

STURGEON CITY CODE

CHAPTER 22: ZONING

(All sections of Ch. 22 of this Code are derived from Ord. 614, Approved and Effective April 28, 2003, unless otherwise noted below.)

Article I: Zoning, In General

Section 22.010 Definitions.

For the purposes of this code the following words and/or phrases will have the meaning indicated below.

1. **Accessory Building or Use**. Shall mean a subordinate building having a use customarily incident to and located on the lot occupied by the main building, or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building or is under an extension of the main roof and designed as an integral part of the main building.
2. **Alley**. Shall mean a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.
3. **Apartment**. Shall mean a suite of rooms or a room in an apartment house arranged, intended, designed for or used as the place of residence of a single family or group of individuals living together as a single housekeeping unit.
4. **Apartment House**. Shall mean a building arranged, intended, designed for or occupied by more than two families.
5. **Basement**. Shall mean a story below the first story, as defined under **story**, counted as a story for height regulations if subdivided and used for dwelling purposes other than a janitor or watchman employed on the premises.
6. **Block**. Shall mean a piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the City Engineer shall determine the outline of the block.
7. **Boarding House or Lodging House**. Shall mean a building, other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements,, but not for the public or transients.
8. **Driveway**. Shall mean an area established or used for ingress and egress of vehicles from a street or thoroughfare to any point on private property.
9. **Dwelling**. Shall mean a building, or portion thereof, designed exclusively for residential occupancy, including modular homes, one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels or motels. Unless specifically stated, the term shall not include a travel trailer, camper, or recreational vehicle, nor shall it include a manufactured home or a mobile home.
10. **Dwelling, Multiple**. Shall mean a building, or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartment houses, row houses, tenements and apartment hotels. Unless

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specifically stated, the term shall not include a travel trailer, camper or recreational vehicle, nor shall it include a manufactured home or a mobile home.

11. **Dwelling, One-Family.** Shall mean a detached building arranged, intended, or designated for occupancy by one family, or for occupancy by eight or fewer unrelated mentally or physically disabled persons and no more than two additional persons acting as house parents or guardians who need not be related to each other or to any of the mentally or physically disabled persons. This definition shall also include any private residence licensed by the Missouri Division of Family Services or Missouri Department of Mental Health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage, or adoption. Unless specifically stated, the term shall not include a travel trailer, camper or recreational vehicle, nor shall it include a manufactured home or a mobile home.

12. **Dwelling, Two-Family.** Shall mean a building arranged, intended or designed for occupancy by two families. Unless specifically stated, the term shall not include a travel trailer, camper or recreational vehicle, nor shall it include a manufactured home or a mobile home.

13. **Family.** Shall mean one or more persons, who are related by blood, marriage or adoption, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit cost sharing basis. In addition, this definition shall also include those persons who can occupy a one-family dwelling.

14. **Garage, Community.** Shall mean any building or premises, other than a public or private garage, providing storage for motor vehicles, with facilities for washing but no other services, such garage to be in lieu of a private garage within a block or portion of a block.

15. **Garage, Private.** Shall mean an accessory building for storage only of motor vehicles.

16. **Garage, Public.** Shall mean any building or premises open for the storage, sale, hiring, care or repair of motor vehicles.

17. **Group Housing Project.** Shall mean a building project consisting of three or more buildings, to be constructed on a plot of ground which is not subdivided into customary streets or lots, or where the existing or contemplated streets or lot layouts make it impracticable to apply the requirements of these codes to the individual building units in such housing project.

18. **Height of Buildings.** Shall mean the vertical distance measured from the highest of the following levels:

a. From the median line street level;

b. From the average finished ground level of the portion of the lot adjoining, and within ten feet of the building where it sets back from the street line ten feet or more; to the level of the highest point of the roof beams of flat roofs, or roofs inclining not more than one inch to the foot, and to the mean height level of the top of the main plate and highest ridge for other roofs.

19. **Height of Yard of Court.** Shall mean the vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.

20. **Hotel.** Shall mean a building occupied or used as a more or less temporary abiding place of individuals who are lodgers, with or without meals, and in which there are more than twelve sleeping rooms and no provision for

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cooking in individual rooms.

21. **Lot.** Shall mean a parcel of land occupied or to be occupied by one building and its accessory buildings, and including such open spaces as are required under these codes, and having its principal frontage upon a public street or place.

22. **Lot, Corner.** Shall mean a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the City Clerk or the owner in an approved building permit.

23. **Lot, Interior.** Shall mean a lot whose side lines do not abut upon any street.

24. **Lot, Through.** Shall mean an interior lot having frontage on two streets.

25. **Lot Lines.** Shall mean the lines bounding a lot, as defined herein.

26. **Lot Line, Front.** Shall mean the boundary between a lot and the street on which it fronts.

27. **Lot Line, Rear.** Shall mean the boundary line which is opposite and most distant from the street line; except, that, in a case of uncertainty, the City Engineer shall determine the rear line.

28. **Lot Line, Side.** Shall mean any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place, or a side street line.

29. **Lot Depth.** Shall mean the mean horizontal distance from the front street line to the rear line.

30. **Lot Width.** Shall mean the mean horizontal distance between side lines, measured at right angles to the depth.

31. **Manufactured Home.** Shall mean a factory-built structure that is manufactured or constructed in compliance with and under the authority of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 beginning at 42 United States Code Section 5401 and regulations thereunder, and is to be used as a place for human habitation but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

32. **Median Line Street Level.** Shall mean the mean level in front of the lot, or, in case of the corner lot, along that abutting street where the mean elevation of the centerline of the street is the highest.

33. **Mobile Home.** Shall mean a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 beginning at 42 United States Code Section 5401, which became effective June 15, 1976.

34. **Modular Home.** Shall mean a factory-built housing unit certified by the Missouri Public Service Commission as meeting State of Missouri building standards and codes applicable to modular housing. Once certified, modular homes, like dwellings, shall be subject to all the applicable dwelling provisions of these codes.

35. **Motel.** Shall mean a group of attached or detached buildings containing individual sleeping or living units, designed for and used temporarily by motor vehicle tourists or transients, with garages attached or parking space conveniently located to each unit, including auto courts or motor lodges.

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36. **Nonconforming Use, Building or Yard.** Shall mean a use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to January 9, 1961, and an illegal nonconforming use if established after January 9, 1961, and not otherwise approved as provided herein.

37. **Stable, Private.** Shall mean an accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

38. **Stable, Public.** Shall mean a stable, other than a private or riding stable, as defined herein.

39. **Stable, Riding.** Shall mean a structure in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded or kept for hire, including riding track.

40. **Story.** Shall mean that part of a building included between the surface of one floor and the surface of the floor next above, or, if there is no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half-story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet above the median line street level or average ground level, as mentioned in **height of buildings** of this section.

41. **Street.** Shall mean a public thoroughfare or place which affords principal means of access to property abutting thereon.

42. **Street Line.** Shall mean the dividing line between the street and the abutting property.

43. **Structural Alterations.** Shall mean any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

44. **Structure.** Shall mean anything constructed or erected which requires location on the ground or which is attached to something having a location on the ground, including, but not limited to, advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls.

45. **Variance.** Shall mean a modification or variation of the provisions of these codes, as applied to a specific piece of property, as distinct from re-zoning.

46. **Yard.** Shall mean an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

47. **Yard, Front.** Shall mean a yard across the full width of the lot extending from the front line of the main building, or that line extended, to the front line of the lot.

48. **Yard, Rear.** Shall mean a yard across the full width of the lot extending from the rear line of the main building, or that line extended, to the rear lot line.

49. **Yard, Side.** Shall mean a yard between the main building and the adjacent side line of the lot, and extending entirely from the rear yard thereof.

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Section 22.020 Districts Established.

For the purposes of regulating and restricting the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land, regulating and restricting the location of trades and industries and the location and design of buildings for specific purposes, regulating and limiting the height and bulk of buildings and the area of yards and other open spaces, and regulating and limiting the density of population, there are hereby established nine zoning districts, as follows:

1. District "R-1." One-Family Residential District (All blocks not specifically designated as other districts)
2. District "R-2." Two-Family Residential District (Blocks 16 - North of Rail Road Tracks, Blocks 13, 16, 17, 32, and 33 - South of Rail Road Tracks)
3. District "R-3." Multiple-Family Residential District (Blocks 14, 15, 18, and 19 - South of Rail Road Tracks)
4. District "B-1." Central Business District (Blocks 21, 22, 27, 28, 36, 37, 42, and 43 - North of Rail Road Tracks)
5. District "B-P." Planned Business District (Not specified at this time)
6. District "B-T." Planned Trailer Court District (Canada Court, formerly called Dents Trailer Park & Pine Brook Trailer Park)
7. District "M-H." Manufactured Home Subdivision District (Not Specified at this time)

Section 22.030 District Map - Interpretation of District Boundaries - Classification of Annexed Territory.

The boundaries, of the districts as enumerated by code are hereby established and adopted as shown upon the map which is hereby designated as the zoning district map, and which map and all the notations, references and information shown thereon are hereby made as much a part of these codes as if the same were set forth in full herein. It shall be the duty of the City Clerk to keep on file an authentic copy of such district map, and duplicate copies thereof, showing all the changes, amendments or additions thereto. When definite distances in feet are not shown on the zoning district map, the district boundaries on the zoning district map are intended to be along existing street, alley or plotted lot lines, or extensions of the same, and if the exact location of such line is not clear, it shall be determined by the City Clerk, due consideration being given to location, as indicated by the scale of the zoning district map.

When streets or alleys on the ground differ from the streets or alleys shown on the zoning district map, the City Clerk may apply the district designation on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of these codes.

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

All territory which may hereafter be annexed to the City shall be unzoned until zoning for said territory shall be established by code.

No building permits shall be used for construction within said annexed area until a zoning code is enacted and in effect.

Section 22.040 Compliance With Chapter.

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Except as hereinafter provided:

1. No buildings or structures shall be erected, moved, constructed, reconstructed or structurally altered, nor shall any building, structure or land be used for any purpose other than that which is permitted in the district in which such building, structure or land is situated.

2. No building or structure shall be erected, moved, extended, enlarged, reconstructed or structurally altered which violates the height, yard or area regulations established in these codes for the district in which such building or structure is situated.

3. No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by these codes, nor shall the density or population be increased in any manner, except in conformity with the area regulations established in these codes.

Section 22.050 Interpretation of Chapter; Effect of Other Provisions.

In interpreting and applying the provisions of these codes, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare. Whenever these codes require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local code or regulation, the regulations of these codes shall govern. Whenever the provisions of any other statute or local code or regulation require a greater, width or size of yards, courts or other open spaces, or require a lower height of buildings or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations of these codes, the provisions of such statute or local code or regulation shall govern.

Section 22.060 Enforcement of Chapter.

It shall be the duty of the City Clerk and City Engineer to enforce the provisions of these codes and to refuse to issue any building permit for any building or structure which would violate any of the provisions hereof, and either of such officers, or any deputy or inspector working under his direction, by and with the consent of the officer, is hereby authorized and instructed to arrest, prosecute or bring any proceedings in a proper court in the name of the City against any person violating any of the terms of these codes. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these codes, such officer is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, construction, reconstruction, alteration, repair, conversion or use, to restrain, correct or abate such violation, and to prevent any illegal act, conduct or use on or about such premises.

Section 22.070 Amendments - Generally.

The Board of Aldermen, from time to time on its own motion or on petition, after public notice and hearings thereon as provided in these codes, may amend, supplement, change, modify or repeal the regulations and restrictions as established in these codes and may change, restrict or extend the boundaries of the various districts established in these codes. Before taking any action upon any proposed amendment, modification, change, restriction or extension, the same shall be referred by the Board of Aldermen to the City Planning and Zoning Commission.

Section 22.080 Same - Protest by Owners.

If a protest against such change as described in the preceding section is presented duly signed and

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acknowledged by the owners of thirty percent (30%) or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred and eighty-five feet (185') distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the Board of Aldermen.

Section 22.090 Same - Hearing Required Before Action Taken; Notice of Hearing.

No action on an amendment, change, modification or repeal shall be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in the City.

Section 22.100 Application for Building Permit.

1. Building Permits. Unless exempted, no permanent wall, structure, building, or any part thereof shall be built, erected, enlarged, or altered within the corporate limits of the City of Sturgeon, Missouri until an application for a building permit has been submitted to the City Clerk and a building permit issued in accordance with these ordinances.

2. Portable Storage Sheds. Notwithstanding any other provision of this ordinance, no building permit shall be required for any portable structure being set on property, erected, enlarged, or altered within the corporate limits of the City of Sturgeon, unless such structure is larger than one hundred sixty (160) square feet.

