ORDINANCE NO. 387

COMBINED ZONING ORDINANCE
OF THE CITY OF PORTLAND, TENNESSEE
AND THE PORTLAND PLANNING REGION

ADOPTED ON THIRD (3rd) AND FINAL READING

DECEMBER 19, 1989

LAST AMENDED: February 4, 2019
ORDINANCE NO. 387

PORTLAND, TENNESSEE

PREPARED BY THE PORTLAND PLANNING COMMISSION FOR THE CITY OF PORTLAND, TENNESSEE AND THE PORTLAND PLANNING REGION

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<td>508</td>
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<td>September 16, 1997</td>
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<td>Article III, Chapter 2, Definitions of Terms, Added, Egg Production House; Feedlot; Livestock; Article III, Subsection 3-309.3, Deleted, Activity Type – Feedlots and Stockyards; Replaced with, Activity Type – Egg Production Houses, Feedlots and Stockyards</td>
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<td>559</td>
<td>Article XIII, Chapter 5, Added, Subsection 13-506.8, Special Conditions for Special Institutional Care Facilities</td>
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June 1, 1998  572  (Stands Alone) Ordinance to Allow the Sale of Fireworks Within City Limits

October 5, 1998  586  Added, Article XIV, Cellular Towers, and Personal Communication System Antennae

August 2, 1999  610  Article XIII, Chapter 6, Section 13-606, Public Hearing and Notice of Hearings, Amended by Replacing, Paragraph B, with New, Paragraph B

April 3, 2000  00-4  Article VII, Chapter 2, Section 7-101, Purposes of Commercial Districts, Added, Subsection 7-102.7, HCD, Heavy Commercial Distribution Districts, and Table 7-201A, Include New, Commercial District (HCD)

Article VII, Chapter 3, Table 7-301A, Include New, Commercial District (HCD)

April 3, 2000  00-5  Article VII, Chapter 2, Section 7-201, and Table 7-201A, Removing, Warehousing Goods Transport and Storage from GCS

September 5, 2002  02-26  Article VII, Chapter 3, Modified, Subsection 7-304.2, Permitted Obstructions

Article VII, Chapter 3, Table 7-301A, Amended, Height Requirements

August 5, 2002  02-27  Article IX, Floodplain Districts, Deleted and Replaced with New Text

November 4, 2002  02-38  Article III, Chapter 2, Definition of Terms, Deleted Definitions Relating to Signs: Billboard; Flashing Sign; Freestanding Sign; Indirect Illumination; Internally Illuminated Sign; Marquee Sign; Neon Tube Illuminated Sign; Off-Premises Sign; On-Premises Sign; Portable Sign; Sign; Flashing; Sign, Freestanding; Sign, Direct Illumination; Sign, Internally Illuminated; Sign, Off-Premises; Sign, Portable; Sign, Temporary; Surface Area Display; Temporary Sign

Article IV, Chapter 2, Sign Regulations, Deleted and Replaced

April 5, 2004  04-01  Article VII, Chapter 3, Added, Subsection 7-305.11, Special Provision for Location of Vehicles and Similar Goods Within Front Yard Setbacks of Lots Situated in General Commercial Services Districts

October 3, 2005  05-33  Article XIII, Chapter 2, Subsection 13-203.3, Added New Paragraph

February 6, 2006  05-40  Article XIII, Added New Subsection 13-202.4, Entitled, Site Development Agreement and Permits Required

May 1, 2006  06-11  Article XIII, Chapter 3, Added, Section 13.303, Development Standards for Telecommunication Antennas and Towers
And Be It Further Ordained That Ordinance No. 02-31, Entitled, An Ordinance to Establish Regulations for Telecommunications Towers and Facilities, Shall be Removed from the City Code, and Shall No Longer Be in Effect. Mentioned in Ordinance 06-11, May 1, 2006

June 5, 2006 06-12 Article IV, Chapter 2, Amend, A Key to Table 4-207-A Through 4-207-F, Added, HCD, Heavy Commercial

June 5, 2006 06-25 Article VII, Chapter 3, Added, Subsection 7-305.12, Design Criteria for Commercial Structures

June 5, 2006 06-26 Article VI, Chapter 3, Added, Subsection 6-302.1, In-Fill Development Requirements

June 5, 2006 06-27 Article IV, Chapter 4, Added, Subsection 4-111, Landscape Provisions

August 7, 2006 06-44 Article IX, Floodplain Districts, Deleted and Replaced with New Text


August 6, 2007 07-34 Article XIII, Chapter 3, Section 13-302, Creation of the Board of Zoning Appeals-Membership and Appointment, Amended by Adding New Paragraph

February 4, 2008 08-02 Article III, Chapter 1, Subsection 3-105.2, 5, Keeping of Horses, Within RS 40, Residential Districts (See Amendment of Ordinance No. 09-45)

Article III, Subsection 3-102.9, Amended Definition of, Livestock (See Amendment of Ordinance No. 09-45)

April 7, 2008 08-10 Article I, Chapter 2, Definition of Terms, Added, Self-Storage Facility

Article I, Chapter 3, Section 3-302, Listing of Activity Types, Added, Self-Storage Facility, as a Commercial Activity

Article VII, Chapter 2, Added, Self-Storage Facility, Under Commercial Activities, and is Permitted Under GCS District

April 7, 2008 08-11 Article IX, Section 9-302, Basis for Establishing the Areas of Special Flood Hazard, Adding Panels 0140 and 0280, Dated April 16, 2008

July 6, 2009 09-19 Article VII, Table 7-102A, Permitted and Conditional Uses and Structures Allowable Within Mixed Use and Commercial Districts to allow for the General Retail Trade Commercial Activities in Interchange Service District (ISD) Zone Classification

July 6, 2009 09-21 Article IV, Subsection 4-109.6, Surfacing, Amended by Deleting and Replacing Text

August 3, 2009 09-29 Article IV, Table 4-207-C, Number, Dimensions, and Location of Individual Signs by District, Amended Interchange Service District (ISD)
October 5, 2009 09-45 Article XIII, Section 13-508, Specific Standards for Agricultural and Extraction Activities, is hereby Amended by Adding Subsection 13-508.5, Special Conditions for Keeping of Horses

April 16, 2012 12-13 Article IX, Section 9-302, Basis for Establishing the Areas of Special Flood Hazard, amended by adding Flood Insurance Study Numbers 1 & 2, new Flood Insurance Rate Map panel numbers, and new effective date for all.

October 15, 2012 12-39 Article XII, Section 12-210, Discontinuance, amended by deleting and replacing text

October 15, 2012 12-40 Article III, Section 3-307.8, Commercial Activities, Class and Types, Convenience Retail Sales and Service, added new text

November 5, 2012 12-50 Article IV, Section 4-111, Landscape Provisions, omitted text in its entirety and replaced with new text

July 17, 2017 17-49 Article XIII, Section 202.202 Site Development Plan for all other Residential Activities, Commercial and Industrial Activities

October 2, 2017 17-67 Article IX, Floodplain Districts New FEMA Flood Insurance Rate Map

December 3, 2018 18-71 Article IV, Chapter 2 Sign Regulations, Sections 4-202, 4-211, 4-213 and 4-214 to add text to the definitions, prohibited signs, and billboard regulations

December 3, 2018 18-72 Article IV, Chapter 4 to add Section 6-406 foundation or perimeter skirting enclosures for principal buildings.


February 4, 2019 19-05 Article IV, Chapter 2 Sign Regulations, Sections 4-202 and 4-214 to add text to the definitions, and Interstate sign District regulations and Amend Table 4-207-C

February 4, 2019 19-06 Article VI Provisions Governing Residential Districts, Chapter 2 Uses and Structures, to amend Table 6.201A permitted uses in R-40 and add text to Exempting agricultural/farm uses
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ARTICLE I: TITLE

CHAPTER 1. TITLE
An ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-210 and 13-7-301 through 13-7-305, Tennessee Code Annotated, to provide for the establishment of districts within the City of Portland, Tennessee, and the Portland Planning Region: to regulate within such districts, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings, and other structures for trade, industry, residence, recreation, public activities and similar purposes to include special districts for areas subject to flooding and areas developed as a planned unit; to provide regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection fees; to provide for the administration of this ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this ordinance; and to provide for conflicts with other ordinances or regulations.

