a residential or agricultural zone.*

a. A planting strip boundary shall be placed between the property and a residential or agricultural zone or public parks or the greenbelt pathways. The planting strip shall have a minimum width equal to the abutting setback requirement of the more restrictive zone; in the absence of a setback requirement, the minimum width shall be 30 feet. The planting zone shall contain one large-maturing deciduous tree for each 50 linear feet of boundary and for

any fraction of additional footage over 25 linear feet. The remainder of the planting area shall be landscaped with ground cover, shrubs or other landscape materials specified in section 114-601. However, this shall not apply to any part of the subject property line that abuts a public right-of-way, which is at least 40 feet in width and open to public use.

b. The planning commission or board of zoning appeals may require a continuous, opaque wood fence with a minimum height of six feet for complete screening. However, this screening may be provided by planting a row of evergreen shrubs or trees that will provide at least a six-foot complete screen at maturity or before maturity.

(5) *Driveway and street intersections.* At all locations where driveways or alleyways intersect with streets, a sight triangle is to be maintained. No landscape materials other than low growing grass or other ground cover will be planted within the sight triangle.

(Code 1981, app. A, art. XV, § 3; Code 1998, § 114-648; Ord. No. 4959, § I, 10-2-2001)

Sec. 114-601. - Landscaping materials.

(a) *Earth mounds.* Under this chapter, earth mounds may be used as physical barriers which block or screen a view for purposes similar to those of hedges or fences. Mounds are to be landscaped sufficiently with ground covers or other live materials to prevent erosion.

(b) *Fences.* Fences may be used as confining or screening barriers. Fences are to be continuous and opaque and constructed of natural materials such as stone, wood or brick.

(c) *Live plants.* All plant material will be planted in accordance with accepted horticultural practices. Plant materials will meet current specifications of the American Standard for Nursery Stock and shall have passed any inspections required under state regulations; information on these standards will be available from the landscape specialist.

(1) *Deciduous trees (shed their leaves in the fall).* Deciduous trees to be planted must meet or exceed the American Standards for Nursery Stock.

a. Trees planted in perimeter areas should be species or cultivars that are listed in the street planting plan of the city. If the site is not included in the planting plan, a tree species will be selected from the list of approved trees provided by the landscape specialist.

b. Trees having an average age mature spread or crown of less than 15 feet may be grouped to achieve a larger crown size.

(2) *Ground cover.* Ground cover shall be planted in such a manner as to provide a finished appearance and 75 percent coverage after two growing seasons. All ground cover should be properly mulched at installation.

(3) *Grass.* Grass may be sodded, plugged, sprigged or seeded except in swales or other areas subject to erosion, where solid sod, erosion reducing net or suitable mulch shall be placed for immediate protection until complete coverage is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases.

(4) *Shrubs.* Shrubs shall have a minimum installation height of two feet or a minimum spread of 12 inches or a three-gallon pot size, depending upon the shrub species. Shrubs used as ground cover shall follow the specifications for ground covers.

(5) *Vines.* At the time of planting, vines should have at least a 12-inch spread. Most vines will need support to reach maturity.

(d) *Nonliving materials.* No more than 50 percent of each landscape area shall include nonliving materials such as bark and wood chips, marble chips, river rock, pebbles, lava rock and pine needles.

(Code 1981, app. A, art. XV, § 4; Code 1998, § 114-649)

Sec. 114-602. - Installation and maintenance.

(a) Under this chapter, all landscape construction and installation shall be conducted according to standard nursery practices and specifications. Landscaping shall be installed as shown on the approved landscape plan. Landscaping shall be installed and completed prior to the issuance of a certificate of occupancy unless an extension is granted by the landscape specialist of up to 180 days because of adverse planting conditions. Plants in or adjacent to parking areas are to be protected from vehicular damage by the use of curbs, wheel stops or other barriers. Existing saved trees in construction areas or near other work sites are to be protected through the use of a sturdy fence of framework at least four feet in height during the construction period. Whenever possible, drainage from paved impervious parking surfaces should be channeled into planted areas.

(b) All required landscape plant material shall be maintained in a healthy condition in accordance with guidelines specified in American Standards for Nursery Stock. The property owner will be responsible for the continuing maintenance of all landscaped areas. Dead, seriously diseased or damaged plants or dying ones shall be removed and replaced with materials approved by the city's landscape specialist and in accordance with guidelines set forth in American Standards for Nursery Stock. Such replanting will take place at the next planting season appropriate for the landscape materials or within six months, at the owner's expense.