3. Electrical Tag. An electrical tag is required when the electrical panel on any building within the corporate limits of the City of Sturgeon, Missouri is replaced.

(Ord. 674, Sec. 2, 3, & 4, Approved and Effective June 23, 2008; Ord. 614, Sec. 10, Approved and Effective April 28, 2003, Repealed)

Section 22.110 Certificate of Occupancy - Required; Contents; Records.

No vacant land shall be occupied or used, except for agricultural uses, and no building hereafter erected or structurally altered shall be occupied or used, until a certificate of occupancy shall have been issued by the City Clerk or City Engineer.

The certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and codes and with the provisions of these codes. A record of all certificates shall be kept on file in the office of the City Clerk or City Engineer, and copies shall be furnished on request to any person having proprietary or tenancy interest in the building affected.

Section 22.120 Certificate for Building.

Any certificate of occupancy for a new building or the alteration of an existing building shall be applied for, in writing, coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building or part thereof shall have been completed in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the City Clerk or City Engineer for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of the premises, or any other matter covered by these codes, and such temporary certificate shall not be

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issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

Section 22.130 Certificate for Land.

Any certificate of occupancy for the use of vacant land or the change in the character of the use of land, as herein provided, shall be applied for before any such land shall be occupied or used, and a certificate of occupancy shall be issued within ten days after the application has been made; provided such use is in conformity with the provisions of these codes.

Section 22.140 Certificate for Nonconforming Uses.

A certificate of occupancy shall be required for all nonconforming uses. Application for such certificate of occupancy for nonconforming uses shall be filed within twelve (12) months from the effective date of this code, accompanied by affidavits showing that such nonconforming use was not established in violation of this code.

Section 22.150 Completion and Restoration of Existing Buildings.

Nothing contained in these codes shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, or plans for which are on file with the City Clerk or City Engineer on the effective date of this code. The construction of which, in either case, shall have been diligently prosecuted within one year of the date of such permit. The ground story framework of which, including the second tier of beams, shall have been completed within such year, and which entire building shall be completed according to such plans, as filed, within two years from the effective date of this code.

Nothing in these codes shall prevent the restoration of a nonconforming building partly destroyed by fire, explosion, act of God or act of the public enemy subsequent to the effective date of this code or prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such destruction of such building, or part thereof, or prevent a change of such existing use under the limitations provided herein; provided, such building is not destroyed to the extent of more than seventy-five percent (75%) of its reasonable valuation, exclusive of foundations. These codes shall prevent the restoration of such nonconforming building so damaged for more than seventy-five percent (75%) of the reasonable valuation and shall prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such damage, and shall prevent a change of such existing use under the limitations provided by these codes.

The provisions of these codes shall not apply to prevent the extension of any building existing in any district on the effective date of this code, to the height which the walls, foundation and framework of such existing building originally were intended, designed and constructed to carry; provided, that the actual construction of the extensions in height permitted by this paragraph shall have been duly commenced within ten years from the effective date of this code.

Section 22.160 Group Housing Projects.

Private developers of group housing projects must submit their plans to the City Clerk or City Engineer for study. The Planning and Zoning Commission shall hold a public hearing and shall make recommendations to the Board of Adjustment for its consideration and determination. The developer shall pay the same fees as are required for applications for changes in zoning and for appeals.

The Board shall apply the requirements of these codes to the housing project as a whole, and to the project area as a whole, in such a manner as will insure substantially the same character of occupancy, maximum intensity of use, and minimum standard of open spaces as permitted by these codes in the district in which the proposed project is

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to be located.

In considering the project, the Board shall in no case authorize a use not permitted in the district in which the housing project is to be located; except, that buildings for administration and maintenance of the project may be included; nor a building height in excess of that permitted. The minimum distance between a building and a street line shall comply with the front yard requirements of the district. No point of any building shall be nearer than twenty feet (20') to an adjacent building; except, that a ten (10') foot minimum clearance will be permitted where there is a corner to corner relationship; nor nearer than twenty-five feet to any boundary line of the project. The Board may require such additional restrictions and safeguards as they deem necessary to fulfill the purposes and intent of these codes. Ample open space shall be provided for recreational space, outdoor drying yards, arrangement of lawns, platting and off-street parking.

A permit for a group housing project shall be issued by the City upon approval of the project by the Board of Adjustment.

Section 22.170 Accessory Uses.

A driveway or walk to provide access to premises in one district shall not be permitted in a district with more restrictive requirements. Buildings, structures or uses which are accessory to the uses permitted in one district shall not be permitted in a district with more restrictive requirements.

Section 22.180 Violations/Penalties.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of these codes, the proper local authorities, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. Such codes shall be enforced by the City Clerk or City Engineer, who is empowered, to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of these codes.

The owner or general agent of a building or premises where a violation of any provision of these codes has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part in or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor, punishable by a fine (For current rates see Chapter 25 - Deposits, Fees & Charges, Section 25.630) for each and every day that such violation continues, but if the offense is willful, on conviction thereof, the punishment shall be a fine (For current rates see Chapter 25 - Deposits, Fees & Charges, Section 25.630) for each and every day that such violation shall continue, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment, in the discretion of the court. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten (10) days after such service or shall continue to violate any provision of these codes in the respect named in such order shall also be subject to a civil penalty (For current rates see Chapter 25 - Deposits, Fees & Charges, Section 25.630.)

Article II. "R-1" One-Family Residential District

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Section 22.190 Use Regulations.

1. Permitted Uses. In District "R-1," no building, structure or land shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses:

- a. Dwellings, one-family, provided that any residential home for unrelated mentally or physically handicapped persons shall in the exterior appearance of the house and property be in reasonable conformance with the general neighborhood standards and shall be no closer than eight hundred feet (800') to any other such home as measured by the distance between the closest property lines of the two properties.
- b. Churches, publicly owned and operated community buildings, public museums, public administrative buildings, public libraries, police stations and fire stations.
- c. Public parks and playgrounds, including public recreation or service buildings within such parks, and private country clubs of not less than twenty acres and a nine hole golf course, swimming pool, club house and other buildings and uses reasonably incident thereto.
- d. Public schools, elementary, middle and high, and private schools with curriculum equivalent to that of a public elementary, middle or high school, nursery schools not subject to State or Federal licensing laws and regulations governing day-care homes and day-care centers, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
- e. Farming and truck gardening.
- f. Nurseries and green houses limited to the propagation and cultivation of plants; provided, no retail or wholesale business shall be conducted upon the premises, no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer renovation is conducted thereon.
- g. Railroad right-of-ways, not including railroad yards.
- h. Accessory uses, including automobile parking areas, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business or industry.

2. Accessory Uses shall include customary home occupations, such as the office of physician, dentist, surgeon, dressmaker, musician or artist, but not including barbers or beauticians, under the following restrictions:

- a. That such uses are located in the dwelling used by a person as his or her private residence or in a detached building on the same parcel as the said dwelling.
- b. That no assistant other than a member of the family household is employed, and that no window display or sign, either illuminated or more than one square foot in area, is used to advertise the same.
- c. That any applicable State or City licenses be obtained and maintained.
- d. That no power other than single-phase electric is used in such activities.
- e. A billboard, signboard or advertising sign shall not be permitted as an accessory use except as follows:

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- (1) The placing of one unilluminated “For Sale” or “For Rent” sign, not more than eight (8) square feet in area, may be permitted as an accessory use; provided that if a “For Sale” or “For Rent” sign contains information indicating it is a sign of a real estate broker, then there may be one such sign not more than eight (8) square feet in area for each separate real estate broker having the right to list the property “For Sale” or “For Rent.”
- (2) During construction or remodeling of a building, one unilluminated sign showing the names of contractors or architects for such a building shall be permitted as an accessory use; provided, such sign shall not be more than eight (8) square feet in area and shall be set inside the property line and shall be removed immediately upon completion of the building or remodeling.
- (3) Public governmental bodies and non-profit private institutions including but not limited to the City, churches, museums, and libraries, may display one sign, not attached to the building, either illuminated or non-illuminated, showing name, activities and services therein offered, provided the sign meets the following requirements:
 - (a) The descriptive message of the sign shall be mounted on a back board of suitable material to support the letters of the message and of a material designed for outdoor use or treated with material to retard deterioration.
 - (b) The sign shall not be more than two inches thick excluding the supporting members, framework or bracing, and shall be in the form of a square or rectangle no larger than twenty-five (25) square feet in area excluding the supporting members, framework or bracing.
 - (c) The supporting members, framework or bracing of the back board of the sign shall be no larger than four inches by four inches (4"x4") in cross-section whether the supporting members, framework or bracing are round, square, elliptical or ornamental in design.
 - (d) The supporting members, framework or bracing of the back board of the sign shall be erected either horizontal or vertical or a combination of both, and shall not have more than six inches (6") of space between the back board and the supporting members, framework or bracing as viewed from the front of the sign.
 - (e) The supporting members, framework or bracing of the back board of the sign shall be buried or shall be in concrete below grade in a manner sufficient to support the sign substantially in a vertical manner.
- f. For any dwelling house there shall be permitted one detached, private garage, with space for not more than one motor vehicle for each two thousand (2,000) square feet of lot area, or servants' quarters; provided, that such garage or servants quarters shall be located not less than sixty feet (60') from the front lot line, nor less than three feet (3') from any side lot line, nor less than one foot (1') from any alley line; except, that, when the rear lot line is common to a side or rear lot line of another lot, such outbuilding must be located a minimum of three feet (3') from such rear lot line and, in the case of corner lots, not less than the distance required for residences from side streets; and further provided, that such servants' quarters shall be occupied only by servants employed on the premises. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building; except, that on a corner lot, a private garage, when attached to the main building and not exceeding the height of the main building, may extend into the required rear yard, to a point not less than eighteen feet (18') from the rear lot line, and shall not occupy more than thirty percent (30%) of the

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required rear yard. No part of a detached accessory building shall be closer than ten feet (10') to the main building.

g. A private stable will be allowed on a lot having an area of more than sixty thousand (60,000) square feet; provided, that it is located not less than one hundred feet (100') from the front lot line and not less than forty feet (40') from any side or rear lot line. On such lots there shall not be kept more than one horse, cow, pony or mule for each thirty thousand (30,000) square feet of lot area. Twenty-five (25) fowl shall be permitted for each thirty thousand square feet of lot area. No more than ten (10) fowl per thirty thousand (30,000) square feet may be kept.

h. Community garages may be permitted by the Board. Such community garages may provide facilities for washing cars, and access thereto, if from the street, shall be by not more than one driveway. Such garages shall be at least six feet (6') from any lot line which does not border on a street or alley and shall be set back from any front or side street line at least ten feet (10') more than would be required for a dwelling house in the same location, and shall be not over one story or sixteen feet (16') high. No commercial vehicle shall be housed in any such community garage.

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

j. A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided, that the articles produced or constructed are not sold on the premises, and provided, such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

k. Garage sales or yard sales, being the sale or offering for sale to the general public of over five items of personal property on any portion of a lot in a residential zone district, whether within or outside any building. * **Signs shall be removed within 24 hours after closing day of sale.**

(1) A sale shall not extend for more than three consecutive days.

(2) Sale of programs and food and beverage items at school athletic events or at church programs **shall not be deemed** to constitute garage sales.

(3) No more than four garage sales or yard sales per dwelling located on a lot within a residential zone district shall be held per calendar year; **except** that one additional sale per year shall be allowed if the sale results from the resident of that dwelling or lot moving from that lot to another dwelling or lot, or if the sale is conducted by or through the estate or legal guardian of a resident of that dwelling or lot.

l. Guest house facility for a person, firm or corporation, where such person, firm or corporation can, but only without charge or compensation, hold business meetings and functions and provide meals and lodging for their guests; employees, customers, and others having a business relationship with said person, firm or corporation; provided, however, that no such facility shall be located on any lot having less than fourteen thousand four hundred (14,400) square feet of lot area.

m. Homes where child care is provided to no more than four children not related to the day-care provider by blood, marriage or adoption, for any part of the twenty-four hour day.

n. Antennas, including satellite dishes, pursuant to the following provisions: **Antenna** shall mean a

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device, designed and intended for transmitting or receiving television, radio, or microwave signals. An antenna includes all mounting and stabilizing items, such as a tower, a pole, a bracket, guy wires, hardware, connection equipment, and related items. Antennas include the following:

- (1) An antenna that is designed to receive direct satellite service, including direct-to-home satellite service, that is one meter (39.37 inches) or less in diameter;
- (2) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint services, and that is one meter (39.37 inches) or less in diameter or diagonal measurement;
- (3) An antenna that is designed to receive standard television signals broadcast on VHF and UHF Channels;
- (4) An antenna that is suitably designed and installed for use by a Federally-licensed amateur radio operator; and
- (5) A radio antenna suitably designed and installed for transmission and/or reception in Federally designated citizens' bands (i.e., "CB").

o. **Satellite dish** shall mean an antenna consisting of a radiation element that transmits or receives radiation signals generated as electrical, light, or sound energy, and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape with a parabolic curve design constructed of a solid or open mesh surface and intended for transmitting or receiving television, radio, or microwave signals to or from earth satellites.

p. **Small satellite dish** shall mean a satellite dish or any other antenna that is one meter (39.37 inches) or less in diameter.