1-102 SHORT TITLE
This ordinance may be cited as the Combined Zoning Ordinance of the City of Portland, Tennessee, and the Portland Planning Region.

1-103 REPEAL
The existing zoning regulations of the City of Portland (Ordinance 123, as Amended), and the Zoning Ordinance of the Portland Planning Region (Ordinance 327, as Amended) are hereby repealed. The adoption of this ordinance, however, shall not affect nor prevent any pending or future prosecution of an action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this ordinance.
CHAPTER 2. LEGISLATIVE ENACTMENT

WHEREAS, Sections 13-7-201 through 13-7-306, of the Tennessee Code Annotated, empower the city to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the City Council deems it necessary, for the purpose of promoting the health, safety, morals, and general welfare of the city and its planning region to enact such an ordinance, and

WHEREAS, the City Council, pursuant to the provisions of Section 13-7-202, of the Tennessee Code Annotated, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the city and region into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, school parks, and other public requirements, and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate uses for the land throughout the planning region, and

WHEREAS, the Planning Commission has submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings related to zoning districts, regulations, and restrictions, and has held public hearings, and

WHEREAS, all requirements of Sections 13-7-202 through 13-8-306, of the Tennessee Code Annotated, with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council, have been met;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TENNESSE:
ARTICLE II: INTENT, PURPOSE AND LEGAL STATUS PROVISIONS

CHAPTER 1. INTENT AND PURPOSE
This ordinance is enacted pursuant to Title 13, of the Tennessee Code Annotated, for the following purposes:

(A) To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;

(B) To divide the city and planning region into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing, and other specified uses;

(C) To protect the character and maintain the stability of residential, business, commercial, and manufacturing areas within the planning region, and to promote the orderly and beneficial development of such areas;

(D) To provide adequate light, air, privacy, and convenience of access to property;

(E) To regulate the intensity of open spaces surrounding buildings that are necessary to provide adequate light and air and protect the health.

(F) To establish building lines and the location of buildings designated for residential, business, commercial, manufacturing, or other uses within such lines;

(G) To fix reasonable standards to which buildings or structures shall conform;

(H) To prohibit uses, buildings, or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;

(I) To restrict such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;

(J) To limit congestion in the public streets and to protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;

(K) To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare;

(L) To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;

(M) To conserve the taxable value of land and buildings throughout the planning region;
(N) To provide for the gradual elimination of those uses of land, buildings, and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;

(O) To define and limit the powers and duties of the administrative officers and bodies as provided herein;

(P) To protect and in general allow for the beneficial uses of property.

(Q) These general purposes include the specific purposes stated in the various chapters throughout this ordinance.
CHAPTER 2. LEGAL STATUS PROVISIONS

2-201 INTERPRETATION
In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

2-202 RELATIONSHIP TO OTHER LAWS AND PRIVATE RESTRICTIONS
(A) Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other law, or ordinance, of any kind, the provisions which are more restrictive shall apply.

(B) This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance to the extent that they are more restrictive shall govern.

2-203 ORDINANCE PROVISIONS DO NOT CONSTITUTE PERMIT
Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

2-204 PROVISIONS ARE CUMULATIVE
The provisions of this ordinance are cumulative with any additional limitations imposed by all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter appearing in this ordinance.

2-205 SEPARABILITY
It is hereby declared to be the intention of the City Council of Portland, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

(A) If any court of competent jurisdiction shall adjudge any provision of this ordinance invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment.

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

2-206 APPLICATION OF REGULATIONS
No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the City or the planning region except as specifically or by necessary implication, authorized by this ordinance. Conditional uses are allowed only on permit granted by the Board of
Zoning Appeals upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

2-207 **SCOPE OF REGULATIONS**

2-207.1 **New Uses, Lots, Buildings, or Other Structures**
Upon the effective date of this ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this ordinance.

2-207.2 **Existing Uses, Lots, Building, or Other Structures**

(a) Any existing use legally established prior to the effective date of this ordinance which does not comply with its provisions shall be subject to the nonconforming uses provisions in Article XII, of this ordinance.

(b) Any existing lot, parcel, building, or other structure legally established prior to the effective date of this ordinance which does not comply with its provisions, other than use provisions, shall be subject to the noncomplying regulations in Article XII, of this ordinance.

2-207.3 **Alteration of Existing Building and Other Structures**

All structural alterations or relocations of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which such buildings, uses, and land shall be located.

2-208 **EXCEPTIONS, VARIANCES AND CONDITIONAL USES**
Whenever the zoning ordinance in effect at the time of adoption of this ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district, such authorization may be continued, changed, extended, enlarged, or structurally altered only as set forth in Article XII.
2-209 **EFFECTIVE DATE**
This ordinance shall be in force and effect from and after its passage and adoption, the public welfare requiring it.

Approved and Certified by Planning Commission.

Michael Donoho ____________________ Allan Linson ____________________
Michael Donoho, Secretary of Allan Linson, Chairman
Planning Commission

February 27, 1989 ________________
Date

APPROVED ON FINAL READING

Robert L. Wilkinson ____________________
Robert L. Wilkinson, Mayor

December 19, 1989 ________________
Date

ATTEST:

Nancy Keen ____________________
Nancy Keen, City Recorder

Michael Donoho, Secretary of Planning Commission

Allan Linson, Chairman

February 27, 1989 ________________
Date

APPROVED ON FINAL READING

Robert L. Wilkinson, Mayor

December 19, 1989 ________________
Date

ATTEST:

Nancy Keen, City Recorder
ARTICLE III: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

CHAPTER 1. RULES FOR CONSTRUCTION OF LANGUAGE

In the construction of this ordinance, the rules and definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise:

(A) The particular shall control the general.

(B) The word "shall" be always mandatory and not discretionary.

(C) The word "may" be permissive.

(D) The word "lot" shall include the words "piece" or "parcel".

(E) The word "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

(F) In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table the text shall control.

(G) The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a conditional use permit.

(H) The words “conditionally permitted” or “permitted by conditional use permit” mean permitted subject to the requirements for conditional use by special permit pursuant to Article XIII, Chapter 5, of this ordinance, and all other applicable provisions.

(I) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular unless the context clearly indicates the contrary.

(J) Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions or events shall apply.

(2) "Or" indicates that the connected items, provisions, or events shall apply.

(3) "Either ... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

(K) All public officials, bodies, and agencies to which reference is made are those of the City of Portland, Tennessee.
CHAPTER 2. DEFINITION OF TERMS (Amended by Ordinance 02-38, November 4, 2002)
Except where definitions are specifically included in various articles and sections, words in the text or tables of this ordinance shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail.

ACCESSORY: An activity or structure that is customarily associated with and is appropriately incidental and subordinate to a principal activity and/or structure and located on the same zone lot, except as provided for under the provisions of accessory off-street parking.

ACTIVITY: The performance of a function or operation which constitutes the use of land.

ACTIVITY-PRINCIPAL: (See Principal Activity.)

ACTUAL CONSTRUCTION: The excavation of a site and/or the systematic placement of building materials in conjunction with the construction of a building or other structure.

ADULT ORIENTED BUSINESS: A commercial enterprise that involves creation, reproduction and/or sale for a fee or incidental to another service of goods and services that are characterized by emphasis upon the exposure of “specified anatomical areas” and/or by description or depiction of “specified sexual activities” as defined by this ordinance. (Added by Ordinance 549, October 6, 1997)

ALLEY: A public way intended to provide only secondary vehicular access to abutting properties.

APARTMENT HOTEL: (See Lodging House.)

ATTACHED: An enclosure having continuing walls, roof, and floor.

BUILDING: Any structure which:

(A) Is permanently affixed to the land, and

(B) Has a roof supported by columns or walls, and

(C) Is intended for the shelter or enclosure of goods or persons, and

(D) Is bounded by either open area or the lot lines of a zone lot.

A building shall not include such structures as billboards, fences, radio or TV towers, or structures not normally accessible for human use, such as gas storage tanks, smoke stacks, grain elevators, exposed industrial equipment, (i.e., oil or chemical processing apparatus) or similar structures.

BUILDING-PRINCIPAL: (See Principal Building.)

BULK: Describes the size of buildings or other structures, and their relationship to each other and to open areas and lot lines, and therefore includes:
(A) The size (including height and floor area) of buildings or other structures,

(B) The area of the zoning lot upon which a residential building is located, and the number of dwelling units within such buildings in relation to the area of the zoning lot,

(C) The location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other structures, and

(D) All open area relating to buildings or other structures and their relationship thereto.