(c) The landscape specialist will make unscheduled inspections of landscaped areas to ensure continuing compliance in the maintenance and protection of landscape plants. The landscape specialist will notify property owners concerning required replacement of plants and other needed maintenance.

(Code 1981, app. A, art. XV, § 5; Code 1998, § 114-650)

Secs. 114-603—114-649. - Reserved.

Article VIII. – Demolition by Neglect

Sec. 114-650. - Definitions.

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

Building means any occupied or vacant walled or roofed structure or part thereof used for human occupation or intended to be so used and includes any garages, outbuildings, and appurtenances belonging thereto or usually enjoyed therewith.

Commission means the historic zoning commission established pursuant to section 114-240.

Demolition by neglect means neglect in maintaining, repairing, or securing an historic landmark in an historic district that results in deterioration of an exterior feature of the landmark, or the loss of the structural integrity of the landmark, including the existence of any defect listed in section 114-654. The term "demolition by neglect" also includes any act or process which destroys, in part or in whole, any historic landmark.

Historic designation means the formal recognition as an historic landmark.

Historic landmark means any structure in an historic district of this city, at least 50 years old, either publicly or privately owned, including buildings, homes, replicas, structures, objects, properties, cultural landscapes or sites that have importance in the history, architecture, archaeology, or culture of this city, state or nation, as determined by the commission and having received an historic designation.

Maintenance and repair means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

Owner means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises in fee simple and every mortgagee of record.

Parties in interest means all individuals, associations, or corporations who have interests of record in a building, or parcel of land or who have actual possession thereof.

Premises means a lot, plot, or parcel of land, including any buildings thereon.

Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic landmark.

Undue economic hardship means the inability of the owner and parties in interest to obtain a reasonable return or a reasonably beneficial use from the historic landmark that is the subject of demolition by neglect, or the inability of the owner and parties in interest to finance the required repairs to the historic landmark.

(Ord. No. 5298, § I(114-700), 5-17-2005)

Sec. 114-651. - Declaration of findings, policy and purpose.

(a) The board of mayor and aldermen find that some buildings in the historic districts in the city are or may be allowed to be essentially demolished by neglecting repair to such buildings and that such neglect is detrimental to the protection, preservation, and enhancement of historic sites and buildings in such districts, to property values in the districts, and to the health, safety and welfare of the city and its residents. It is further found that, to prevent such demolition by neglect, T.C.A. § 13-7-407(b) authorizes the governing body of a municipality to enact an ordinance governing demolition by neglect of any building within an established historic district. The board further finds that population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the city's cultural, historic and architectural heritage. It is further found that the prevention of needless destruction and impairment and the attendant preservation of the city's cultural, historic and architectural heritage are essential to the public health, safety and welfare. The intent of this article is to create a reasonable balance between private property rights and the public interest in preserving the city's historic character and culture. It is also the intent of this chapter not to preserve every old building in the city, but rather to prevent the destruction of historic and architecturally significant sites, buildings, and structures in established historic districts.

(b) The purpose of this article is to promote the public health, safety and welfare through:

(1) The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or

national history, or that provide significant examples of architectural styles of the past, or that are unique and irreplaceable assets to the city and its neighborhoods, or that provide for this and future generations examples of the physical surroundings in which past generations lived;

(2) The development and maintenance of appropriate settings and environments for such buildings and structures, and in such sites and areas;

(3) The enhancement of property values, the stabilization of neighborhoods in historic districts, the increase of economic and financial benefits to the city and its inhabitants, and the promotion of tourist trade and interest;

(4) The preservation and enhancement of varied architectural styles, reflecting the distinct phases of the city's history; and

(5) The provision of educational opportunities and to increase the appreciation of the city's history.

(Ord. No. 5298, § I(114-701), 5-17-2005)

Sec. 114-652. - Enforcing official.

The building official is designated as the public officer who shall exercise the powers prescribed in this article, except as otherwise provided in this article.

(Ord. No. 5298, § I(114-702), 5-17-2005; Ord. No. 5596, § I, 9-4-2007)

Sec. 114-653. - Powers of building official.

The building official is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and requirements of this article, including the following powers, in addition to others granted in this article:

(1) Investigate conditions in the historic districts of the city in order to determine which buildings are subject to demolition by neglect, except as otherwise provided in this article.

(2) Administer oaths and affirmations, examine witnesses, and receive evidence.

(3) Enter upon premises for the purposes of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to persons in possession.