No provision (in this paragraph p) pertaining to a small satellite dish or an antenna designed to receive standard television signals broadcast on VHF or UHF must be complied with if compliance with the provision would impair or degrade reception to the extent that an acceptable quality signal could not be received, except any provisions to protect public safety that are stated to be specifically exempt from this Subparagraph. Such provisions protecting public safety must be complied with even if doing so would impair or degrade reception to the extent that an acceptable quality signal could not be received.

q. Satellite dish antennas in compliance with the following provisions and other applicable provisions of paragraph p shall be permitted:

- (1) A satellite dish antenna may not exceed a diameter of ten feet (10') (considering only the integer) for residential property and may not exceed a diameter of sixteen and one-half feet (16 ½') (considering only the integer) for commercial, educational or industrial property.
- (2) One or more satellite dishes, not exceeding such diameter, may be located on the ground near the dwelling or other lawful structure, so long as no part of such antenna is more than twenty feet (20') above the ground. Such an antenna structure shall be located only in the rear yard or side yard. All parts of the antenna structure shall be a minimum of six feet (6') in distance from any rear-yard property line or side-yard property line.

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- (3) On any corner lot any such antenna structure shall meet side-yard, front-yard and rear-yard requirements of these codes.
- (4) One or more satellite dish antennas not more than a nominal six (6') feet in diameter (considering only the integer) may be installed on the roof of any dwelling or other lawful structure located on the lot occupied by the building served by such antennas. The maximum height of a roof-mounted satellite dish antenna shall be twelve feet (12') above the adjacent roof surface and any such antenna shall be located behind the actual front building line of such lot and within all other required building lines, and all structural parts of any such antenna shall be a minimum of six feet (6') in distance from any rear or side property line.
- (5) One or more small satellite dish antennas may be installed on or affixed to a dwelling, accessory building, conventional residential-type television antenna tower, or other lawful structure, provided any such small satellite dish shall otherwise comply with the other satellite dish antenna provisions, and further provided that any such small satellite dish is not installed or affixed to the front yard side of or front face of the dwelling, accessory building, television antenna tower or other lawful structure. No building-mounted antenna shall be higher than twelve feet (12') above the adjacent roof surface.
- (6) A satellite dish antenna shall be a neutral color. Black, white, tan and gray shall be considered neutral colors. Any color shall be considered neutral if such color blends with the surrounding dominant color, such color helps to camouflage the satellite dish antenna, and such color is neither bright nor metallic.
- (7) No advertising of any form shall be permitted on any part of an antenna, including a satellite dish antenna, except for a six inch (6") square area displaying the manufacturer's or distributor's name.
- (8) Installation and erection of antennas, including satellite dish antennas, shall be in accordance with the manufacturer's specifications. Such antennas shall be of non-combustible and corrosive-resistant material, and shall be installed and erected in a secure, wind-resistant manner. Every tower or roof-mounted antenna shall be adequately protected against lightening. These provisions protect public safety and are exempt from the provisions of Subparagraph (4) of this paragraph p.
- (9) No antenna, including a satellite dish antenna, shall be erected so as to impair the structural strength and/or the weather and water tightness of the roof and/or roof covering. When the antenna is removed from the roof, the roof covering shall be repaired to maintain weather and water tightness. The installation of any antenna structure, including a satellite dish antenna, mounted on the roof of a building shall not be erected nearer to the lot line than the total height of the antenna structure above the roof, nor shall such antenna structure be erected near electric power lines or encroach upon any street or other public space. The provisions in the immediately preceding sentence protect public safety and are exempt from the provisions of Subparagraph (4) of this paragraph p.
- (10) No person shall install or erect an antenna without first obtaining a building permit issued by the City as provided for in these codes, and in all other respects complying with these codes and other applicable provisions of this code, except that this provision does not

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apply to a small satellite dish or to an antenna designed to receive standard television signals broadcast on VHF or UHF Channels. The applicant for a permit that is required to be obtained shall include in the application the manufacturer's installation requirements and product specifications.

(11) Short-wave radio antennas intended for reception or transmission by Federally-licensed operators, either amateur or commercial, and citizen band operators shall conform to the terms of this paragraph p to the extent the terms are applicable to such antennas.

3. Conditional Uses. In District "R-1" the following uses shall be permitted only after the issuance of a conditional use permit pursuant to the provisions of these codes:

- a. Green houses where wholesale or retail business is conducted upon the premises.
- b. Detached meeting halls for youth groups which are units of a national organization, such as Boy Scouts of America, Girl Scouts of America, National 4-H Federation and similar organized youth groups.
- c. Detached meeting halls for religious, philanthropic, or eleemosynary groups.
- d. Day-care home, being a family-home occupied as a permanent residence by the day-care provider, or any day-care facility, being a structure used as a commercial day-care operation in which family like care is given to a group of children, and provided that the following provisions are complied with and followed:
 - (1) All applicable State and Federal laws and regulations concerning day-care homes are met and required licenses are obtained and maintained.
 - (2) No day-care home or facility may be closer than eight hundred feet (800') to an existing day-care home or facility in District "R-1" or District "R-2", as measured by the distance between the closet property lines of the two properties.
 - (3) Written notice of the time, date and place of the public hearing before the Planning and Zoning Committee on whether to grant or deny the application for the conditional use permit shall be delivered to all owners and occupants of real estate located in full or part within three hundred feet (300') of any of the boundaries of the subject property. This notice shall replace any notice to the owners and occupants within one hundred eighty-five feet (185') of the boundaries of the subject property provided for elsewhere herein.
 - (4) Permit to be issued by Board of Aldermen. A conditional use permit, if granted, shall be issued by the Board of Aldermen of the City of Sturgeon following the public hearing as provided in the immediately preceding section c and recommendation from the Planning and Zoning Committee.
 - (5) Standards for Issuing a Conditional Use Permit. A conditional use permit shall be issued in a residential district provided:
 - (a) The proposed conditional use will not unduly burden the street infrastructure or create traffic congestion near the proposed conditional use.

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- (b) The proposed conditional use will not involve outdoor lighting more intense than what is normally found in a residence.
- (c) The proposed conditional use will not change the residential character of the neighborhood.
- (d) The proposed conditional use will not create noise or litter or odors more prolonged or more intense than those normally present in a single family residential district.

(Ord. 692, Sec. 1, Approved and Effective June 22, 2009; Ord. 614, Article II, Sec. 1, Subsec. 4, Approved and Effective April 28, 2003, Repealed)

e. **Signs not permitted** as an accessory use, as detailed herein:

- (1) Regarding unilluminated "For Sale" or "For Rent" signs not more than eight square feet in area: more than one such sign of a particular real estate broker having the right to list the property "For Sale" or "For Rent," or more than one such sign of someone other than a real estate broker;
- (2) Regarding unilluminated signs showing the names of contractors or architects for a building during the construction or remodeling of such building:
 - (a) More than one such sign **no more than eight (8) square feet** in area and set within the boundaries of the property, or
 - (b) One or more such signs **more than eight (8) square feet** in area and set within the boundaries of the property, or
- (3) Regarding a sign not attached to a building, either illuminated or unilluminated, on the property of a public governmental body or a non-profit private institution showing name, activities and services therein offered:
 - (a) More than one such sign not exceeding twenty-five (25) square feet in area and two inches (2") in thickness if said signs shall be setback so that said signs do not extend more than five feet (5') into a required front yard, but cannot interfere with the view of traffic.
 - (b) One or more such signs exceeding five (5) square feet in area and/or two inches (2") in thickness if said sign or signs shall be set back so that said sign or signs do not extend more than five feet (5') into a required front yard, but cannot interfere with the view of traffic.
 - (c) One or more such signs exceeding or not exceeding twenty-five (25) square feet in area and exceeding or not exceeding two inches (2") in thickness with a sign setback extending more than five feet (5') into a required front yard, but cannot interfere with the view of traffic.
 - (d) One or more signs failing to meet any requirements contained in these codes.

In considering whether to grant or deny an application for issuance of a conditional use permit pertaining to the conditional uses specified in this paragraph, the Planning and Zoning

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Commission or the Board of Adjustment shall give due consideration and regard to the following factors as they may relate to the sign or signs referred to in the application: Quality in terms of indicated design, materials, and workmanship; harmony of design with respect to structure(s) to which the sign or signs relate and to other nearby structures; location with respect to required setbacks, grade elevation, overall height of sign or signs as mounted, and relationship to other structure(s) on lot; overall appearance; degree of enhanced suitability for the purpose intended over that provided by the non-conditional use limitation on square footage of sign area, number of signs, and location of sign or signs; and the necessity and justification for more than one sign and/or variance in setback requirement, if such is requested in the application.

Section 22.200 Height, Yard and Area Regulations.

In District "R-1," the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:

1. Height. No building hereafter erected or structurally altered shall exceed two and one-half stories or thirty-five feet (35') in height; except, as provided hereafter.
2. Rear Yard. The depth of the rear yard shall be not less than thirty feet (25'). (Ord. 817. Approved and effective August 25, 2014, amended)
3. Front Yard. There shall be a front yard not less than twenty feet (20') in depth; except, as provided hereafter.
4. Side Yards. There shall be a side yard on each side of a building, not less than ten percent (10%) of the width of the lot; except, that such side yard shall not be less than ten feet (10') in width; provided, that, on a lot having a width of less than sixty feet (60') at the building line, as shown by the last conveyance of record as of the effective date of this code, the Board may grant a variance in case of hardship. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side street, of not less than fifty percent (50%) of the front yard established for buildings on interior lots on the side street; provided, this, regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record as of the effective date of this ordinance, to less than sixty-five percent (65%) of the total width of such lot, and provided further, that the minimum side yard regulations in this section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street; provided, this regulation shall not reduce the buildable width to less than twenty feet (20').
5. Vision Clearance. On any corner lot on which a front or side yard is required, no wall, fence, sign or other structure, or no plant growth of a type which would interfere with traffic visibility across the corner, shall be permitted or maintained higher than three feet (3') above the median line street level within fifteen feet (15') of the intersection of the street right-of-way lines. (Refer to Ordinance #60, regulating the location of Privacy Fences, passed and approved February 25, 2002.)
6. Width of Lot. The minimum width of a lot shall be one hundred feet (100') at the building line; provided, that where a lot platted before the effective date of this code, has less width than herein required, this section will not prohibit the erection of a one-family dwelling thereon, but, provided further, that where two contiguous adjacent lots in common ownership as of the effective date of this code, have been used as one lot by erecting a dwelling on the common lot line, that no further dwellings shall be erected on either lot.
7. Lot Area Per Family. Every building or portion of building hereafter erected or altered for residence purposes in District "R-1" shall provide a lot area of not less than one hundred feet (100') by one hundred twenty feet

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(120') per family; provided that, where a lot has less area than herein required, in separate ownership as of the effective date of this code, but not less than four thousand eight hundred (4,800) square feet, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than twenty five thousand (25,000) square feet per family.

8. Floor Area. Every dwelling hereafter erected, constructed, reconstructed or altered in a District "R-1" shall have a floor area, excluding basements, open and screened porches and garages, of not less than six hundred fifty (650) square feet.

Article III. "R-2" Two-Family Residential District

Section 22.210 Use Regulations.

1. Permitted Uses. In District "R-2", no building, structure or land shall be used and no building or structure shall be erected, constructed, reconstructed or altered, except for one or more of the following uses:

a. Any use which is a permitted use in District "R-1," including the regulations as established therein for garages, stables, servants' quarters and accessory buildings and uses; except that in District "R-2" no private garage shall provide storage for more than one vehicle for each fifteen hundred (1,500) square feet of area.

b. Dwelling, two family.

2. Conditional Uses. The following uses shall be permitted in District "R-2" only after the issuance of a conditional use permit pursuant to the provisions:

a. Any use which is a conditional use in District "R-1."

Section 22.220 Height, Yard and Area Regulations.