CENTRAL SEWAGE COLLECTION AND TREATMENT SYSTEM: A wastewater collection and/or treatment system owned and operated by a public or quasi-public organization and approved by all appropriate licensing and oversight agencies. This term shall not be construed to include any type of privately owned and operated individual disposal system to include septic or other similar systems.

COMMERCIAL COMPLEX: A commercial complex shall mean a building or group of buildings constructed or to be constructed upon a zone lot and used or designed to be used for two or more occupancies.

COMMON OPEN SPACE: A parcel or parcels of land and/or an area of water within the site which is held in any form of joint ownership by two (2) or more persons and is designated, designed and intended for use or enjoyment of the occupants of said development. "Common Open Space" may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants of such development.

COMPLETELY ENCLOSED: Refers to a building or other structure having a roof, and separated on all sides from the adjacent open area or from other buildings or other structures, by exterior walls or party walls, pierced only by windows or entrance and exit doors normally provided for persons, goods or vehicles.

CONDITIONAL USE: A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as conditional uses, only when specific provisions for such use is made in this ordinance. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code Annotated.

CURB LEVEL: The mean of the elevations of the side lot lines extended to the street line.

CURB LINE: The line formed by a curb extending along its roadbed or streetbed.

DEVELOPMENT: Any manmade change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, paving, excavating, or drilling
operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

**DEVELOPMENT AREA (MINIMUM):** The minimum amount of land area required for each dwelling unit located upon a zone lot. The minimum development area provision may require a lot larger than the minimum lot size where the intended intensity of use would so require.

**DWELLING:** A building, or portion thereof, designed or used exclusively for residential occupancy, but not including transient occupancy.

**DWELLING ATTACHED:** A building, located upon one zone lot, containing not more than two dwelling units, attached at the side or sides in a series of three or more principal buildings each containing not more than two (2) dwelling units. At points of attachment, such buildings shall be separated from each other by fire walls extending from footings through roofs without openings.

**DWELLING DETACHED:** A building located upon one zone lot containing not more than two dwelling units, separated from structures on adjacent lots.

**DWELLING, MULTI-FAMILY:** A building containing three (3) or more dwelling units. The term includes cooperative apartments, condominiums, and the like.

**DWELLING, ONE-FAMILY:** A building containing only one dwelling unit located upon one zone lot, the term is general, including such specialized forms as one-family detached, one-family semi-detached and one-family attached. For regulatory purposes, the term is not to be construed to include travel trailers, self-propelled motor homes, tents, or other forms of portable or temporary housing.

**DWELLING SEMI-DETACHED:** A building, located upon one zone lot, containing not more
than two dwelling units attached at the side to not more than one other building containing not more than two (2) dwelling units by a fire wall extending from footings through roofs without openings.

**DWELLING, TWO-FAMILY:** A building containing two (2) dwelling units located upon one (1) zone lot. The term is general including such specialized forms as two-family detached two-family semi-detached, and two-family attached. For regulatory purposes, the term shall be construed to include two-family dwellings which are:

(A) Held in single ownership,

(B) Held in two party ownership.

**DWELLING UNIT:** A room or rooms connected together constituting a separate, independent housekeeping establishment for one-family only for owner occupancy or for rental, lease or other occupancy on a monthly or longer basis with none of the living units under the same ownership, control, or management on the same zone lot being occupied on a shorter basis, and containing independent cooking, living, sleeping and sanitation facilities.

**EGG PRODUCTION HOUSE:** A term which means any place or premises where chickens are kept for production of eggs for resale to processors, wholesalers or retailers. (Added by Ordinance 545, September 16, 1997)

**FAMILY:** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family (excepting as set forth below) shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families, and that four (4) or less boarders, including roomers, may be accommodated. The term "family" shall not be construed to mean a fraternity, sorority, club, or institutional group. The term family, as used in this ordinance, shall be construed to include groups of eight (8) or fewer related mentally retarded or physically handicapped persons and with two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally retarded or physically handicapped persons residing in the house. (See Chapter 24, of Title 13, Tennessee Code Annotated.)

**FEEDLOT:** A term which means a lot, yard, corral or other area in which livestock are confined primarily for purposes of feeding, growing, raising, or birthing prior to slaughter. The term “Feedlot” does not include areas which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed. (Added by Ordinance 545, September 16, 1997)

**FLOOD:** (See Article IX).

**FLOOR AREA:** The total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, but excluding the following:

(A) Areas used for off-street parking spaces or loading berths and driveways and maneuvering relating thereto where required by this ordinance.
(B) In the case of nonresidential facilities: Arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

**FLOOR AREA RATIO:** The total floor area on a zone lot, divided by the lot area of that zone lot. For example, a building containing twenty thousand (20,000) square feet of floor area on a zone lot of ten thousand (10,000) square feet has a floor area ratio of 2.0.

**GRADE:** A reference plane representing the average of finished ground level adjoining a building at all exterior walls.

**GROSS AREA:** An area of land which is inclusive of all land uses and streets and other public areas located within the development.

**HAZARDOUS OCCUPANCY:** The principal use of a building or structure, or any portion thereof, that involves the manufacture, use or storage of highly combustible, flammable or explosive materials or materials that constitute a high fire hazard and as further defined as a type "H" occupancy in Section 407, Standard Building Code.

**HEIGHT, BUILDING:** The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roofs having a pitch of more than 1:4 1/2.

**HOME OCCUPATION:** An accessory use of a dwelling unit for gainful employment involving the manufacturing, provision, or sale of goods and/or services. Such uses shall be subject to the supplemental provisions contained in Subsection 6-201.2, of this ordinance.

**HOTEL:** This is a general term and includes all places where transient lodging activities (as herein defined) are provided for compensation. The term hotel is intended to include motels, motor courts, tourist courts, auto courts, motor lodges, and all similar facilities.

**LAND WITH INCIDENTAL IMPROVEMENTS:** A tract of land which contains improvements including buildings or other structures having a total assessed valuation of five thousand dollars ($5,000) or less.

**LANDHOLDER:** The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee having a remaining term of not less than fifty (50) years in duration, or other person having an enforceable proprietary interest may be considered a "landholder" for the purpose of this ordinance.

**LANDSCAPING:** The planting and maintenance of trees, shrubs, lawns, and other ground cover or materials, provided that terraces, fountains, retaining walls, street furniture, sculptures, or other art objects, and similar accessory features may be considered as landscaping if integrally designed.

**LEGALLY REQUIRED WINDOWS:** A window or portion of a window (including a window either in addition to or as a substitute for mechanical ventilation) which is required by any applicable law or statute to provide light or ventilation to a living room.
LIVESTOCK: Means cattle, sheep, swine, poultry and other animals or fowl, which are being produced primarily for use as food or food products for human consumption or horses. Provided that the prohibition of livestock within residential areas shall not prevent the keeping of horses as specified in ARTICLE XIII, Chapter 5, Subsection 13-508.5, of this ordinance. (Amended by Ordinance 09-45, October 5, 2009)

LIVING ROOM: A room designed for general living purposes in a dwelling unit. Every dwelling unit shall be deemed to have a living room.

LODGING HOUSE: This is a general term and includes all places of semi-transient residential occupancy (as herein defined). The term lodging house is intended to include rooming houses, boarding houses, apartment hotels, residential hotels, and all similar facilities coming within the general definition of semi-transient residential activities.

LOT: (See Lot of Record and Zone Lot.)

LOT AREA: The entire area of a zone lot.

LOT COVERAGE: That portion of a zone lot which when viewed directly from above, could be covered by a building or any part of a building.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards.

LOT LINE: A boundary of a zone lot.

LOT LINE EQUIVALENT: A straight line established for the purpose of determining the location and depth or width of a required yard and which either:

   (A) Joins points specified in these regulations, or

   (B) Is an extension of a street line or lot line.

LOT MEASUREMENTS:

   (A) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the rear.

   (B) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines on each side of the lot, measured across the rear of the required front yard, provided however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the eighty (80) percent requirements shall not apply.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the county
As Amended February 4, 2019

recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT TYPES:** The diagram (Illustration 3-202A) which follows indicate terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

**MIXED BUILDING:** A building containing residential activities with commercial and/or community facility activities for the purpose of determining bulk regulations.