(Ord. No. 5298, § I(114-703), 5-17-2005; Ord. No. 5596, § II, 9-4-2007)

Sec. 114-654. - Prevention of demolition by neglect.

(a) The exterior features of any historic landmark located in any historic district shall be preserved against decay and deterioration, and kept free from structural defects by the owner thereof or parties in interest and shall not be permitted to suffer demolition by neglect. It shall be unlawful and an offense for owners or parties in interest of historic landmarks to allow any of the following defects to exist and the owner or parties in interest shall repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to the following defects:

(1) Deterioration of exterior walls or other vertical supports rendering such components incapable of carrying imposed load, or that causes leaning, sagging, splitting, listing or buckling.

(2) Deterioration of roofs, roof supports, joists or other horizontal components rendering such components incapable of carrying imposed loads, or that causes leaning, sagging, splitting, listing or buckling.

(3) Deterioration, leaning or settling of chimneys.

(4) Deterioration or crumbling of exterior stucco, mortar or masonry surfaces.

(5) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings and architectural details that causes delamination, instability, loss of shape and form, or crumbling.

(6) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.

(7) Defective protection or lack of weather protection for exterior wall and roof coverings, with apparent evidence of deterioration.

(8) Rotting, holes, and other forms of decay.

(9) Unsafe electrical or mechanical conditions constituting a fire or safety hazard.

(10) Deterioration of any component so as to create a hazardous condition that could lead to a claim that demolition is necessary for public safety.

(11) Deterioration of any exterior features so as to create or permit the creation of any hazardous or unsafe condition to life, health, or other property.

(b) The preventive measures outlined in subsection (a) of this section are for structural conditions leading to dilapidation of the structure only. This shall not be construed to include cosmetic repair or maintenance.

(Ord. No. 5298, § I(114-704), 5-17-2005)

Sec. 114-655. - Institution of action and notification of hearing.

(a) Whenever a writing is filed with the building official by either the historic zoning commission, by at least five residents of the city, or by a city building inspector charging that an historic landmark in any historic district is threatened with demolition by neglect as set out in section 114-654, or whenever it appears to the building official that any historic landmark is threatened by demolition by neglect such charge shall be referred to the review committee. The review committee shall make a preliminary investigation of the charge applying the standards set forth in section 114-654. If such preliminary investigation discloses a basis for the charge, the review committee shall issue and cause to be served upon the owner and parties in interest of such historic landmark, as the same may be determined by reasonable diligence, a complaint stating the charges the committee finds have a basis for demolition by neglect and a notice that a hearing will be held before the building official at a time and place therein fixed. The review committee shall consist of the building official and two individuals appointed by the mayor and approved by the board of mayor and aldermen for a term of not more than three years, one of whom shall be a member of the historic zoning commission and the other of whom shall be a licensed engineer familiar with structural engineering, if such individual is reasonable available.

(b) The complaint shall contain a notice that a hearing will be held before the building official at a time and place therein fixed, not less than ten days or more than 30 days after the service of the complaint. The notice shall also state that the owner and parties in interest shall have the right to file an answer to the complaint, appear in person, or otherwise, and to give testimony at the time and place fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official.

(Ord. No. 5298, § I(114-705), 5-17-2005; Ord. No. 5596, § III, 9-4-2007)

Sec. 114-656. - Hearing procedure.

(a) A record of the entire hearing shall be made by tape recording or by other means of permanent recording determined appropriate by the building official. A recording of the proceedings shall be made available to all parties upon request and upon payment of a fee established by the board of mayor and aldermen.

(b) Oral evidence shall be taken only on oath or affirmation.

(c) Hearsay evidence is admissible and may be used to support a finding.

(d) Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction of this state.

(e) Irrelevant and unduly repetitious evidence shall be excluded.

(f) Each party shall have the following rights, among others:

(1) To call and examine witnesses on any matter relevant to the issues of the hearing;

(2) To introduce documentary and physical evidence;

(3) To cross examine opposing witnesses on any matter relevant to the issue of the hearing;

(4) To refute the evidence against the party; and

(5) To representation by counsel.

(Ord. No. 5298, § I(114-706), 5-17-2005)

Sec. 114-657. - Determination of and further notice by building official.

(a) If, after such notice and hearing as provided for in section 114-655, the building official determines that the historic landmark in question has suffered demolition by neglect, the building official shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the owner, and/or parties in interest, an order requiring repairs, improvements, and/or correction of defects, within the time specified, of those elements of the historic landmark that are deteriorating, contributing to deterioration, or deteriorated. Any repairs, improvements, and/or correction of defects instituted in compliance with this section shall be made in conformance with the zoning and building codes.