In District "R-2," the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted upon any lot shall be as follows:

1. Height. Same as District "R-1."

2. Rear Yard. Same as District "R-1."

3. Front Yard. Same as District "R-1."

4. Side Yard. Same as District "R-1," including provision for corner lots adjacent to reversed frontage.

5. Vision Clearance. Same as District "R-1."

6. Width of Lot. Same as District "R-1."

7. Lot Area Per Family. Every building or portion of building hereafter erected or structurally altered for residence purposes in District "R-2" shall provide a lot area of not less than nine thousand six hundred (9,600) square feet per family in single-family dwellings and four thousand eight hundred (4,800) square feet per family in two-family dwellings; provided, that where a lot has less area than herein required in separate ownership, but not less

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than four thousand eight hundred (4,800) square feet as of February 22, 1999, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than twenty-five thousand (25,000) square feet per family.

8. Floor Area. Every single-family dwelling hereafter erected, constructed, reconstructed or altered in District "R-2" shall have a floor area, excluding basements, open and screened porches and garages, of not less than six hundred fifty (650) square feet for each dwelling unit. Every two-family dwelling shall have not less than five hundred (500) square feet for each dwelling unit.

Article IV. "R-3" Multiple-Family Residential District

Section 22.230 Use Regulations.

1. Permitted Uses. In District "R-3," no building, structure or land shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses:
 - a. Any use which is a permitted use in District "R-2," including the regulations as established therein for garages, stables, servants' quarters and accessory buildings and uses; except that in District "R-3," no private garage shall provide space for storage for more than one vehicle for each one thousand (1,000) square feet of lot area, and further provided that no business, occupation or service connected with motor vehicles, except washing, shall be permitted.
 - b. Apartment house.
 - c. Boarding houses or lodging houses.
 - d. Fraternity or sorority houses and dormitories.
 - e. Nursing homes.
 - f. Parking lots for off-street parking of motor passenger vehicles may be located on a site approved by the Board after public hearing; provided, any fee charged shall be on a monthly or yearly basis, and provided, that such parking lot is improved as herein otherwise required.
 - g. Philanthropic or eleemosynary use, or institutions other than penal or correctional institutions.
 - h. Private clubs or fraternal orders; except, those whose chief activity is a service customarily carried on as a business.
 - i. Private schools.
 - j. Hotels and apartment hotels, including only such facilities as are customarily required for the operation of a hotel or apartment hotel or for the use of or entertainment of guests or tenants; provided, such facilities are conducted and entered from within the building and provided, no window or other display or sign is used to advertise the same.
 - k. Any lawful use of land existing in District "R-3" on the effective date of this code that is a conditional use under subsection (b).
2. Conditional Uses. The following uses shall be permitted in District "R-3" only after the issuance of a conditional use permit pursuant to the provisions of these codes:

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a. Offices used for the practice, following and carrying on of one or more of the following professions and businesses: Medical doctor, osteopathic doctor, dentist, chiropractor, optometrist, podiatrist, chiropractist, lawyer, engineer, certified public accountant, security broker, financial planner or consultant, bookkeeping service, secretarial service, insurance sales, real estate sales, computer programming and software service and/or data processing service (excluding product sales), or health and/or exercise center (excluding product sales).

b. Family day-care homes, day-care centers, child play care centers, child education centers, or child development institutions (sometimes collectively referred to hereafter as "day-care facilities") being any building or structure conducted or maintained by a person who provides care for five or more children under the age of eighteen away from their home, for compensation, excluding those children who are related by blood, marriage or adoption to the child care provider or residents of the house or building, and excluding those children who are under guardianship with or in the legal custody of the child care provider or residents of the house or building. No regularly established public or parochial school, college, university, academy, seminary, nursery school, or other school or institution organized under Federal or State law shall be considered a day-care facility. Day-care facilities, as defined above, shall be permitted provided the following provisions are complied with:

- (1) A day-care facility shall keep no greater number of children at any one time than that number which may be set forth as a condition within the conditional use permit. Such maximum number of children may be included by the issuing authority in any conditional use permit after consideration of site conditions and the oral and documentary evidence received during the process required before a conditional use permit may be issued;
- (2) The rear yard of every day-care facility is required to be enclosed with fences at least three feet (3') in height and has a depth of not less than twenty-five percent (25%) of the depth of the lot, provided that the depth of the rear yard need not be more than a total of twenty-five feet (25'), and further provided that no part of any alley abutting the rear yard of a day-care facility shall be considered a portion of the rear yard for the purposes of this subsection; and
- (3) All applicable State and Federal laws and regulations concerning day-care facilities are met and required licenses are obtained and maintained. If provisions of this section are more restrictive than State and Federal laws or regulations, the terms of this section shall govern.

c. Hospitals, sanitariums or clinics.

d. Any use which is a conditional use in District "R-2."

Section 22.240 Height, Yard, Area and Sign Regulations.

In District "R-3," the height of buildings, the minimum dimensions of lots and yards, the minimum lot area per family permitted upon any lot, the floor area and sign restrictions shall be as follows:

1. Height. No building hereafter erected or structurally altered shall exceed three stories or forty-five feet (45') in height; except, as provided hereafter.
2. Rear Yard. Same as District "R-1."
3. Front Yard. Same as District "R-1."

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- 4. Side Yards. Same as District "R-1."
- 5. Vision Clearance. Same as District "R-1."
- 6. Width of Lot. Same as District "R-1."

7. Lot Area (permitted and conditional use). Every building or portion of building hereafter erected or structurally altered for residence purposes in District "R-3" shall provide a minimum lot area of six thousand (6,000) square feet, and not less than one thousand five hundred (1,500) square feet per family; provided, that, where a lot has less area than herein required in single ownership, but not less than five thousand (5,000) square feet as of the effective date of this code, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of sanitary sewage, each lot shall provide not less than twenty-five thousand (25,000) square feet per family. In addition to meeting the other requirements in this section, the lot area for each lot where a conditional use permit is applied or shall otherwise be appropriate for the conditional uses to be made of the property, as judged by the governmental body making the final decision on the application, the Planning and Zoning Commission or the Board of Adjustment.

8. Floor Area. Every single or two-family dwelling hereafter erected, constructed, reconstructed or altered in District "R-3" shall have a floor area as required in District "R-2." In addition to meeting the other requirements in this section, the floor area for each lot where a conditional use permit is applied for shall otherwise be appropriate for the conditional uses to be made of the property, as judged by the governmental body making the final decision on the application, the Planning and Zoning Commission or the Board of Adjustment.

9. Signs. Buildings or structures on a lot where commercial uses are permitted in District "R-3" may have one or more identification signs not to exceed twelve (12) square feet each and not to exceed a total cumulative square footage of twenty-five (25) square feet for all such signs on said buildings or structures on said lot. **Advertising signs shall not be permitted.** All said identification signs shall be non-illuminated and shall be flush-mounted against the side of the buildings or structures. **"For Rent" signs are permitted.**

Article V: "B-1" Central Business District

Section 22.250 Use Regulations.

1. Permitted Uses. In District "B-1," no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except for one or more of the following uses; which shall concern retail or service establishments exclusively without curbside service:

- a. Any use permitted in District "R-3"; and any conditional use allowed in District "R-3," it being the
- b. Identification or advertising signs, subject to the following conditions:
 - (1) The sign is painted on or flush mounted to the wall of a building. No detached sign or billboard shall be permitted in District "B-1."
 - (2) An advertising sign shall advertise only services, articles, or products which are offered within the building to which such sign is attached.
 - (3) The sign shall not extend above the outside walls of the building to which it is attached; provided however, that if the building has a mansard-style roof, the sign shall not extend above

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the top of the most vertical portion of the roof.

(4) A sign shall not extend more than one foot (1') from the face of the wall to which it is attached; except that a business can print or paint an identifying sign or logo on a canopy or awning which otherwise extends beyond the wall of the building. With the exception of such canopy or awning identification signs, any sign which projects above a sidewalk shall have a clearance of at least eight feet (8') between the lowest portion of the sign and the sidewalk.

- c. Assembly halls.
- d. Automobile parking lots for passenger cars only.
- e. Bakeries, not employing more than five persons each.
- f. Banks.
- g. Barber and beauty shops.
- h. Businesses licensed by the State and City to sell malt liquor (intoxicating beer), non-intoxicating beer, intoxicating liquor, and/or light wine by the package or by the drink, provided, no businesses shall sell malt liquor, non-intoxicating beer, intoxicating liquor and/or light wine by the package or by the drink within one hundred feet (100') of any school, church or other building regularly used as a place of religious worship, unless there is obtained the consent in writing of the Board of Directors of the school, or the consent in writing of the majority of the managing board of the church or place of worship. This one hundred foot (100') restriction shall not apply when a school, church or place of worship shall be established within one hundred feet (100') of any existing business already licensed to sell malt liquor, non-intoxicating beer, intoxicating liquor and/or light wine by the package or by the drink. Such one hundred feet (100') distance shall be measured from the closest point in a straight line between the buildings.
- i. Bowling alleys.
- j. Cleaning, pressing and dyeing establishments; provided, that only nonexplosive cleaning fluids shall be used.
- k. Billiard halls and game arcades.
- l. Bus passenger stations.
- m. Clinics (medical or dental).
- n. Dance halls.
- o. Filling stations; provided, all storage tanks for gasoline shall be below the surface of the ground and no opening for the filling or emptying of such gasoline storage tanks shall be within one hundred feet (100') of any use permitted in District "R-1", "R-2" or "R-3".
- p. Frozen food lockers for individual or family use.
- q. Garages, public.

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- r. Ice delivery stations for storage and sale of ice at retail only.
- s. Lodge halls.
- t. Mortuaries.
- u. Newspaper publishing plants.
- v. Offices, business or professional.
- w. Photographic service shops.
- x. Plumbing shops; provided, no material or equipment is stored in the front or side yards.
- y. Printing, photocopying, and/or blue-printing shops.
- z. Radio and television shops or studios.
- aa. Restaurants, cafes, cafeterias and night clubs.
- bb. Shoe repair shops.
- cc. Shops for custom work or the manufacture of articles, to be sold at retail only, on the premises; provided, that in such manufacture the total mechanical power shall not exceed five horsepower for the operation of any one shop, and provided, that the space occupied by the manufacturing use permitted herein shall not exceed fifty percent (50%) of the total floor area of the entire building or the equivalent of the ground floor area thereof, and provided, further, that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
- dd. Stores, shops and markets for retail trades; provided merchandise is not displayed, stored or offered for sale on the premises outside of a building within the required front yard or upon a sidewalk, except for special sidewalk sales which occur on fewer than twenty (20) days per calendar year.
- ee. Telephone exchanges.
- ff. Theaters.
- gg. Wholesale sales offices and sample rooms
- hh. Ambulance services
- ii. Accessory uses customarily incident to any of the above uses, including air conditioning, ice and refrigerating plants purely incidental to a main activity permitted on the premises, when operated by electricity or gas.
- jj. Car Washes

(Ord. 649, Sec. 1, Approved and Effective October 24, 2005; Ord. 614, Sec. 1, Approved and Effective April 28, 2003, Repealed)

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kk. Storage Unit Facilities

(Ord. 649, Sec. 1, Approved and Effective October 24, 2005; Ord. 614, Sec. 1, Approved and Effective April 28, 2003, Repealed)

2. Conditional Use. The following uses shall be permitted in District "B-1" only after the issuance of a conditional use permit.

a. Light manufacturing.

In addition to other information required to be submitted as a part of the application for issuance of a conditional use permit, an applicant for a conditional use in District "B-1" shall submit plans or information concerning the operation of the proposed use, including:

- a. Number of employees,
- b. Sufficiency of and site location of parking, fencing, storage, and handling of materials and products,
- c. Method and frequency of shipping operations,
- d. Generation and emission of noise, vibrations, odors, dust, smoke, gases or other effects of operations which may be noxious, unwholesome, unhealthy or offensive, and
- e. Exterior appearances of all structures, fences and the site.

Limitations relating to the above listed items may be made a part of any stipulated conditions, if a conditional use permit is granted.

Section 22.260 Height, Yard and Area Regulations.

In District "B-1," the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted upon any lot shall be as follows; provided, that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of District "R-3":

1. Height. Buildings or structures shall not exceed one hundred feet (100') and shall not exceed eight stories; except, that where a District "B-1" joins a District "R-3" within the same block, the height shall be decreased to forty-five feet (45') or three stories within that block.

2. Rear Yards. The depth of the rear yard shall be at least twenty percent (20%) of the depth of the lot, but such depth need not be more than twenty feet (20'); except, that on a corner lot no rear yard is required within fifty feet (50') of a side street, unless the rear line adjoins a District "R-1" to "R-3" inclusive.

3. Front Yards. The business structure may be built on the property line provided, that where established buildings in this district within the same block have front yards of less depth, the depth shall be such as will conform to the established front building line.