**MOBILE HOME:** (See Dwelling, Mobile Home.)

**MOBILE HOME PARK:** Any area, tract, site or plot of land where upon two (2) or more mobile homes as herein defined are placed, located, or maintained, and shall include all accessory buildings used or intended to be used in conjunction therewith.

*Illustration 3-202A: Lot Type Diagram*

In the diagram,

A = Corner Lot, defined as lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees. (See lots marked A (1) in the diagram.)

B = Interior Lot, defined as a lot other than a corner lot within only one (1) frontage on a street.

C = Through Lot, defined as a lot other than a corner lot within frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.
D = Reversed Frontage Lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

**MOBILE HOME SPACE:** A designated area within a mobile home park for the exclusive use of the occupants of a single home.

**MOBILE HOME STAND:** That part of an individual mobile home space which has been reserved for the placement of the mobile home.

**NONCOMPLYING:**

(A) Any lot of record which does not contain sufficient lot area to conform to the area requirements for the zoning district in which the lot is located.

(B) Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or

(C) Any lawful use other than a nonconforming use, which does not comply with any part or any one (1) or more of the applicable regulations pertaining to:

(1) Location along a district boundary, or

(2) Accessory off-street parking and loading.

Either on the effective date of this ordinance or as a result of any subsequent amendment.

**NONCONFORMING SIGN:** A lawful sign existing at the effective date of the adoption of this ordinance that does not conform with the provisions of this ordinance.

**NONCONFORMING USE:** A lawful use of a building or other structure other than a sign or of a tract of land which does not conform to any one (1) or more of the applicable use regulations of the district in which it is located, either on the effective date of this ordinance or as a result of any subsequent amendment.

**OCCUPANCY:** The principal use of land for the performance of a function or operation by a person, firm, corporation, or association as a single legal entity. For the purposes of this ordinance, there shall be only one principal use of land by any one person, firm, corporation, association or legal entity.

**PARTY WALL:** A wall on an interior lot line, used or adopted for joint service between two (2) buildings; such walls shall extend from the foundation to the underside of roof sheathing without openings which would permit the spread of fire from one building to another and shall fully comply with fire and all other provisions and standards established for such walls in the Standard Building Code.
PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

PRINCIPAL ACTIVITY: An activity which fulfills a primary function of an establishment, institution, household, or other entity.

PRINCIPAL BUILDING: A building which contains the principal activity or use of any zone lot.

REQUIRED YARD: (See Yard, Required.)

RESIDENCE: A building or part of a building containing one (1) or more dwelling units or rooming units, including one-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartment hotels. However, residences do not include:

(A) Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or

(B) Dormitories, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations, or

(C) Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facilities, or

(D) In a mixed building, that part of the building used for any nonresidential uses, except uses accessory to residential uses.

RESIDENTIAL: Pertaining to a residence.

RESIDENTIAL BUILDING: Any building utilized solely for residential activities and their accessory functions.

RIGHT-OF-WAY LINE: Right-of-way line is a line contiguous with a lot line dividing a lot from an abutting street.

ROOMING UNIT: A unit of occupancy of semi-transient residential activity.

SCRAP OPERATIONS: An establishment engaged in the storage, reclamation and, or recycling of primary metals, glass, plastics, cloth, and similar materials. This category does not include the storage, transport, reclaiming or reprocessing of toxic or hazardous materials as defined by the Tennessee Code Annotated. Operations engaged in handling of toxic or hazardous wastes come within the "extensive manufacturing" use grouping appearing in Section 3-302, (C), and further defined by Subsection 3-307.19, of this ordinance.

SELF-STORAGE FACILITY: A building or group of buildings consisting of individual self-contained units leased to individuals, organizations, or businesses for self-storage of personal property.
(Added by Ordinance 08-10, April 7, 2008)

**SEMI-TRANSIENT RESIDENTIAL ESTABLISHMENT:** An establishment where lodging is provided for compensation partly on a weekly or longer basis and partly for a shorter time period, but with less than thirty (30) percent of the living units under the same ownership or management on the same zone lot being occupied on a less-than monthly basis; but excluding institutional living arrangements involving the provision of specific kinds of forced residence, such as nursing homes, orphanages, asylums, and prisons.

**SETBACK LINE:** A line which establishes the minimum distance the principal building must be setback from the street line.

**SIGN, ON-PREMISES:** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

**SPECIFIED ANATOMICAL AREAS:** (Added by Ordinance 549, October 6, 1997)

(A) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

(B) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITY:** (Added by Ordinance 549, October 6, 1997)

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human masturbation, sexual intercourse or sodomy;

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

(D) Flagelllation or torture in the context of a sexual relationship;

(E) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

(F) Erotic touching, fondling or other such contact with an animal by a human being;

(G) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in (A) through (F), above;

**STORY:** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

**STREET:** A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property.
STREET LINE: A lot line dividing a lot from an abutting street.

STRUCTURE: Any object constructed or installed by man, including but not limited to buildings, towers, smoke-stacks, and overhead transmission lines.

TOURIST HOME: (See Lodging House.)

USE: The performance of a function or operation which constitutes the use of land.

USE AND OCCUPANCY PERMIT: A written permit which is required before occupying or commencing to use any building or any zone lot.

WATERCOURSE: Any depression serving to give direction to flow of water, having a bed and well-defined bank, where the drainage area above the same is twenty-five (25) acres or more in extent. The flow of water need not be on a continuous basis but may be intermittent resulting from the surface run-off of precipitation.

YARD: An open space on the same lot with a building or building group lying between the front, rear, or side wall of a building and the nearest lot line, unoccupied except for projections and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.

YARD, DIAGRAM: The following Yard Diagram (Illustration 3-202B) shall be used in clarifying the meaning of the "line" and "yard" definitions of this ordinance.

Illustration 3-202B: Yard Diagram
YARD, FRONT: A yard extending along the full length of a front lot line. In the case of a corner lot, a yard at least the full depth required for a front yard in these regulations, and extending along the full length of a street line shall be designated for each corner lot, at least two (2) such yards shall be designated for each through lot, and each through corner lot.

YARD LINE: A boundary dividing the buildable portion of a zone lot from its required yards.

YARD REQUIRED: That part of a zone lot extending open and unobstructed from the lowest level to the sky along the entire length of a lot line, and from a lot line equivalent for a depth of width set forth in the applicable regulations. Only such obstructions, projections and specific minor uses or structures allowed in such open space under the provisions of this ordinance may be permitted in any required yard.

YARD, SIDE: A yard extending along a side lot line from the required front yard to the required rear yard. In the case of a corner lot, any yard which abuts a street line and which is not designated a front yard shall be considered a side yard. In the case of a through lot, side yards shall extend between the required front yards, except when such corner lots are required by these regulations specifically to have more than one front yard. A side yard abutting a street shall be at least one-half (1/2) the width of the front yard.

ZONE OR ZONING LOT: For the purposes of this ordinance, a lot is a parcel of contiguous land which is or may be developed or utilized under one ownership as a unit site for a use or group of uses and which is of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

(A) A single lot of record;

(B) A portion of a lot of record;

(C) A combination of complete lots of record, of complete lots of record and portions of lots of records;

(D) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance. For the purpose of this definition, the ownership of a zone lot shall be deemed to include a lease of not less than fifty (50) years duration.

ZONING MAP: A map or series of maps and special overlay (the official copy being maintained by the Zoning Administrator) showing districts and special districts that are established under the provisions of and, hereby, being a part of this ordinance.

ZONING PERMIT: A permit required to construct, reconstruct, alter or use any building or other structure or any zone lot.
CHAPTER 3. USE CLASSIFICATION

3-301 GENERAL CLASSIFICATION RULES
The provisions of this chapter shall be known as the use classifications. The purpose of these provisions is to classify uses into a number of specifically defined types on the basis of common functional characteristics and similar compatibility with other uses, thereby providing a basis for regulation of uses in accordance with criteria which are directly relevant to the public interest. A general statement is intended to provide broad use classification. This statement is intended to provide overall guidance as to the functional characteristics and limitations which form the bounds of compatibility among the individual activities within each grouping. It is not intended, however, that every use within a grouping should necessarily be permitted within a given zoning district. Where specific uses within any particular use grouping are individually listed within the use provisions of a zoning district, only those particular uses may be permitted. Where a use grouping is listed without further specification or limitation, then any use within the grouping may be permitted. In any instance where question may arise as to the appropriate classification of a particular use or activity the most current edition of the Standard Industrial Classification Manual, published by the U.S. Office of Management and Budget shall be utilized as a guide in support of the classification system provided, herein.