(b) In the event the owner, and/or other parties in interest desire to petition for a claim of undue economic hardship, the order of the building official shall be stayed until after a determination in accordance with the procedures of section 114-658

(Ord. No. 5298, § I(114-707), 5-17-2005)

Sec. 114-658. - Undue economic hardship.

(a) The building official may exempt an historic landmark from a demolition by neglect order if the building official finds that the owner and parties in interest have proven the order to repair creates undue economic hardship on the owner and parties in interest. An application for a determination of undue economic hardship by the owner and parties at interest shall be made, on a form prepared by the building official, not more than 30 days after delivery of the order finding demolition by neglect. The application must include photographs of the building, information pertaining to the historic significance of the site, if any, and all information required by the building official. All owners and parties in interest must submit the application under oath. The burden of proof of the undue economic hardship is on the owner and parties in interest.

(b) The application shall include the information specified in subsection (a) of this section, and the building official may require that an owner and parties in interest furnish such additional information the building official deems relevant to a determination of undue economic hardship.

(c) In the event any of the required information is not reasonably available to the owner and parties in interest, and cannot be readily obtained, the owner and parties in interest shall describe the reasons why such information cannot be obtained.

(d) The building official shall hold a hearing on the application within 30 days of the timely receipt of such application. Notice will be given and hearing procedures followed in the same manner as set forth in sections 114-655(b) and 114-656. The owner and parties in interest may submit such relevant information they deem appropriate to prove undue economic hardship, but at a minimum shall submit to the building official for his review at least the following information:

(1) Nature of ownership, legal possession, custody, and control;

(2) Financial resources of the owner and parties in interest;

(3) Cost of the repair or correction with supporting documentation from licensed contractors;

(4) Valuation of the land and improvements;

(5) Real property taxes for each of the previous two years and the appraised value of the property for those years established by the property assessor for property tax purposes;

(6) Amount paid for the property, date of purchase, and party from whom purchased, including a description of any relationship between the grantor and grantee, or other means of acquisition of title, such as by gift or inheritance;

(7) Annual debt service on the property, if any, for previous two years;

(8) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two years. This should include testimony and relevant documents regarding:

a. Any real estate broker or firm engaged to sell or lease the property;

b. Reasonableness of the price or rent sought by the applicant; and

c. Any advertisements placed for the sale or lease of the property;

(9) If the property is commercial or income producing property, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years as claimed as deductions on United States tax returns; and debt service, if any on the property, if not including as an operating or maintenance expense;

(10) Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed;

(11) All appraisals obtained within the previous two years by the owner or parties in interest or others in connection with the purchase, financing, attempted sale, or ownership of the property;

(12) Any federal income tax returns on or relating to the property for the previous two years; and

(13) Any other information the building official deems relevant to the determination of undue economic hardship.

(e) Undue economic hardship does not include self-created hardships, willful or negligent acts of the owner or parties in interest, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

(f) Within 30 days of the hearing on the application, the building official shall make a written finding of whether undue economic hardship exists, and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the building official shall issue an order for repair, improvements, or correction of defects within the time specified. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but not be limited to loans or grants from the city, county, state, or other public, private, or non-profit sources, acquisition by purchase or eminent domain, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship.

(Ord. No. 5298, § I(114-708), 5-17-2005)

Sec. 114-659. - Service of complaints or orders.

Complaints or orders issued by the building official under this article shall be served upon persons, either personally or by certified mail, return receipt requested, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the building official in the exercise of reasonable diligence, and the building official shall make an affidavit to that effect, then the serving of such complaints or orders upon such persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the city. A copy of such complaints or orders shall be posted in a conspicuous place on the premises affected by the complaint or order. In addition, a copy of such complaints or orders shall also be filed for record in the register's office of the county in which the building is located, and such filing shall have the same force and effect as other lis pendens notices provided by law.

(Ord. No. 5298, § I(114-709), 5-17-2005)

Sec. 114-660. - Remedies.

If the owner, and/or parties in interest, fail or refuse to comply with the order of the building official within the time specified, the city may apply for appropriate equitable remedies to enforce the provisions of this article, including an order directing that improvements or repairs be

made, or that other action be taken that is necessary to bring the property in compliance with this article, and if the city shall make the repairs it shall have a lien as set out in section 114-661.