4. Side Yards. No side yard required; except, that in the case of a corner lot, there shall be a side yard adjacent to the side street of not less than ten feet (10'), and where a side line of a lot in this district abuts upon the side line of a lot in Districts "R-1" to "R-3," inclusive, a side yard of not less than five feet (5') shall be provided.

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5. Width of Lot. The minimum width of a lot shall be fifty feet (50') at the building line, if used exclusively for uses enumerated in Districts "R-1" to "R-3," inclusive; except, as otherwise provided in District "R-1." For other uses the width may be less.

6. Lot Area Per Family. Same as District "R-3."

Article VI: "B-P" Planned Business District

Section 22.270 General Conditions for Establishment.

A District "B-P" may be established on a tract of land in single ownership or under unified control; provided, that a preliminary development plan for a planned business district has been prepared, submitted and approved in compliance with the regulations and requirements of this Article.

1. Application shall be made to the Board of Aldermen for the re-zoning of property for a planned business district, and it shall thereupon be referred to the City Planning and Zoning Commission, hereinafter referred to as the Commission, for recommendations.

2. The net area of land to be included in a District "B-P" and so designated shall be at least three (3) acres in size. The term net area, as used herein, shall not include any areas within dedicated highways, streets, alleys or any other public way or public property.

3. The location of any District "B-P" shall be on property which has an acceptable relationship to major thoroughfares, and the Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic generated by the development.

4. The plan for the proposed development must present a unified and organized arrangement of buildings and service facilities, which shall have a fundamental relationship to the properties comprising the planned development, and shall not adversely affect the uses of properties immediately adjacent to the proposed development.

5. The requirements and regulations herein prescribed, pertaining to height, open space, setbacks, parking and loading, may be adjusted or modified by the Board of Adjustment after recommendation of the Commission before a District "B-P" is established, so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the City, but in keeping with the general intent and spirit of this Article.

6. The Commission shall have power to make and adopt such rules and regulations as are necessary and proper to effectuate the purposes of this Article.

Section 22.280 Preliminary Plan.

The proponents of a planned business district shall prepare and submit a preliminary development plan to the Commission for its inspection and review, upon which plan the Commission shall hold a public hearing. This preliminary plan of the property to be zoned as a District "B-P," drawn to scale, shall show the boundaries of the property proposed to be zoned, the existing topography with contour intervals no greater than five feet (5'), unless waived by the Commission, and the proposed size, location and arrangement of buildings, parking areas, with proposed arrangement of stalls and number of cars, entrance and exit driveways and their relationship to existing and proposed streets, alleys and other public ways or public property, and any additional information required by the

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Commission. The plan shall show sufficient proposed control grades to interpret the intent of the developer. The preliminary plan shall also show the development of adjacent properties within two hundred feet (200'), including the location and type of buildings and structures thereon. If the planned business district is proposed in an unplatted area, the preliminary plan shall be accompanied by a plat, giving the full legal description of the boundaries of the property to be included in the areas to be zoned as a planned business district. It also shall be accompanied by a plan, drawn to scale, showing the general arrangement of streets within the remainder of such unplatted area, which plan need not extend more than one thousand feet (1,000') from the boundaries of the area to be zoned as a planned business district.

The developer shall indicate on the preliminary plan the stages which will be followed in the construction of the total project.

If this preliminary plan is found to comply with the intent of the requirements and regulations set forth in this section, the Commission shall, upon approval of the preliminary plan, prepare and submit to the Board a request of an amendment to this Article, which amendment is to provide for and establish a "B-P" district for the land covered by the preliminary plan.

Section 22.290 Final Plan.

Upon approval of the zoning change by amendment, the proponent shall submit a final development plan to the Commission for its review and recommendation. The final development plan may be submitted separately for the first and each successive stage of construction.

It shall be the responsibility of the Commission to determine that each stage, or all, of the final development plan conforms to the intent of the preliminary plan on which the zoning change was made. The Commission, having reviewed the final development plan for any or all stages of the development, and finding that it conforms to the intent of the preliminary plan, shall recommend its approval to the Board of Aldermen.

If the final development plan fails to conform to the intent of the preliminary plan submitted in support of the re-zoning, such final development plan may be submitted to the Commission as an amended preliminary plan, upon which the Commission shall hold a public hearing. The procedure shall be the same as for the original preliminary plan.

No building permit shall be issued for any construction on the project until the Board of Aldermen shall have approved the final development plan for at least that portion which includes the structures for which the permit is to be issued.

A final development plan prepared for each succeeding stage shall also be reviewed by the Commission, and, when approved by the Board of Aldermen, shall be filed in the office of the City Engineer.

Section 22.300 Schedule of Construction; Failure to Begin Construction Voids Plan; Effect of Abandonment of Plan.

The proponents of a planned business district shall prepare and submit a schedule of construction in one or more stages, which construction shall begin within a period of one year following the approval of the final development plan, or any stage thereof, by the Board of Aldermen. Failure to begin construction as scheduled shall void the plan, as approved, unless a request for an extension of time is made by the proponents to the Board of Adjustment and approved by such Board. If, for any reason, the plan is abandoned, or if the construction is terminated after the completion of any stage, and there is ample evidence that further development is not contemplated, the law or code establishing such District "B-P" may be rescinded by the Board of Aldermen, and the zoning of the entire tract, or the portion which is undeveloped as a District "B-P," may be changed to a suitable classification.

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Section 22.310 Adjustments and Rearrangements.

After the final development plan has been approved and the zoning change made, and when, in the course of carrying out this plan, adjustments or rearrangements of buildings, parking areas, entrances, heights, setbacks, or open space are requested by the proponents, and such requests conform to the standards established by the approved final development plan for the area to be covered by buildings, parking spaces and entrances, height, setbacks and other requirements, such adjustments may be approved by the Board of Adjustment upon application and after receiving the recommendations of the Commission.

Section 22.320 Use Regulations.

In District "B-P," no building, structure, land or premises shall be used, and no building or structure shall be erected, constructed, reconstructed or altered, except in conformance with the final development plan, and except for one or more of the following uses:

1. Any use permitted in District "B-1," excepting advertising signs other than as specified herein.
2. Accessory uses customarily incident to any of the above uses, including drive-in or curbside service; provided, that there shall be no billboards and that only one flat wall sign, or sign on the face of a building or marquee, showing the name of each place of business and the commodities or services offered there, and one flat wall sign on the side of each building, showing only the name of the place of business therein, will be permitted in a District "B-P"; except, that, in addition, there shall be permitted one sign or structure to identify each planned district. Such sign or structure shall be of permanent construction, and the design shall be submitted as a part of the preliminary and final development plan. In addition, a filling station may have one free standing sign, to be approved as part of the preliminary plan as to size and location.

Section 22.330 Height and Area Regulations.

In a District "B-P," the height of buildings and the minimum dimensions of open spaces shall be as follows:

1. Height. Buildings or structures shall not exceed forty-five feet (45') or three stories in height.
2. Open Spaces. There shall be a setback from any street of at least thirty feet (30') for any building and ten feet (10') for any parking lot. Along any other property line within or adjoining a zoned business district, there shall be a setback for any building or structure of at least ten feet (10'), unless the Board waives such setback. Along any property line abutting or adjoining a zoned dwelling house district, there shall be a setback of at least ten feet (10') for any building or parking lot. The planned business district shall be permanently screened from such abutting or adjoining properties zoned for dwelling house use by wall, fence or other suitable enclosure at least four feet (4') in height. The area adjacent to such wall or fence shall be planted with trees and shrubs to form an ornamental screen. Such trees and shrubs shall be properly and adequately maintained by the owners of land included in such district.
3. The building line along any street shall be consistent with the building line established in the neighboring residential districts.
4. The Board may grant a reduction in the above required setbacks where the situation will reasonably warrant such reduction.

Section 22.340 Parking and Loading Regulations.

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In any District "B-P," there shall be provided off-street customer parking space for motor cars in the ratio of at least ten parking spaces for each one thousand square feet of sales floor area, exclusive of storage space.

The off-street parking space required above shall be provided in addition to any space used for a commercial parking lot, taxicab stand, truck or bus parking. Off-street parking space for **drive-in** service establishments shall be provided in addition to the parking space described for all other business activities.

Ample off-street space for standing, loading and unloading of supplies shall be provided within the development.

Article VII: "B-T" Planned Trailer Court District

Section 22.350 General Conditions for Establishment.

A District "B-T" may be established on a tract of land in single ownership or under unified control; provided, that a preliminary development plan for a planned trailer court district has been prepared, submitted and approved in compliance with the regulations and requirements of this Article.

1. Application shall be made to the Board of Aldermen for the re-zoning of property for a planned trailer court district, and it shall thereupon be referred to the Planning and Zoning Commission, hereinafter referred to as the Commission for its recommendations.

2. The net area of land to be included in a District "B-T," and so designated, shall be at least four (4) acres in size. The term **net area**, as used herein, shall not include any area within dedicated highways, streets, alleys or other public ways or public property.

3. The location of any District "B-T" shall be on property which has an acceptable relationship to major thoroughfares, and the Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic generated by the development.

4. The plan for the proposed development must present a unified and organized arrangement of trailer spaces and service facilities, which shall have a fundamental relationship to the properties comprising the planned development and shall not adversely affect the uses of property immediately adjacent to the proposed development.

5. The requirements and regulations herein prescribed, pertaining to height, open space, setbacks and parking, may be adjusted or modified by the Board of Adjustment after recommendation of the Commission before a District "B-T" is established, so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and interests of the City, but in keeping with the general intent and spirit of this Article. The required size of lots in District "B-T" shall be sixty feet by one hundred feet (60' by 100').

The Commission shall have power to make and adopt such rules and regulations as are necessary and proper to effectuate the purposes of this section.

Section 22.360 Preliminary Plan.

The applicant for a planned trailer court district shall prepare and submit a preliminary development plan to the Commission for its inspection and review, upon which plan the Commission shall hold a public hearing. This preliminary plan of the property to be zoned as District "B-T," drawn to scale, shall show the boundaries of the property to be zoned, the existing topography, with contour intervals no greater than five feet (5'), unless waived by the

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Commission, and the proposed size, location and arrangement of trailer spaces, open spaces, parking areas, service buildings and other structures or areas to be included, entrances and exits, driveways and their relationship to existing and proposed streets, alleys and other public ways or public property, and any additional information required by the Commission. The preliminary plan shall also show the development of adjacent properties within two hundred feet (200'), including the location and type of buildings and structures thereon. If the planned trailer court district is proposed in an unplatted area, the preliminary plan shall be accompanied by a plat, giving the full legal description of the boundaries of the property to be included in the area to be zoned as a planned trailer court district. It shall also be accompanied by a plan, drawn to scale, of the general arrangement of streets within the remainder of such unplatted area, which plan need not extend more than one thousand feet (1,000') from the boundaries of the area to be zoned as a planned trailer court district. The applicant shall indicate on the preliminary plan, if the development is to be accomplished in stages, and the order in which such stages shall be developed.

The preliminary plan shall also show the location of all sewer, water main, electrical and gas utilities, which shall be provided in accordance with the applicable laws and codes of the City.

If the preliminary plan is found to comply with the intent of the requirements and regulations set forth in this section, the Commission shall, upon approval of the preliminary plan, prepare and submit to the Board of Aldermen a request for an amendment to this Article, which amendment is to provide for and establish a "B-T" District for the land covered by the preliminary plan.

Section 22.370 Final Plan.

Upon approval of the zoning change by amendment, the applicant shall submit a final development plan to the Commission, for its review and recommendation. The final development plan may be submitted separately for the first and each successive stage of development.

It shall be the responsibility of the Commission to determine that each stage, or all, of the final development plan conforms to the intent of the preliminary plan on which the zoning change was made. The Commission, having reviewed the final development plan for any or all stages of the development and finding that it conforms with the intent of the preliminary plan, shall recommend its approval to the Board of Aldermen. If the final development plan fails to conform to the intent of the preliminary plan submitted in support of the re-zoning, such final development plan may be submitted to the Commission as an amended preliminary plan upon which the Commission shall hold the public hearing. The procedure shall be the same as for the original preliminary plan.

No building permit shall be issued for any development in a planned trailer court district until the Board of Aldermen shall have approved the final development plan covering at least the first stage of development, and until the developer has deposited with the City Clerk a bond in form satisfactory to the Board of Aldermen to insure that the utilities, streets, curbs and gutters shall be constructed at the expense of the developer within the planned area within a time to be designated by the Board of Aldermen.

A final development plan, prepared for each succeeding stage, shall also be reviewed by the Commission and when approved by the Board of Aldermen as provided for above, shall be filed in the office of the City Clerk.