3-302 LISTING OF ACTIVITY CLASSIFICATION
All activities are hereby classified into the following activity types: *
*Vacant land, itself, shall not constitute an activity type.

(A) Residential Activities
   (1) Permanent
   (2) Semi-Transient

(B) Community Facility Activities
   (1) Administrative
   (2) Community Assembly
   (3) Community Education
   (4) Cultural and Recreation Services
   (5) Essential Service
   (6) Extensive Impact
   (7) Health Care
   (8) Intermediate Impact
   (9) Personal and Group Care Facilities
   (10) Religious Facilities

(C) Commercial Activities
   (1) Animal Care and Veterinary Services
   (2) Automotive Parking
   (3) Automotive Repair and Cleaning
   (4) Automotive and Other Vehicular Craft and Related Equipment Sales, Rental and Delivery
   (5) Automotive Servicing
   (6) Business and Communication Service
(7) Construction Sales and Services
(8) Convenience Retail Sales and Services
(9) Financial, Consulting and Administrative Services
(10) Food and Beverage Service - General
(11) Food Service - Limited
(12) General Personal Service
(13) General Equipment Maintenance and Repair Services
(14) General Retail Trade
(15) Group Assembly - Limited
(16) Group Assembly - Extensive
(17) Professional Services - Medical
(18) Professional Services - Other
(19) Scrap Operations
(20) Transient Habitation
(21) Undertaking Service
(22) Warehousing, Goods Transport, and Storage
(23) Wholesale Sales
(24) Self-storage facilities (Added by Ordinance 08-10, April 7, 2008)

(D) Manufacturing Activities
   (1) Limited
   (2) Intermediate
   (3) Extensive

(E) Agricultural, Resource Production, and Extractive Activities
   (1) Agricultural Services
   (2) Crop and Animal Raising
   (3) Mining and Quarrying
   (4) Plant and Forest Nurseries
   (5) Commercial Feed Lots and Stockyards

(F) Activity Type – Adult Oriented Business (Added by Ordinance 549, October 6, 1997)

3-303 ACCESSORY USES
In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity. The accessory uses permitted are presented within the use regulation section of each district.

3-304 CLASSIFICATION OF COMBINATION OF PRINCIPAL ACTIVITIES
The following rules shall apply where a single zone lot contains activities which resemble two or more different activity types and which are not classified as accessory activities.

3-304.1 Separate Classification of Each Establishment
The principal activities conducted on a single zone lot by each individual establishment, management, or institution shall be classified separately.
3-304.2 Separate Classification of Different Major Classes of Activities Conducted by a Single Establishment
If the principal activities conducted by a single establishment, management, or institution resemble two or more different major classes of activities, to wit, residential, community facilities, commercial, manufacturing, or agricultural and extractive activities--the principal activities of each major class shall be classified separately.

3-304.3 Classification of Different Activities Within the Same Major Class, Conducted by a Single Establishment
If principal activities conducted on a single zone lot by a single establishment, management, or institution resemble two or more activity types within the same major class of activities, all such principal activities shall be classified in the activity type within said class the description of which type most closely portrays the overall nature of such activities.

3-305 RESIDENTIAL ACTIVITIES (CLASS AND TYPES)

3-305.1 Activity Type - Permanent Residential Activities

(a) Intent and Limitations:
This grouping is intended to include permanent residential activities which involve the occupancy of a dwelling unit as defined by this ordinance. This form of occupancy shall not be construed to include:

(1) Institutional living arrangements involving provisions of special care or force residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or

(2) Transient accommodations such as transient hotels, motels, tourist homes, or similar establishments; or

(3) Dormitories, nurses' residences, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or

(4) In a building with mixed use occupancy, that part of the building used for any nonresidential uses, excepting accessory residential uses.

(b) Use Listings:
The following dwelling unit types, as defined by this ordinance, are considered as permanent residential activities when located within any district. However, only those dwelling unit types as indicated by individual district regulations may be permitted therein.

(1) Dwelling, One-Family
Dwelling, One-Family Detached
Dwelling, One-Family Semi-Detached
Dwelling, One-Family Attached

(2) Dwelling, Two-Family
   Dwelling, Two-Family Detached
   Dwelling, Two-Family Semi-Detached
   Dwelling, Two-Family Attached

(3) Dwelling, Multi-Family

(4) Dwelling, Mobile Home

3-305.2 Activity Type - Semi-Transient Residential Activities

(a) Intent and Limitations:
This grouping is intended to include residential activities which are semi-transient in nature and involve the occupancy of a rooming unit as defined by this ordinance. This form of occupancy shall not be construed to include:

(1) Institutional living arrangements involving provisions of special care or forced residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or

(2) In any building with mixed use occupancy, that part of the building used for any nonresidential uses, excepting accessory residential uses.

(b) Use Listing:
A general term "Lodging House" is included within this ordinance to describe a group of residential uses considered semi-transient in nature when they meet the general limitations of rooming units (as defined by this ordinance). The term lodging house is intended to include, subject to the general limitations for semi-transient residential activities, the following residential types:

(1) Apartment Hotel
(2) Boarding House
(3) Rooming House
(4) Residential Hotel

3-306 COMMUNITY FACILITIES ACTIVITIES; CLASS AND TYPES

3-306.1 Activity Type - Administrative Services

(a) Intent and Limitations:
This grouping is intended to include the activities typically performed by public, utility and private nonprofit administrative offices.

(b) Use Listings:
City, County, State, and Federal Offices
Civil Defense Facilities  
Court Buildings  
Fire Department Facilities  
Police Department Facilities  
Post Offices

3-306.2 **Activity Type - Community Assembly**

(a) **Intent and Limitations:**  
This grouping is intended to include a broad range of facilities utilized as public gathering places in conjunction with various social and recreational events. This grouping is not intended to include facilities primarily utilized for profit, nor is it to include any facility which has the characteristics associated with extensive impact community facilities.

(b) **Use Listing:**  
Civic, Social, Fraternal, and Philanthropic Associations  
Private (nonprofit) Clubs, Lodges, Meeting Halls, and Recreation Centers  
Temporary Nonprofit Festivals

3-306.3 **Activity Type - Education Facilities**

(a) **Intent and Limitations:**  
This grouping is intended to include services and facilities typically performed by public, parochial and private nursery schools, kindergartens, primary and secondary schools. The grouping is not intended to include special training and schooling services offered by private individuals for profit or technical schools, colleges, and universities.

(b) **Use Listing:**  
Public, Parochial, and Private Kindergartens  
Primary and Secondary Schools

3-306.4 **Activity Type - Cultural and Recreational Services**

(a) **Intent and Limitations:**  
This grouping is intended to include services and facilities of a cultural or recreational nature which are either owned by or operated for the use and enjoyment of, the general public. The grouping is not intended to include entertainment and amusement facilities which are operated by private persons as profit making ventures.

(b) **Use Listing:**  
Art Galleries (Non-Commercial) Athletic Associations  
Libraries  
Museums  
Parks, Playgrounds, and Playfields  
Planetariums and Aquariums  
Recreational Centers and Gymnasiums (Public Non-Profit)
Swimming Pools and Beaches
Yachting Clubs (Private)
Zoological and Botanical Gardens (Non-Commercial)

3-306.5 **Activity Type - Essential Public Transport, Communication, and Utility Services**

(a) **Intent and Limitations:**
This grouping is intended to include facilities necessary and incidental to the operation of transport, communication, and utility services. The grouping is not intended to include major transport terminals or utility production and processing facilities.

(b) **Use Listing:**
- Electrical and Gas Substations
- Gas, Electric, and Water Distribution Lines
- Pumping Facilities for Water and Sewer Systems
- Rights-of-way for all Modes of Transportation
- Sewage Collection Lines
- Telephone Switching Facilities

3-306.6 **Activity Type - Extensive Impact Facilities**

(a) **Intent and Limitations:**
This grouping is intended to include public activities and facilities which have a high degree of impact upon surrounding land uses due to hazards and nuisance characteristics, traffic generation, and parking requirements.