(Ord. No. 5298, § I(114-710), 5-17-2005)

Sec. 114-661. - Creation of lien and payment into court.

The amount of the cost of such repairs or corrections ordered by the court and made or procured by the building official shall upon the filing of the notice with the office of the register of deeds of the county in which the property lies, be a lien in favor of the city against the real property on which such cost was incurred, second only to liens of the state, county and city for taxes; any lien of the city for special assessments; and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. The city tax collector shall collect these costs at the same time and in the same manner as property taxes are collected and shall include penalties and interest calculated as if it were overdue property taxes. However, nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. No. 5298, § I(114-711), 5-17-2005)

Sec. 114-662. - Appeals from decision of building official.

(a) The aggrieved party, against whom the decision of the building official is made, may have a review of the decision by petition for a common law writ of certiorari, addressed to either the city law court or chancery court. Such petition shall be filed within 60 days from the date the decision or order of the building official is made and written notice thereof given the aggrieved party.

(b) Immediately upon the grant of the common law writ of certiorari and service thereof, the building official shall cause to be made, certified, and forwarded to such court a complete transcript of the proceedings in the cause by the building official.

(c) The action may be reviewed by the court in which the petition for certiorari is filed and shall be heard solely upon the transcript of the proceedings before the building official, and neither party shall be entitled to introduce new evidence in such court.

(d) Any party dissatisfied with the decree of the court hearing the cause may, upon giving bond as required by law, take an appeal, as is made and provided by law, where the case shall be heard upon the transcript of the record from the court in which the cause is heard.

(Ord. No. 5298, § I(114-712), 5-17-2005)

Sec. 114-663. - Procedures for designation of historic landmarks with the owner's consent.

(a) Any completed application for designation filed by the owner with the planning department, once reviewed by the planning manager or designee, shall be promptly referred to the commission. The commission shall hold a public hearing on the application not less than 30 days, or more than 60 days after the filing of the application to consider the approval of the historic designation. In determining whether to approve the designation the commission shall consider the criteria contained in section 114-665, and must find the application meets at least one of the criteria listed therein.

(b) A notice of the hearing shall be served as provided in section 114-659 by the planning manager or designee. The notice shall include the date, time, and place of the hearing and a brief summary of the proposed action.

(c) The planning manager or designee shall review the proposed designation with respect to its relationship to the land use plan; the effect of the designation on the surrounding neighborhood; and such other planning considerations as may be relevant to the proposed designation. The planning manager or designee shall provide written comments and recommendations regarding the proposed designation to the commission no less than seven days before the hearing.

(d) The hearing shall be conducted using the procedure set out in section 114-656

(Ord. No. 5298, § I(114-713), 5-17-2005)

Sec. 114-664. - Procedures for designation of historic landmarks without the owner's consent.

(a) Any completed application for designation is filed by one other than the owner with the planning department, once reviewed by the planning manager or designee, shall be promptly referred to the commission and if the owner or owners of the property nominated for designation does not consent to the designation the commission shall hold a public hearing on the application not less than 30 days, nor more than 60 days after the filing of the application to consider the approval of the historic designation, unless the commission grants a continuance in the matter. In determining whether to approve the designation the commission shall consider the criteria contained in section 114-665 and must find the application meets at least three of the criteria listed therein.

(b) A notice of the hearing shall be served as provided in section 114-659 by the planning manager or designee. The notice shall include the date, time, and place of the hearing and a brief summary of the proposed action.

(c) The planning manager or designee shall review the proposed designation with respect to its relationship to the land use plan; the effect of the designation on the surrounding neighborhood; and such other planning considerations as may be relevant to the proposed

designation. The planning manager or designee shall provide written comments and recommendations regarding the proposed designation to the commission at the hearing.

(d) The hearing shall be conducted using the procedure set out in section 114-656

(e) At least four of seven members of the commission must be present at the hearing in order to establish a quorum. In the event of vacancies on the commission, then two-thirds of commission members shall constitute a quorum. If a quorum is missing then the chairperson of the commission may set a new date for a special hearing or the matter may be heard on the next regularly scheduled meeting date of the commission.

(f) The decision of the commission shall be made by a majority roll call vote after the commission has heard all interested parties and relevant evidence. The board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this article. The commission board shall either approve or disapprove the proposed designation after considering the criteria set forth in section 114-665

(Ord. No. 5298, § I(114-714), 5-17-2005)

Sec. 114-665. - Criteria for designation.