The applicant for a planned trailer court district shall prepare and submit a schedule of development in one or more stages, which development shall begin within a period of one year following the approval of a final development plan or any stage thereof by the Board of Aldermen. Failure to begin construction as scheduled shall void the plan, as approved, unless a request for extension of time is made by the applicant to the Board of Adjustment and approved by the Board. If for any reason the plan is abandoned, or if the development is terminated after the completion of any stage, and there is ample evidence that further development is not contemplated, the code establishing such District "B-T" may be rescinded by the City and the zoning of the entire tract, or the portion which is undeveloped as a District

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"B-T," may be changed to a suitable classification.

After the final development plan has been approved and the zoning change made, and when in the course of carrying out this plan, adjustments or rearrangements of trailer spaces, parking areas, service buildings or other structures, entrances, heights, setbacks or other open spaces are requested by the applicant, and such requests conform to the standards established by the approved final development plan, for the area to be covered by such trailer spaces, service buildings or other structures, parking spaces, entrances, heights, setbacks or other requirements, such adjustments may be approved by the Board of Adjustment upon application and after receiving the recommendations of the Commission.

Section 22.380 Use Regulations.

In District "B-T," no building, structure, land or premises shall be used, and no building or structure shall be erected, constructed, reconstructed or altered, except in conformance with the final development plan and except for the following uses:

1. For use as a trailer home court, upon which two or more trailer coaches occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.
2. Accessory uses customarily incident to the above use; provided, that there shall be no billboards, and that there shall be only one sign showing the name of the place of business and the service offered there. Such sign or structure shall be of permanent construction, and the design shall be submitted as a part of the preliminary and final development plan.
3. No District "B-T" shall be allowed in a District "R-1."

Section 22.390 Height, Yard and Area Regulations.

In a District "B-T," the height of buildings and the minimum dimensions of trailer spaces, parking areas and open spaces shall be as follows:

1. Height. No building or trailer erected, structurally altered, placed or parked shall exceed two stories or twenty feet in height.
2. Rear Yard. The depth of the rear yard shall be not less than ten feet (10') of the depth of the lot; provided, such depth need not be more than a total of twenty feet (20').
3. Front Yard. There shall be a front yard not less than ten feet (10') in depth.
4. Side Yards. There shall be a side yard on the side of the lot where driveway space is provided of not less than fifteen feet (15'), and on the opposite side of not less than three feet (3'). On lots where the abutting property is in District "R-1," "R-2," "B-1" or "B-2," the opposite side yard shall be not less than ten feet (10'). On corner lots in a District "B-T," the opposite side yard shall be not less than five feet (5').
5. Vision Clearance. On any corner lot no wall, fence, sign or other structure, or no plant growth of a type which would interfere with traffic visibility across the corner, shall be permitted or maintained higher than three feet (3') above the median line street level within fifteen feet (15') of the intersection of the street right-of-way lines. (Refer to Ordinance #601, Approved and Effective February 25, 2002.)
6. Drives. Each lot shall be equipped with a drive not less than ten feet (10') in width, so that the vehicles in

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the area may be removed from the street to a point at least as far back as the front of the structure on the lot, and all drives shall be on the same side of the lots throughout the entire district.

Article VIII: "M-H" Manufactured Home Subdivision District

Section 22.400 General Conditions for Establishment.

1. Upon written application, a District "M-H" Subdivision may be established on a tract of land in single ownership or under unified control; provided that all the area to be included in the District "M-H" Subdivision shall be shown as part of final a plat for a residential subdivision prepared, submitted, and approved in compliance with the provisions of this Article and all other City codes concerning subdivisions.

2. Application shall be made to the Board of Aldermen for the zoning or re-zoning of property for a manufactured home subdivision district, and the application shall thereupon be referred to the Planning and Zoning Commission (hereinafter referred to as the Commission) for its recommendation.

3. Application shall be made for the zoning or re-zoning of property for a manufactured home subdivision as a part of an application for a residential subdivision or a residential subdivision which has already received approval of the final plat, provided, either that no lots shall have been sold or otherwise transferred within said subdivision or that the application shall be made by all of the property owners in said subdivision.

4. The area of land to be included in a District "M-H" Subdivision and so designated shall be at least four (4) acres in size and shall consist of at least eight lots.

5. The location of any proposed District "M-H" Subdivision may be in any other zone district but shall be on property in a part of Sturgeon that represents a reasonable transition from business, industrial, or planned trailer court districts to districts "R-1," "R-2" or "R-3" and shall not adversely affect the uses and property values of property immediately adjacent to the proposed District "M-H" Subdivision.

6. The Commission shall have the power to make and adopt such zoning and subdivision rules and regulations as are necessary and proper to effectuate the purposes of this Article.

Section 22.410 Use Regulations.

1. Permitted Uses. In District "M-H," no building, structure, land or premises shall be used, and no building or structure shall be erected, constructed, reconstructed, or altered, except for one or more of the following uses:

a. Any use that is a permitted use in District "R-1," including the regulation as established therein for garages, stables, servants quarters and accessory buildings and uses.

b. Manufactured home provided that it meets all of the following requirements:

(1) No more than sixty percent (60%) of the roof can be flat or of single-pitch (shed) style. At least forty percent (40%) of the roof must be double-pitched, with slopes at least three in twelve or greater, and covered with material that is residential in appearance, including, but not limited to, approved wood, asphalt composition or fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass, or metal roofs. Except for permitted deck areas, all roof

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structures shall provide an eave projection of no less than six inches (6") and no greater than thirty inches (30").

(2) Exterior siding shall be made of non-reflective materials, cannot have a mirror finish or highly reflective finish or appear to be metallic, and shall be residential in appearance, including, but not limited to, wood or composition board lap or vertical groove siding, simulated lap siding such as conventional vinyl or metal siding, wood shingles, shakes, stucco, brick, stone or similar materials, or any combination of these materials, but excluding panels of smooth, ribbed, corrugated or unpainted metal or plastic materials. The exterior siding material shall extend to the ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.

(3) Color and texture of exterior materials shall be compatible with one-family dwellings in the surrounding neighborhood.

(4) The manufactured home shall be placed on and firmly attached to a permanent foundation that provides for vertical loads, uplift, and lateral forces in compliance with the City's building code for residential dwellings. The foundation shall either be a slab, or contain a solid perimeter wall in all installations in which the finished floor is more than six inches above the finish grade at any point.

(5) All tow bars, wheels, and axles used to transport the manufactured home to the site shall be removed when the manufactured home is installed.

(6) The manufactured home shall be oriented on the lot so that its long axis is parallel with the front lot line. A perpendicular or diagonal placement may be permitted if there is a building addition so the narrow dimension of the manufactured home, as so modified and facing the street, is no less than fifty percent (50%) of the long dimension of the manufactured home.

(7) The manufactured home shall be at least twenty-two feet (22') in width.

2. Conditional Uses. The following uses shall be permitted in District "M-H" only after the issuance of a conditional use permit:

- a. Any use which is a conditional use in District "R-1."

Section 22.420 Height, Yard and Area Regulations.

In District "M-H," the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted upon any lot shall be as follows:

1. Height. Same as District "R-1."
2. Rear Yard. Same as District "R-1."
3. Front Yard. Same as District "R-1."
4. Side Yard. Same as District "R-1," including provisions for corner lots adjacent to reversed frontage.

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5. Vision Clearance. Same as District "R-1."
6. Width of Lot. Same as District "RA."
7. Lot Area Per Family. Every building or portion of building hereafter erected or structurally altered for residence purposes in District "M-H" shall provide a lot area of not less than seven thousand (7,000) square feet per family.
8. Floor Area. Every one-family dwelling or manufactured home hereafter erected, constructed, reconstructed or altered in District "M-H" shall have a floor area, excluding basements, open and screened porches and garages, of not less than nine hundred (900) square feet for each dwelling unit.

Article IX: Special Classes - Use Regulations

Section 22.430 Variances.

The following uses may be located in any district by special permission of the Board of Adjustment after public hearing; provided, that, in their judgment, such use will not seriously injure the appropriate use of neighboring property and will conform to the general intent and purpose of these codes, and further provided, that such use shall comply with the height and area regulations of the districts in which they may be located, and with such safety and other regulations as the Board may impose:

1. Amusement parks, commercial baseball or athletic fields; race tracks; and permanent circuses, carnivals or fairgrounds.
2. Aviation fields or airports, under such restrictions as the Board may impose on land, buildings or structures within an approach or transition plane, or turning zone, to provide safety of navigation and prevent undue danger from confusing lights, electrical interference or other hazards.
3. Cemeteries, crematories or mausoleums for the disposal of the human dead.
4. Drive-in theaters.
5. Golf driving ranges, commercial or illuminated.
6. Group housing projects.
7. Gun clubs, trap or skeet shoots, or target ranges.
8. Hospitals for the insane, feeble minded, alcoholics or narcotic addicts, or penal or correctional institutions.
9. Picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only.
10. Mines or quarries, including the removing, screening, crushing, washing or storage of ore, sand, clay, stone, gravel or similar materials; provided, that no permit shall be issued until and unless the location, site plan and method of operation, including necessary structures, have been submitted to and approved in writing by the Board, which permit shall be for a limited period of time, not to exceed five years.

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- 11. Radio, television and microwave towers.
- 12. Refuse dumps.
- 13. Reservoirs, wells, towers, filter beds or water supply plants.
- 14. Riding stables and tracks.
- 15. Sewage, refuse and garbage disposal plants, or sanitary fills.
- 16. Buildings and premises for public utility services, or public service corporations, which buildings or uses the Board deems reasonably necessary for public convenience or welfare.

Article X: Height, Yard and Area Exceptions and Additional Regulations

Section 22.440 Height

1. In Districts "R-1," "R-2," "R-3," "B-1," "B-3," and "M-1" public or semipublic buildings, such as hospitals, sanitariums or schools, either public or private, where permitted, may be erected to a height not exceeding seventy-five feet (75'); provided, that such buildings shall be set back one additional foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.

2. Dwellings in Districts "R-1" and "R-2" may be increased in height not exceeding ten feet (10'), in addition to the limitation prescribed in such districts; provided, that two side yards of not less than fifteen feet (15') in width each are provided. In no case shall such dwelling, however, exceed three stories in height.

3. Parapet walls shall not extend more than six feet (6') above the height limit. Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, penthouses, finials, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances may be erected as to height in accordance with existing or hereafter adopted laws or codes of the City.

4. On through lots of one hundred twenty-five feet (125') in depth, the height of a building may be measured from the curb level of either street. On through lots of more than one hundred twenty-five feet (125') in depth, the height regulations for the street permitting the greater height shall apply, to a depth of not more than one hundred twenty-five feet (125') from that street.

Section 22.450 Area per Family Exceptions.

1. For any building used jointly for business and residential purposes, the number of families permitted by the lot area requirements per family shall be reduced in the same proportion as the floor area devoted to business bears to the entire floor area of the building; provided, that floor area below the first floor of such building shall not be included in any calculation under this provision.

2. For any building providing jointly for hotel and apartment house use, the number of families permitted in apartments by the lot area requirements per family shall be reduced in the same proportion as the total floor area devoted to hotel or non-housekeeping rooms bears to the total area devoted to both uses.

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1. In Districts "R-1," "R-2," "R-3," "B-1," "B-3," and "M-1" where lots comprising forty percent (40%) or more of the frontage, on the same side of a street between two intersecting streets (excluding reverse corner lots), are developed with buildings, the average of the front yards of such building shall establish the minimum front yard depth for the entire frontage; except, that where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of these codes, yet is less than the established setback for the block as provided above, such setback line shall apply; provided, that the Board may permit variations in case of hardship, or where the configuration of the ground is such as to make conformity with the front yard requirements impractical.

2. Where an official line has been established for future widening or opening of a street upon which a lot abuts, the depth or width of a yard shall be measured from such official line to the nearest line of the building.

3. Every part of a required yard or court shall be open from the lowest level of such yard or court to the highest point of any boundary wall and to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided, that none of the above projections shall extend into a court more than six inches (6"), nor into a minimum yard more than twenty-four inches (24"), and provided further, that canopies or open porches having a roof area not exceeding sixty (60) square feet may project a maximum of six feet (6') into the required front yard. Open decks without roofs and stoops and porches without roofs may project not more than ten feet (10') into a required front or rear yard, and existing open porches and open decks extending into the required yard shall not be enclosed except by railings. However, no open decks without roofs extending into a required yard and above the ground shall be used as a roof for either a carport or for storage. Notwithstanding anything to the contrary herein, no open decks without a roof or stoops or porches without a roof shall extend into a required front yard to such an extent that less than six feet (6') of the required front yard remains. Steps leading to an open deck without a roof or a stoop or porch without a roof shall be considered part of said open deck, stoop or porch in determining whether the said open deck, stoop or porch meets the yard requirements in this subsection. Patios flush with the ground shall be treated the same as a sidewalk and shall not be subject to any minimum yard requirements.