(b) **Use Listing:**
- Airports, Air Cargo Terminals, Heliports, Helistops, or any other Aeronautical Device
- Detention or Correction Institutions
- Electricity Generating Facilities
- Garbage Dumps, including Sanitary Landfill
- Major Mail Processing Centers
- Major Petroleum and Natural Gas Transmissions Lines and Facilities
- Marine Terminals
- Military Bases or Reservations
- Motion Picture and Television Production Lots
- Radio and Television Towers and Transmission Facilities
- Railroad, Bus, and Transit Terminals
- Railroad Yards and other Transportation Equipment Marshaling and Storage Yards
- Water and Sewage Treatment Plants

3-306.7 **Activity Type - Health Care Facilities**

(a) **Intent and Limitations:**
This grouping is intended to include medical and other health care facilities which are
required for promotion and protection of public health and safety. This grouping is not intended to include the offices, clinics, laboratories, etc., of private physicians or of other health care professionals.

(b) **Use Listing:**
Center for Observation and Rehabilitation
Convalescent Homes
Hospitals
Medical Clinics

3-306.8 **Activity Type - Intermediate Impact Facilities**

(a) **Intent and Limitations:**
This grouping is intended to include activities that have a significant effect upon surrounding land uses due to their traffic generation characteristics, parking requirements, land requirements, or potential nuisances associated with such uses.

(b) **Use Listing:**
Cemeteries, Columbariums, and Mausoleums
Colleges, Junior Colleges, and Universities, but excluding Profit-Making Business Schools
Commercial Boat Docks, Marinas, and Yacht Clubs
Golf Courses
Water Storage Facilities

3-306.9 **Activity Type – Special Institutional Care Facilities** (Added by Ordinance 559, January 5, 1998)

(a) **Intent and Limitations:**
This grouping is intended to include facilities that involve forced residency, full time supervision and/or walk-in care for: (1) individuals legally confined due to violations of law; (2) individuals who are addicted to drugs and/or alcohol; and (3) individuals who are mentally ill, including the criminally dangerous.

(b) **Use Listing:**
Detention and/or Correctional Institutions
Drug and Alcohol Rehabilitation Facilities
Half-Way Houses: (Serving convicted felons or recovering substance abusers)
Institutional Care Facilities: (Including all type of asylums for the psychotic or insane)
Substance Control Centers: (Serving recovering substance abusers)

3-306.10 **Activity Type - Special Personal and Group Care Facilities** (Amended by Renumbering 3-306.09 to 3-306.10, by Ordinance 559, January 5, 1998)

(a) **Intent and Limitations:**
This grouping is intended to include residential facilities for the care of very young and/or disabled persons who have need of special care or supervision. The grouping is not intended to include facilities primarily oriented to the provision of medical care.
or to the long-term care or rehabilitation of medical patients nor is it to include
facilities for delinquent minors, criminally dangerous, or the psychotic.

(b) **Use Listing:**
- Associations for Physically or Mentally Handicapped Persons
- Day-Care Centers
- Family and Group Care Facilities
- Nursing Homes
- Retirement or Rest Homes

3-306.11 **Activity Type - Religious Facilities** (Amended by Renumbering 3-306.10 to 3-306.11, by Ordinance 559, January 5, 1998)

(a) **Intent Limitations:**
This grouping is intended to include facilities utilized by various religious organizations for worship or community service functions. The grouping is not intended to include facilities which primarily function to produce products, including printed matter, for sale or general distribution to groups other than the immediate membership of the organization.

(b) **Use Listings:**
- Chapels
- Churches
- Convents and Monasteries
- Sanctuaries
- Synagogues
- Temples

3-307 **COMMERCIAL ACTIVITIES; CLASS AND TYPES**

3-307.1 **Activity Type - Animal Care and Veterinarian Services**

(a) **Intent and Limitations:**
This grouping is intended to include the activities or facilities utilized by veterinarians in the care of small domestic pets. The grouping is not intended to include facilities or services for treatment of large farm animals. (See Agricultural Services.)

(b) **Use Listings:**
- Veterinary Clinics
- Kennels

3-307.2 **Automotive Parking**

(a) **Intent and Limitations:**
This grouping is intended to include facilities for parking and/or storage of operative automotive vehicles. The grouping is not intended to include the storage of junk or scrap or inoperative vehicles of any type.
(b) **Use Listing:**
  - Auto Parking Lots
  - Parking Garages

### 3-307.3 Automotive Repair and Cleaning

(a) **Intent and Limitations:**
This grouping is intended to include establishments primarily engaged in furnishing auto repair services to the general public.

(b) **Use Listing:**
  - Automobile Body Shops
  - Automobile Glass Repair and Replacement Shops
  - Automobile Inspection and Diagnostic Services
  - Automobile Paint Shop
  - Automobile Towing Services
  - Automobile Cleaning and Repair Services
  - Bus Maintenance and Repair Shops
  - Car Washes
  - Radiator and Muffler Shops
  - Tire Retreading and Repair Shops
  - Wheel Alignment and Transmission Repair Shops

### 3-307.4 Automotive and Other Vehicular, Craft and Related Equipment Sales, Rental and Delivery

(a) **Intent and Limitations:**
This grouping is intended to include retail dealers selling new and used automobiles, boats, aircraft, recreational vehicles, utility trailers, and motorcycles. Repair shops and parts sales facilities are to be included, along with gasoline service stations. The grouping is not intended to include automotive distributors, the greater part of whose sales are to dealers or to institutional or industrial users. (See Wholesale Sales.)

(b) **Use Listing:**
  - Aircraft Dealers
  - Automobile and Home Supply Stores
  - Boat Dealers
  - Farm Equipment and Supply Stores
  - Motor Vehicle Dealers (New and Used)
  - Motorcycle Dealers
  - Recreational and Utility Trailer Dealers
  - Vehicular and Equipment Rental and Leasing Services

### 3-307.5 Automotive Servicing

(a) **Intent and Limitations:**
This grouping is intended to include the sale, from the premises, of goods and the
provision of services which are generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorists needs, including the sale of petroleum products together with sale and servicing of tires, batteries, automotive accessories and replacement items, lubricating services and performance of minor repairs.

(b) **Use Listing:**
- Gasoline Service Stations
- Tire Sales and Installation

### 3-307.6 Business and Communication Service

(a) **Intent and Limitations:**
This grouping is intended to include firms engaged in the provision of services of a clerical, goods brokerage and communications of a minor processing nature.

(b) **Use Listing:**
- Advertising Agencies and Services
- Commercial Cleaning Services
- Commercial Testing Laboratories
- Communications Services:
  - Radio and Television Broadcasting Studios
  - Telegraph Offices and Message Centers
  - Telephone Exchanges and Relay Towers
  - Television and Recording Production Studios
- Computer and Data Processing Services
- Credit Reporting, Adjustment, and Collection Agencies
- Detective Agencies and Protective Services
- Drafting Services
- Employment, Personnel, and Temporary Help Services
- Exterminating Services
- Interior Decorator and Consulting Services
- Mailing, Reproduction, and Commercial Art Services
- Management, Consulting, and Public Relations Services
- Membership Organizations:
  - Automobile Clubs
  - Better Business Bureaus
  - Chamber of Commerce
  - Labor Unions
  - Political Organizations
  - Professional Associations
- News Syndicates
- Photofinishing Services
- Research and Development Laboratories
- Trading Stamp Services
- Travel Agencies
3-307.7 **Construction Sales and Services**

(a) **Intent and Limitations:**
This grouping is intended to include the offices, buildings, and shops of various types of construction contractors and operative builders engaged in the construction of buildings, streets, highways, and utilities as well as incidental on-site storage of equipment and supplies utilized in building operations.

(b) **Use Listing:**
- Carpentering Contractors
- Concrete Contractors
- Excavation Contractors
- General Building Contractors
- Glazing Contractors
- Highway and Street Construction Contractors
- Masonry, Stonework, Tile Setting, and Plastering Contractors
- Painting, Paper Hanging, and Decorating Services
- Plumbing, Heating and Electrical Contractors
- Roofing and Sheet Metal Contractors

3-307.8 **Convenience Retail Sales and Services** (amended by Ordinance No. 12-40, October 15, 2012)

(a) **Intent and Limitations:**
This grouping is intended to include firms engaged in the retail sales, from the premises, of goods and services which are needed immediately and often and which are purchased where it is most convenient for the shopper, as well as the provision of personal convenience services which are typically needed frequently and recurrently.