To be eligible for designation as an historic landmark a structure shall be located in an historic district, shall be at least 50 years old and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:

(1) Exemplifies specific elements of an architectural style or period;

(2) Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;

(3) Demonstrates superior craftsmanship or high artistic value;

(4) Represents an innovation in construction, materials or design;

(5) Represents a style particularly associated with the historic district or the city;

(6) Represents a pattern or grouping of elements representing at least one of the above criteria;

(7) Has undergone significant historic remodel;

(8) Is the site of historic event that had an effect upon society;

(9) Exemplifies cultural, political, economic or social heritage of the community;

(10) Represents an association with a notable person or the work of a notable person;

(11) Represents a typical example/association with a particular ethnic group;

(12) Represents a unique example of an event in the city's history;

(13) Enhances sense of identity of the community;

(14) Is an established and familiar natural setting or visual feature of the community;

(15) Is listed on the National Register of Historic Places or is designated by the state historic preservation office as an historic designation or landmark.

(Ord. No. 5298, § I(114-715), 5-17-2005)

Sec. 114-666. - Appeal from decision of the commission.

(a) The aggrieved party, against whom the decision of the commission is made, may have a review of the decision by petition for a common law writ of certiorari, addressed to either the city law court or chancery court. Such petition shall be filed within 60 days from the date the decision of the commission is made.

(b) Immediately upon the grant of the common law writ of certiorari and service thereof, the commission shall cause to be made, certified, and forwarded to such court a complete transcript of the proceedings in the cause by the commission.

(c) The action may be reviewed by the court in which the petition for certiorari is filed and shall be heard solely upon the transcript of the proceedings before the commission, and neither party shall be entitled to introduce new evidence in such court.

(d) Any party dissatisfied with the decree of the court hearing the cause may, upon giving bond as required by law, take an appeal, as is made and provided by law, where the case shall be heard upon the transcript of the record from the court in which the cause is heard.

(Ord. No. 5298, § I(114-716), 5-17-2005)

Sec. 114-667. - Procedure for nomination of historic landmarks.

(a) The commission, board of mayor and aldermen or owners may nominate a property or structure for designation as an historic landmark.

(b) Upon inquiry for nomination, the planning manager or designee and at least one member of the commission shall contact the owner or owners of the property outlining the reasons and effects of designation as an historic property and, if possible, shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review.

(c) If the property is found to have a potential for designation, an application shall be filed with the planning manager or designee on forms prescribed by the commission, and shall include the names of all owners of property included in the proposed designation, and shall be accompanied by all data required by the commission. The planning manager or designee shall transmit copies of the application to relevant city departments. The planning manager or designee shall in all cases notify, in writing, all owners of property included in the proposed designation, other than applicants, that the designation proceedings have been initiated.

(d) Each such nomination shall include a description of the characteristics of the proposed historic landmark which justify its designation, a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the property.

(Ord. No. 5298, § I(114-717), 5-17-2005)

Sec. 114-668. - Legal protection for nominated properties.

For a property which has been nominated but not yet designated as an historic landmark, permits to alter or remodel the exterior of the property or properties to build, relocate, or raze shall not be issued during the 90-day period following the date nomination is received by the planning manager or designee.

(Ord. No. 5298, § I(114-718), 5-17-2005)

Sec. 114-669. - Resubmission for approval of designation as an historic landmark.

Whenever the commission denies the approval of a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the original proposal.

(Ord. No. 5298, § I(114-719), 5-17-2005)

Sec. 114-670. - Rules.

The board of mayor and aldermen may make rules and regulations necessary for the administration and enforcement of this article.

(Ord. No. 5298, § I(114-720), 5-17-2005)

Sec. 114-671. - Penalty and enforcement.

Any person violating any section of this article shall be guilty of an offense and upon conviction shall be penalized not less than $1.00 and not more than $50.00 for each offense. Each day a violation continues shall constitute a separate offense. The imposition of a penalty under this section shall be supplemental to any other action or penalty and shall not prevent the revocation of any permit or license, the taking of any remedial or injunctive action, or seeking any other legal or equitable relief or enforcement.

(Ord. No. 5298, § I(114-721), 5-17-2005)

Sec. 114-672. - Powers conferred are supplemental.

Nothing in this article shall be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its Charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this article shall be in addition and supplemental to the powers conferred by the Charter and other laws. Nothing contained within this article shall diminish the power of the city to declare a building unsafe or a violation of any building or housing code of the city.

(Ord. No. 5298, § I(114-722), 5-17-2005)