4. An open fire escape may project into a required side yard not more than half the width of such yard and not more than four feet (4') from the building. Fire escapes, solid floored balconies and enclosed outside stairways may project not more than four feet (4') into a rear yard.

5. A terrace garage in a District "R-1" to "R-3," inclusive, may be located in a front or side yard; provided, that it is completely recessed into the terrace and that the height of the terrace is sufficient to cover and conceal the structure from above, and further provided, that the doors, when open, shall not project beyond any property line and that the structure be set back at least four feet (4') from the front property line.

6. In any district, a detached accessory building not exceeding twenty-four feet (24') or two stories in height, or in any case not higher than the main building, may occupy not more than thirty percent (30%) of a rear yard; except, that in Districts "R-3," "B-1," "B-2," or "M-1" if such building is not more than one story or sixteen feet (16') high, it may occupy forty percent (40%) of a rear yard. A detached accessory building may be connected with the main building by a lightly constructed, covered passage, open on each side, not more than six feet (6') wide inside, the roof of which is not more than twelve feet (12') high at its highest point and is not an extension of the roof of the main building.

7. Except as specifically required adjacent to a District "R-1" to "R-3," inclusive, and except as specifically required in District "B-2" where the side line of a lot borders upon a street, buildings in Districts "B-1" or "B-2," or "M-1" used wholly or partially for business or industrial purposes, need not provide a side yard; provided, that portions of such buildings which are designed or used for dwelling purposes shall provide, on any floor so used, in addition to the front and rear yard requirements, open space equivalent to the area of side yards for buildings used

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exclusively for dwelling purposes in the district in which such building is situated. Such open space may be in the form of additional front or rear yards, or one or more courts opening to the street or rear yard; provided, that

- a. No court shall have a width of less than ten feet (10'), nor a width of less than two and one-half inches (2 ½") for each foot of height in the court; and
- b. That the width of any portion of a required side yard, as provided in these codes, may be considered a part of such court.

8. No rear yard shall be required in District "B-1" and "M-1" inclusive, on any lot used for business or industrial purposes, the rear line of which adjoins a railway right-of-way or which has a rear railway track connection.

9. In computing the depth of a rear yard for any building where such yard abuts an alley, one-half of such alley may be assumed to be a portion of the rear yard.

10. In any district where buildings on adjoining lots, used exclusively for dwelling purposes, do not conform to the side yard requirements of these codes, the Board may vary the side yard requirements; provided, that no building may be built nearer than three feet (3') to the side lot line, and provided, that the width of the building allowable under the regulations of these codes may not be increased.

11. Notwithstanding the provisions of Section 3, a canopy or awning on a structure with a permitted business use may extend into the required yard, provided that no structure or pole supporting the canopy or awning is attached to the ground within the required yard. Such canopy or awning shall not extend beyond the property line, provided that where a business structure abuts a public sidewalk, the canopy or awning may extend over the public sidewalk but no farther than the curb line of the street. Where such a canopy or awning does overhang a public sidewalk, it shall not obstruct or interfere in any way with street lights, traffic devices, highway signs, utilities, public improvements, or other public uses located on any public property or right-of-way. Such a canopy or awning constructed after the effective date of this code shall be placed at a minimum height of seven feet, six inches (7' 6"), as measured from the lowest point of the canopy or awning to the public sidewalk.

12. Notwithstanding the provisions of Section 3, in District "R-1," "R-2," or "R-3," a one-family dwelling or two-family dwelling that does not have an attached garage and to which has been granted a certificate of occupancy for non-conforming use because a pre-existing front yard failed to meet depth requirements, may have a detached canopy of a quality in harmony with that of the dwelling to which it relates, provided the canopy: is open on all four sides, does not exceed twelve feet (12') in width or twenty-one feet (21') in length, is erected over a paved driveway, does not extend into a required front yard a distance of more than eight feet (8') from the existing front line of the dwelling, does not extend any closer than ten feet (10') from the front lot line, and does not extend into any other required yard.

Article XI: Nonconforming Uses

Section 22.470 Continuation; Changes to Other Uses.

The lawful use of land existing on the effective date of this code, although such use does not conform to the provisions hereof, may be continued, but if such nonconforming use is discontinued, any future use of such premises shall be in conformity with the provisions of these codes.

The lawful use of a building existing on the effective date of this code, may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout the building; provided, no structural alterations, except those required by law or code, are made therein. If no structural alterations are made, a

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nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

A nonconforming use, if changed to a conforming use or more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. If any property is transferred to a more restricted district by a change in the district boundaries, or regulations and restrictions in any district are made more restrictive or of a higher classification by amendment of these codes, the provisions of these codes relating to the nonconforming use of buildings or premises existing on the effective date of this code, shall apply to buildings or premises occupied or used at the time of the passage of such amendment.

Section 22.480 Repairs, Alterations and Extensions of Nonconforming Buildings.

Repairs and alterations may be made to a nonconforming building; provided, that no structural alterations or extensions shall be made, except those required by law or code, unless the building is changed to a conforming use; provided further, that where the building is nonconforming as to situation on the lot only, and does conform as to use and type of structure, in that the usage made of the building conforms to the requirements of these codes and the structure is of the type allowed in the district where such building may be situated, but the building is located nearer to a lot line than the minimum setback required by these codes, an extension may be made to such building on a side other than that which is nearer to a lot line than the required setback, so long as such extension, when completed, will not violate these codes as to usage or type of structure allowed in the district, or as to setback lines on the sides which were conforming as to setback prior to the extension; provided, further, that the Board, by special permit in the case of evident hardship, may grant an extension of a nonconforming use not exceeding twenty-five percent (25%) of the ground area of the building.

Article XII: Off-Street Parking and Loading Regulations

Section 22.490 Generally.

All buildings and structures hereafter erected, constructed, reconstructed or altered shall be provided with off-street parking space, either in the form of parking garages or open parking areas for the parking of motor passenger vehicles as listed below in this Article. In a residence district no garage, other than a private attached garage, shall be even with the front of the residence and in a residence district no part of a parking area, driveways excluded, shall be located in a required front yard.

Section 22.500 Parking - One or Two-Family Dwellings and Manufactured Homes.

For all one-family or two-family dwellings and for all manufactured homes in a manufactured home subdivision, provision shall be made for parking either on the premises or in a community garage in the same block. Such parking shall provide space for two vehicles for each family unit.

Section 22.510 Parking - Apartment Houses, Multiple Dwellings or Motels.

For all apartment houses, multiple dwellings or motels, provision shall be made either on the premises or within four hundred feet (400') on land zoned for business or industry, or on a site approved by the Board of Aldermen after public hearing. One parking space shall be provided for each dwelling unit.

Section 22.520 Parking - Hotels, Apartment Hotels, Etc.

For all hotels, apartment hotels, fraternity and sorority houses, dormitories, lodging houses and clubs,

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provision shall be made for parking either on the premises or within four hundred feet (400') on land zoned for business or industry, or on a site approved by the Board of Aldermen after public hearing. One parking space shall be provided for each individual guest room or suite.

Section 22.530 Parking - Hospitals or Institutions.

For all hospitals and philanthropic or eleemosynary institutions, provision shall be made either on the premises or within six hundred feet (600') on land zoned for business or industry, or on a site approved by the Board of Aldermen after public hearing. One parking space shall be provided for each one thousand (1,000) square feet of floor space in such buildings.

Section 22.540 Parking - Places of Assembly.

For every structure, or part thereof, to be used as a theater, auditorium, church, stadium or other place of public assembly, provision shall be made either on the premises or within six hundred feet (600') thereof on land zoned for business or industry, or on a site approved by the Board of Aldermen after public hearing. One parking space shall be provided for each twelve seats of the total audience seating capacity of the building, structure or part thereof.

Section 22.550 Parking - Business or Industrial buildings.

For any business or industrial building, provision shall be made either on the premises or within six hundred feet (600') therefrom on land zoned for business or industry. Business buildings shall provide one parking space for each four hundred (400) square feet of floor area in the building, and industrial buildings shall provide one parking space for each eight hundred (800) square feet of floor area.

Section 22.560 Parking - Improvement of Parking Areas.

All established open parking areas shall be completely surfaced with crushed rock of at least three-quarter inch size to minimize the generation of dust from vehicular traffic or surfaced or paved with a permanent, dust-free pavement of either concrete or hot-mix or cold-mix asphalt. Ingress and egress shall be only by way of paved driveways or openings, not exceeding twenty-five feet (25') in width and such driveways or openings shall be surfaced or paved in the same manner as the established open parking areas. No parking shall be permitted within six feet of an adjoining lot located in a District "R-1" to "R-3," inclusive. Any lights used to illuminate such parking area shall be so arranged as to direct the light away from any adjoining premises located in a District "R-1" to "R-3," inclusive. Where such parking area is located in a District "R-1" to "R-3," inclusive, no signs of any kind shall be erected, except those that are necessary for orderly parking thereon. Where such parking area is located in a District "R-1" to "R-3," no fee shall be charged for parking thereon.

Section 22.570 Loading Space.

Any business or industrial building, hospital, institution or hotel erected, constructed, reconstructed or altered in any district shall provide adequate off-street facilities for the loading and unloading of merchandise and goods, within or adjacent to the building, in such a manner as not to obstruct freedom of traffic movement on the public streets or alleys.

Article XIII: Board of Adjustment

Section 22.580 Established; Composition; Appointment; Terms; Organization; Vacancies; Removal of Members

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A Board of Adjustment, hereinafter called the Board, is hereby established. The Board shall consist of five members, who shall be City residents appointed by the Mayor and approved by the Board of Aldermen. Three alternate members may be appointed by the Mayor and approved by the Board of Aldermen to serve in the absence of or the disqualification of the regular members. If a regular member of the Board of Adjustment is absent from a particular meeting or is disqualified from voting at a particular meeting for whatever reason and alternate members have been appointed and approved, an alternate member shall replace the regular member for that meeting, with the alternate members serving in the order that the alternate members were appointed, if able and qualified, the longest serving alternate member being the first replacement and so on. The terms of office of the members of the Board of Adjustment shall be for five years; except, that the five members first appointed shall serve respectively for terms of one year, two years, three years, four years and five years. Thereafter, members shall be appointed for terms of five years each. The members shall elect their own Chairman, who shall serve for one year. One member of the Board may be a member of the Planning and Zoning Commission. Vacancies shall be filled for the unexpired term only. Members and alternates may be removed for cause by the Mayor and the Board of Aldermen, upon written charges and after public hearing.

Section 22.590 Adoption of Rules; Meetings; Oaths and Attendance; Records; Reporter; Transcripts; Quorum.

The Board shall adopt rules in accordance with the provisions of these codes. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if a member is absent or fails to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All testimony, objections thereto and ruling thereon, shall be taken down by a reporter employed by the Board for that purpose, who shall receive reasonable compensation for such from the City. The reporter shall furnish to any person a transcript of all or any part of such proceedings upon payment to him of a fee equal to that set forth in Section 485.100, Revised Statutes of Missouri. The presence of four members shall be necessary to constitute a quorum.

Section 22.600 Office; Powers and Duties of City Clerk.

The office of the Board shall be the office of the City Clerk, who shall serve as Secretary to the Board, be custodian of its records, arrange for its meetings and perform other duties, consistent with the provisions of this Article, as the adopted rules of the Board shall require.

Section 22.610 Powers and Duties Generally

1. The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of these codes, in harmony with its general purpose and intent and in accordance with general or specific rules herein contained.

2. The Board shall have the following powers:

a. To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of these codes.

b. To hear and decide all matters referred to it or upon which it is required to pass under the provisions of these codes.

c. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of

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carrying out the strict letter of these codes, to vary or modify the application of any of the regulations or provisions of these codes relating to the construction or alteration of buildings or structures, so that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done.

d. To grant a permit for a temporary building for commerce or industry in a dwelling district which is incidental to the dwelling development, such permit to be issued for a period of not more than two years.

e. To permit a transitional use between a business and dwelling district, where the side of a lot in District "R-1" or "R-2" abuts upon a lot zoned for business or industrial purposes as follows:

(1) On a lot in a District "R-1" which sides upon a lot zoned for business or industrial purposes, the Board may permit a two-family dwelling.

(2) On a lot in District "R-2" which sides upon a lot zoned for business or industrial purposes, the Board may permit a four-family dwelling.