(b) **Use Listing:**
- Bakeries
- Candy, Nut and Confectionery Stores
- Convenience Markets
- Dairy Products Stores
- Drug Stores
- Fruit Stores
- Hardware Stores
- Laundry, Cleaning and Garment Services
- Liquor Stores
- Meat and Fish Markets
- News Stands
- Personal Care Services
  - Barber Shops
  - Beauty Shops
  - Body Art/Tattoo Parlors
  - Health Spas
  - Hair Removal/Replacement services
Nail Care  
Permanent Makeup salons  
Piercing services  
Professional Massage services  
Saunas/steamrooms  
Sun Tanning salons  
Shoe Repair Shops  
Vegetable Markets

3-307.9 **Financial, Consulting and Administrative Services**

(a) **Intent and Limitations:**
This grouping is intended to include firms engaged in the provision of financial, insurance, and real estate brokerage services, as well as advice, designs, information, or consultations of a professional nature (other than those classified as community facility activities, medical and professional service, or business and communication services). These also include the executive management or administrative activities of private, profit oriented firms but exclude the sale and/or storage of goods or chattel unless otherwise permitted by this ordinance.

(b) **Use Listing:**
Agricultural Credit Institution  
Banking and Bank-Related Functions  
Credit Unions  
Holding and Investment Organizations  
Installment Sales Finance Companies  
Insurance Carriers, Agents, Brokers, and Service  
Money Management and Investment Offices  
Real Estate Brokers, Managers, and Appraisers  
Rediscount and Financing Institutions for Credit  
Savings and Loan Associations  
Securities or Commodities Brokers, Dealers, and Exchanges  
Title Offices

3-307.10 **Food and Beverage Service - General**

(a) **Intent and Limitations:**
This grouping is intended to include retail establishments selling prepared foods and drinks to the general public primarily for consumption on premises. The grouping is not intended to include food preparation facilities which are not open to the general public and are operated as a subordinate service for benefit of employees engaged in other activities.

(b) **Use Listing:**
Cafes  
Cafeterias  
Restaurants  
Tavern
3-307.11 Food Service - Limited

(a) Intent and Limitations:
This grouping is intended to include establishments engaged in the retail sale of prepared food or beverages for either take-out or on premises consumption either within the principal structure or within a vehicle parked on the same lot.

(b) Use Listing:
Drive-In Restaurants
Fast Food Restaurants

3-307.12 General Personal Services

(a) Intent and Limitations:
This grouping is intended to include firms engaged in the provision of informational, instructional and other services, not including financial, consulting and administrative services, group assembly, or transient habitation or services classified as community facilities.

(b) Use Listing:
Clothing Repair and Rental
Photographic Studios
Hat Cleaning Shops
Special Training and Schooling Services:
  Art and Music Schools
  Barber and Beauty Schools
  Dancing Schools
  Driving Schools

3-307.13 General Equipment Maintenance and Repair Services

(a) Intent and Limitations:
This grouping is intended to include establishments primarily engaged in the repair of miscellaneous objects. The grouping does not include automotive repair of any type.

(b) Use Listing:
Blacksmith Shops
Electrical Repair Shops
Gunsmith Shops
Instrument Repair Shops
Lawn Mower Repair Shops
Locksmith Shops
Office Equipment Cleaning and Repair
Refrigeration and Air Conditioning Repair
Reupholstery and Furniture Repair
Saddlery Repair Shops
Watch, Clock and Jewelry Repair
Welding Shops

3-307.14 **General Retail Trade**

(a) **Intent and Limitations:**
This grouping is intended to include the retail sale or rental from the premises, primarily for personal or household use, of goods and/or services; but excluding goods and services listed under the other activity types.

(b) **Use Listing:**
Antique and Second-Hand Merchandise Stores
Automotive Parts (No Exterior Storage)
Book and Stationery Stores
Camera Stores
Children and Infants Stores
Department Stores
Drapery, Curtain, and Upholstery Stores
Family Clothing Stores
Floor Covering Stores
Florists
Furniture Stores
Furriers and Fur Shops
Garden Supply Stores and Retail Nurseries
Gift Shops
Grocery Stores
Hardware Stores
Hobby, Toy, and Game Stores
Household Appliance Stores
Jewelry Stores
Luggage Shops
Men and Boys Clothing and Furnishing Stores
Miscellaneous Apparel and Accessory Stores:
   - Bathing Suit Stores
   - Custom Tailors
   - Shirt Shops
   - Sports Apparel Stores
   - Uniform Stores
Miscellaneous General Merchandise Stores:
   - Direct Selling Organizations
   - Mail Order Houses
Miscellaneous Home Furnishings Stores:
   - Bedding and Linen Stores
   - Cookware Stores
   - Cutlery Stores
   - Glassware and China Shops
   - Lamp and Shade Shops
   - Paint and Wallpaper Stores
Music Stores
News Stands
Proprietary Stores
Radio and Television Stores
Sewing and Piece Goods Stores
Shoe Stores
Sporting Goods Stores
Tobacco Shops
Variety Stores
Women's Accessory and Specialty Stores
Women's Ready-to-Wear Store

3-307.15 Group Assembly - Limited

(a) Intent and Limitations:
This grouping is intended to include establishments engaged in providing amusement or entertainment on payment of a fee or admission charge.

(b) Use Listing:
Art Galleries--Commercial
Bowling Alleys and Billiard Parlors
Coin Operated Amusement Arcades
Commercial Sporting Facilities:
Dance Halls, Studios, and Schools
Exhibition Halls and Commercial Auditoriums
Gardens (Botanical and Zoological)
Golf Courses and Driving Ranges
Marinas, Boat Docks and Boat Rental
Motion Picture Theaters
Recording and Television Production Studios
Riding Stables
Skating Facilities
Swimming Pools and Beaches
Tennis Courts
Theaters--Legitimate
Theatrical Producers, Bands, Orchestras, and Entertainers

3-307.16 Group Assembly - Extensive

(a) Intent and Limitations:
This grouping is intended to include the provision of cultural, entertainment, educational and athletic services, other than those classified as community facilities, to large groups (500 or more) assembled spectators and/or participants.

(b) Use Listing:
Amusement Parks and Fairgrounds
Commercial Camp Grounds
Commercial Resorts
3-307.17 **Professional Services - Medical**

(a) **Intent and Limitations:**
This grouping is intended to include establishments primarily engaged in providing medical, dental, and other health services to individuals. The grouping is limited and does not include the broad ranging services provided at general health care facilities such as hospitals.

(b) **Use Listing:**
- Chiropractors Offices
- Dental Offices and Laboratories
- Medical Laboratories
- Optometrists
- Physicians' Offices and Clinics (Out-Patient Services)
- Psychologist and Psychotherapists

3-307.18 **Professional Services - Other**

(a) **Intent and Limitations:**
This grouping is intended to include a broad listing of generally recognized professions, other than medicine, which are compatible with one another and tend to exert similar impacts upon their surroundings.

(b) **Use Listing:**
- Accounting, Auditing, and Bookkeeping Services
- Artist Studios
- Attorneys and Law Offices
- Consulting Scientists
- Educational and Scientific Research Services
- Engineering and Architectural Services
- Songwriters and Music Arrangers
- Urban Planning Services
- Writers and Lecturers

3-307.19 **Scrap Operations***

(a) **Intent and Limitations:**
This grouping is intended to include firms engaged in the storage and sale, from the premises, of used or waste material or other items except when such activities are incidental to a manufacturing operation or are classified as toxic or hazardous materials.

(b) **Use Listing:**
- Automobile Junk Yard
Salvage Establishments

NOTE: *See Definition of Term.

3-307.20 Transient Habitation

(a) Intent and Limitations:
This grouping is intended to include commercial and institutional establishments engaged in furnishing temporary living accommodations, including lodging and/or meals, on a fee basis. Included within this grouping are all facilities where thirty (30) percent or more of the living units located on the same zone lot and held under the same ownership are being occupied on a less than monthly basis.

(b) Use Listing:
Hotels, Motels
Tourist Homes or Courts
Sporting and Recreational Vehicle Camps

3-307.21 Undertaking Service

(a) Intent and Limitations:
This grouping is intended to include firms engaged in the provision of undertaking and funeral services involving the care and preparation of the human deceased prior to burial.