(3) In no case shall any transitional use have a width of more than one hundred feet (100').

f. To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership as of the effective date of this code; such extension not to exceed one hundred feet (100').

g. To permit, as an auxiliary use, a parking area for passenger automobiles only, on a lot or lots in Districts "R-1" to "R-3," inclusive, which adjoin, or are separated only by a street or alley from a lot in a District "B-1," or "M-1" inclusive, for use by customers of neighboring business establishments; provided, such parking area is improved as required elsewhere in these codes. In addition, such parking area shall be properly enclosed with a fence, wall or other suitable enclosure, to be approved by the Board, having a height of not less than three feet. Such fence, wall or enclosure shall be maintained in good condition and shall conform to the front yard requirements, and to the side yard requirements along the street side in the case of a corner lot, of the district in which it is located.

h. To permit in Districts "R-1" to "R-3," inclusive, semi-public parking areas for occupants of apartment houses, multiple dwellings, hotels, apartment hotels, fraternity or sorority houses or lodging houses, members of clubs, and visitors to or patrons of hospitals, institutions or places of public assembly; provided, that such parking areas are located not more than one thousand feet (1,000') therefrom, and provided, that such parking areas are improved as required elsewhere in these codes.

i. To determine, in cases of uncertainty, the classification of any use not specifically enumerated in these codes.

j. To hear and decide whether to grant or deny applications for issuance of conditional use permits if the application is objected to before or denied by the Planning and Zoning Commission, and the applicant requests that the application be transferred to the Board of Adjustment.

Section 22.615 Board of Aldermen May Act in Lieu of Board of Adjustment.

The Board of Aldermen may, in the absence of a Board of Adjustment, or otherwise in its sole and exclusive discretion, elect to serve as, exercise all the powers of and perform any and all functions of a Board of Adjustment.

(Ord. 569, Effective September 27, 1999, New)

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Section 22.620 Appeal to Board of Adjustment from Decision of Officer.

Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof, and a filing fee as required by the rules of the Board, not to exceed twenty-five dollars (\$25.00). The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear, in person, by agent, or by attorney.

Such Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, to decide in favor of the applicant on any matter upon which it is required to pass under these codes, or to effect any variation in these codes.

Section 22.630 Appeal from Decision of Board to Court.

Any person aggrieved by any decision of the Board of Adjustment, or any taxpayer, officer, department, board or bureau of the City, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from, and shall be verified.

If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the Board, unless it appears to the court that it acted with gross negligence,

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in bad faith or with malice in making the decision appealed from.

Article XIV: Conditional Use Permits

Section 22.640 Conditional Use Permits.

1. Purpose. It is the purpose of this section to provide for conditional use permits which may be granted only for uses expressly listed in any conditional use subsections of the zoning districts established in these codes.

2. Application. Application for a conditional use permit shall be made to the Planning and Zoning Commission and shall be accompanied by the following:

- a. A completed application form.
- b. An accurate legal description and street address of the subject property.
- c. Plans, exhibits or other evidence, as appropriate, that indicate compliance with or ability and intention to comply with the standards set forth in this section.

3. Procedure.

a. The applicant shall submit all necessary information and materials to the City Clerk. The City Clerk shall review the request to determine its compliance with the provisions of these codes. A written report on the proposal shall be made by the City Clerk to the Planning and Zoning Commission no later than the time the application is to be considered at the public hearing described below in subsection 3.c.

b. Within fifteen (15) days of filing of such application with the City Clerk, the applicant shall place a sign on the subject property in a conspicuous location. Said sign shall be of a type which will withstand the elements, not less than two and one-half feet by three feet (2 ½ x 3') in size, with the following wording clearly lettered not less than one inch in height:

Conditional use permit application made for this property for [type or use]. Interested parties may comment verbally or in writing on application at the Planning and Zoning Commission hearing on [date of hearing] at the City offices.

Said sign shall remain on the property until after the hearing described on the sign.

c. Within thirty (30) days after an application for issuance of a conditional use permit is filed with the City Clerk, the Planning and Zoning Commission shall hold a public hearing on whether to grant or deny the application, unless the applicant consents to a later hearing. Notice of the date, time and place of such hearing shall be published once in a paper of general circulation in the City at least fifteen (15) days prior to the hearing. In addition, the City Clerk shall, on or before the date of publication of the notice in a paper of general circulation, deliver written notice of the date, time and place of the hearing to the applicant and to all owners and occupants of real estate located in full or in part within one hundred eighty-five feet (185') of any of the boundaries of the subject property. Any mailed notice shall be delivered to the last known address of the addressee. The written notice shall be delivered by certified mail, return receipt requested, or by the City Clerk or his designate handing the notice to the person to be given notice or to a member of that person's family over the age of fifteen years, at that person's dwelling or usual place of abode. **Notice by certified mail shall be considered delivered on the date the**

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envelope is mailed.

d. At the public hearing before the Planning and Zoning Commission, the applicant shall have an opportunity to appear and be heard, and present such oral and documentary evidence as shall be relevant on how the use of the subject property applied for complies with or will be in compliance with the standards set forth in this section. Any other persons, including Commission members, may then have an opportunity to appear and to be heard and present oral and documentary evidence relevant to the application for the issuance of the conditional use permit. The Planning and Zoning Commission may limit the number of witnesses who present evidence that is merely cumulative in nature. The Commission Secretary or his designate shall take minutes of the proceeding.

e. At a meeting of the Planning and Zoning Commission immediately following the public hearing unless said meeting is continued as provided below, the Planning and Zoning Commission shall grant the application for issuance of a conditional use permit with whatever stipulated conditions deemed necessary by a majority of the Commission members in attendance to carry out the provisions and intent of these codes.

(1) The Commission by a majority vote of the members in attendance at a meeting where a quorum is present decides that all provisions have been met or will be met to obtain the permit, including the provisions of this section.

(2) No person (including the applicant) attending the public hearing objects at the Commission meeting to the issuance of the permit with whatever stipulated conditions are proposed to be made part of the permit by the said majority vote of the Planning and Zoning Commission. Commission members may object to the issuance of the permit only in their private capacity as citizens and only by signing the document referred to below. An objection shall be made by an objecting person signing a document prepared by the Planning and Zoning Commission and available at the meeting indicating objection to the permit. All persons attending the meeting desiring to object to the issuance of the permit shall be allowed to sign the document or a copy thereof. Unless said meeting is continued as provided below, no objection shall be allowed to be made by any person at a time after the adjournment of the meeting of the Planning and Zoning Commission where the permit application was considered. If the meeting is continued, an objection also may be made as provided above at the continued meeting. The Commission, to permit negotiated compromise with the applicant, objectors and/or the Commission, may continue the meeting to another date before granting or denying the application for issuance of a conditional use permit, provided all persons who attend the meeting are advised by the Commission orally or in writing at that meeting of the time, date and place of the continued meeting. If no person objects to granting the permit but a majority of the Commission members in attendance vote that not all provisions have been met to obtain the permit, the application shall be rejected by the Commission. The applicant may resubmit an application at a later date for consideration by the Planning and Zoning Commission, but all application procedures shall be followed for the resubmitted application before said application may be considered by the Planning and Zoning Commission another time.

f. If a signed objection is received by the Planning and Zoning Commission to an application for issuance of a conditional use permit under the procedure set forth in subsection 3.c. or if a majority of the Commission members in attendance vote to deny the application under the procedure set forth in subsection 3.c., then no conditional use permit may be granted to the applicant by the Planning and Zoning Commission. The applicant then shall inform the City Clerk in writing as to which of the following ways the applicant desires to proceed: That the application is being withdrawn, that the

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application will be amended and resubmitted to the Planning and Zoning Commission, or that the application be transferred to the Board of Adjustment for consideration. If an application is transferred to the Board of Adjustment, the Planning and Zoning Commission Chairman shall deliver to the City Clerk the application, all documents received at the public hearing on the application by the Planning and Zoning Commission and the minutes of the Planning and Zoning Commission meeting where the application was considered. The City Clerk shall review the various documents to determine if the submitted documents comply with the provisions of these codes. A written report on the proposal shall be made by the City Clerk to the Board of Adjustment, and said written report shall contain a summary of the Planning and Zoning Commission public hearing and any reasons given for objection to or denial of the application. The report shall be delivered to the Board of Adjustment no later than the time the application is to be considered at the public hearing before the Board of Adjustment described below.

g. At least fifteen (15) days before the date of the public hearing before the Board of Adjustment described below in subsection 3.j., the applicant shall place a sign on the subject property in a conspicuous location. Said sign shall be of a type, which will withstand the elements, not less than two and one-half feet by three feet (2 ½' x 3') in size, with the following wording clearly lettered not less than one inch in height:

Conditional Use Permit application made for this property for (Type or Use). Interested parties may comment verbally or in writing on application at the Board of Adjustment hearing on (Date of Hearing) at City Hall.

Said sign shall remain on the property until final disposition of the application.

h. Within thirty (30) days after the applicant informs the City Clerk in writing that the application is to be transferred to the Board of Adjustment, the Board of Adjustment shall hold a public hearing on whether to grant or deny the application, unless the applicant consents to a later hearing. Notice of the date, time and place of such hearing shall be published once in a paper of general circulation in the City at least fifteen (15) days before the hearing. In addition, the City Clerk shall, on or before the date of publication of the notice in a paper of general circulation, deliver written notice of the date, time and place of the hearing to the applicant and to all owners and occupants of real estate located in full or in part within one hundred eighty-five feet (185') of any of the boundaries of the subject property. Any mailed notice shall be delivered to the last known address of the addressee. The written notice shall be delivered by certified mail, return receipt requested, or by the City Clerk or his designate handing the notice to the person to be given notice or to a member of that person's family over the age of fifteen years, at that person's dwelling or usual place of abode. **Notice by certified mail shall be considered delivered on the date the envelope is mailed.**

i. At the public hearing before the Board of Adjustment, the applicant shall have an opportunity to appear and be heard, and present such oral and documentary evidence as shall be relevant on how the use of the subject property applied for complies with or will be in compliance with the standards set forth. Any other interested persons, including Board members, may then have an opportunity to appear and to be heard and present oral and documentary evidence relevant to the application for the issuance of the conditional use permit. The Board may limit the number of witnesses who present evidence that is merely cumulative in nature. The applicant and the Board shall have the right to cross-examine any person presenting evidence. All documentary evidence shall be numbered consecutively as exhibits. All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose, who shall receive reasonable compensation for such from the City. Transcripts shall be furnished in accordance with these codes. A certified copy of the applicable zoning codes shall be placed in evidence at the public hearing by the Board of Adjustment. The

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application and all material submitted with the application shall be placed in evidence at the public hearing by the applicant, as exhibits.

j. At a meeting of the Board of Adjustment on the same day of the public hearing before the Board of Adjustment or on some later day, the Board of Adjustment shall issue a written decision on whether to grant or deny the application for issuance of a conditional use permit, and as part of that decision, shall make findings of fact and conclusions of law in support of the decision made. No findings of fact, conclusion of law or decision may be made except as based on evidence presented at the public hearing before the Board. The findings of fact and conclusions of law shall address each standard set forth and, if the application for issuance is approved, each condition imposed as part of the conditional use permit.

k. The Planning and Zoning Commission or the Board of Adjustment shall grant or deny an application for issuance of a conditional use permit and may grant a conditional use permit with stipulated conditions deemed necessary to carry out the provisions and intent of these codes, after giving due consideration and regard to the following standards:

(1) The proposed conditional use is in compliance with all provisions of the applicable zoning district.

(2) The proposed conditional use will be in conformance with the character of the adjacent area within the same zoning district in which it is located. In making such a determination, consideration may be given to the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site.

(3) Off-street parking and loading areas, if applicable, are provided in accordance with the applicable standards set forth in the sections that are in Article XII of these codes.

(4) Adequate utilities, drainage, and other such facilities are provided.

(5) Adequate access is provided and is designed to prevent traffic hazards and minimize traffic congestion.

(6) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(7) The conditional use will not be injurious to the use and enjoyment of other property in the adjacent area for the purposes already permitted nor substantially diminish and impair property values within the adjacent area.

(8) The establishment of the conditional use will not impede the normal and orderly development and improvement of property in the adjacent area for uses permitted in the applicable zoning district.

4. Duty to Comply with Other Laws. Approval and issuance of such permit shall not be deemed to relieve the permit holder of the duty to comply with the provisions of other laws and codes.

5. Violation. The violation of any condition imposed by the conditional use permit shall constitute a violation of these codes.

6. Tenure of Permits. The granting of a conditional use permit is to allow that use of the specific site. If the use (including conditions ordered by either the Planning and Zoning Commission or the Board of Adjustment) is not

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substantially altered, it shall be allowed on the site regardless of ownership. A conditional use permit may not be transferred to any other site.

7. Amendment. Amendment or addition to any conditional use permit is subject to the same procedures as those which apply to a new application. Minor adjustments to an approved conditional use permit may be authorized by the City Clerk at his discretion, provided that such adjustments are consistent with the above standards.