(b) Use Listing:
Funeral Establishments
Monument Sales
Undertaker

3-307.22 Warehousing, Goods Transport, and Storage

(a) Intent and Limitations:
This grouping is intended to include establishments and facilities associated with the warehousing, storage, and transport of goods.

(b) Use Listing:
Farm Product Storage and Processing
Freight Forwarders
General Warehousing
Household Goods Storage
Local and Long-Distance Trucking Terminals
Packing and Crating Services
Refrigerated Warehousing
Truck Terminals and Freight Handling

3-307.23 Wholesale Sales

(a) Intent and Limitations:
This grouping includes the storage and sale from the premises of goods to other firms for resale, as well as the storage of goods and their transfer to retail outlets; but exclude sale or storage of motor vehicles, except for parts and accessories.

(b) Use Listing:
- Apparel, Piece Goods, and Notions
- Beer, Wine and Distilled Alcoholic Beverages
- Chemicals and Allied Products
- Drugs, Drug Proprietaries, and Sundries
- Electrical Goods and Appliances
- Farm Products Raw Materials
- Farm Supplies
- Furniture and Home Furnishings
- Groceries and Related Products
- Hardware, Plumbing, and Heating Equipment and Supplies
- Lumber and other Construction Materials
- Machinery, Equipment, and Supplies

3-308 MANUFACTURING ACTIVITIES; CLASS AND TYPES

3-308.1 Activity Type - Manufacturing - Limited

(a) Intent and Limitations:
This grouping is intended to include manufacturing operations which involve the compounding, processing, assembling, packaging treatment or fabrication of materials necessary to create the following products:

- Apparel Accessories, Such as Hats, Jewelry, and Umbrellas
- Art Objects
- Bakery Goods
- Beverages (Non-Alcoholic)
- Dairy Products
- Instruments for Scientific, Medical, Dental Engineering, and other Professional Purposes
- Optical Instruments and Lens
- Printed Matter
- Signs

(b) Use Listing:
In addition to the manufacturing of the above products the following activities and operations are held to be limited manufacturing activity:

- Book Binding
- Data Processing Service
- Photocopying
- Photoengraving
- Precision Machining of Dies, Jigs, and Fixtures
Printing
Publishing
Record Pressing
Upholstering

3-308.2 Activity Type - Manufacturing - Intermediate

(a) Intent and Limitations:
This grouping is intended to include a broad range of manufacturing operations. The grouping does not include the manufacture, compounding, assembling, packaging treatment or fabrication of the following:

Cotton Seed Oil
Explosives
Fireworks
Organic Fertilizers

(b) Use Listing:
Subject to the general intent and limitations set out above for this use grouping manufacturing activities and operations (excepting the following) shall be considered intermediate manufacturing.

Abrasive, Asbestos, and Non-Metallic Mineral Processing*
Arsenals
Asphaltic Cement Plants
Atomic Reactors
Automobile Wrecking Yards
Cement and/or Concrete Plants
Chemical Manufacturing in Excess of one (1) ton per day
Cotton Ginning*
Fat Rendering Foundries Grain Milling
Hazardous or Toxic Waste Handling or Treatment
Junk Yards
Offal Processing

NOTE: *These activities may be considered as intermediate manufacturing activities if the use activity is conducted in completely enclosed structures.

3-308.3 Activity Type - Manufacturing - Extensive

(a) Intent and Limitations:
This grouping is intended to include all intermediate manufacturing activities (described above) and the exceptions made for that grouping, excepting uses listed below.

(b) Use Listings:
The following activities are held to not fall within the general definition of extensive
manufacturing activities. **

Arsenals
Atomic Reactors
Explosives Manufacturing and Storage
Fireworks Manufacturing
Hazardous or toxic Waste Handling or Treatment

**The definition of Extensive Manufacturing Activities may be expanded to include the preceding exceptions upon the consideration of a specific proposed use by the City Council in accordance with Section 11-612.

3-309 AGRICULTURAL AND EXTRACTIVE ACTIVITIES; CLASS AND TYPES

3-901.1 Activity Type - Agricultural Services

(a) Intent and Limitations:
This grouping is intended to include a variety of service functions which are directly linked to the agricultural activities which these functions support.

(b) Use Listing:
Crop Drying, Storage, and Processing Services
Crop Planting, Cultivating, and Protection Services
Horticultural Services
Soil Preparation Services
Veterinary Services for Livestock

3-309.2 Activity Type - Crop and Animal Raising

(a) Intent and Limitations:
This grouping is intended to include the raising of tree, vine, field, forage, and other plant crops intended to provide food or fiber, as well as keeping, grazing, or feeding animals for animal products, animal increase, or value increase, but specifically excluding commercial feed lots and facilities for the processing, packaging, or treatment of agricultural products.

3-309.3 Activity Type-Egg Production Houses, Feedlots and Stockyards (Deleted and Replaced by Ordinance 545, September 16, 1997)

(a) Intent and Limitations
This grouping is intended to include facilities and operations involved in the storage and feeding (other than pasture grazing) of animals for resale or slaughter.

(b) Use Listing
Egg Production House*
Feedlot*
Stockyard
NOTE: See definition Article III, Chapter 2, “Definition of Terms.”
3-309.4 Activity Type - Mining and Quarrying

(a) **Intent and Limitations:**
This grouping is intended to include operations and facilities either utilized by, or in support of the extraction of minerals, ores, petroleum, and natural gas or in the quarrying and collection of stone, sand, and gravel, clay, and other non-metallic minerals (such as phosphate rock).

(b) **Use Listing:**
- Chemical Fertilizer and Non-metallic Mineral Mining
- Clay, Ceramic, and Refractory Minerals, and Non-Metallic
- Coal Mining
- Crude Petroleum and Natural Gas Production and Field
- Metal Ore and Mineral Mining
- Sand and Gravel Quarrying
- Stone Quarrying

3-309.5 Activity Type - Plant and Forest Nurseries

(a) **Intent and Limitations:**
This grouping is intended to include the cultivation for sale of horticultural specialties, such as flowers, shrubs, and trees, intended for ornamental, landscaping, or tree planting purposes.

(b) **Use Listing:**
- Forest Nursery
- Plant Nursery

3-310 ACTIVITY TYPE – ADULT ORIENTED BUSINESS (Added by Ordinance 549, October 6, 1997)

(a) **Intent and Limitations**
This grouping includes but is not limited to establishments whose principal activity is to provide sexually explicit adult oriented entertainment or material to the general public.

(b) **Use Listing**
- Adult Oriented Bookstores
- Adult Oriented Video Stores
- Adult Oriented Entertainment
ARTICLE IV: SUPPLEMENTARY DISTRICT REGULATIONS

CHAPTER 1. ACCESSORY OFF-STREET PARKING AND LOADING REQUIREMENTS

4-101 GENERAL PURPOSES, APPLICABILITY, AND GENERAL PROVISIONS

4-101.1 General Purposes
The following regulations on accessory off-street parking spaces are adopted in order to provide needed spaces off the streets for parking in connection with all activities which may be located in the planning jurisdiction to reduce traffic congestion resulting from use of the streets as places of storage for automobiles, to protect the character of neighborhoods, to provide for a higher standard of development within the area and thus promote and protect the public health, safety, and general welfare.

4-101.2 Applicability
The provisions of this chapter apply to all permitted activities as set forth in the various articles of this ordinance.

4-101.3 General Provisions
In all districts, accessory off-street parking shall be provided in conformity with the requirements set forth in this section for all uses permitted by right or as a conditional use. In addition, all other applicable requirements of this article shall apply as a condition precedent to the use of such development. A parking space is required for a portion of a unit of measure one-half (1/2) or more of the amount set forth herein. For an enlargement or modification resulting in a net increase in the floor area or other applicable unit of measurement specified herein, the same requirements shall apply to such net increase in the floor area or other specified unit of measurement. In the case of uses where the Board of Appeals is required to prescribe the number of parking spaces, the Board shall base its determination on recommendations from the Planning Commission and such other factors as the traffic generation of the facilities, the time of operation of such facilities, their location, and other such factors as affect the need for off-street parking as required under the conditional use provisions.

Operation of such facilities, their location and, other such factors as affect the need for off-street parking as required under the conditional use provisions.

4-102 REDUCTION OF REQUIREMENT FOR ACCESSORY OFF-STREET PARKING FOR SPECIAL RESIDENTIAL USES
In all districts the Board of Appeals may, by conditional use permit, reduce the number of required accessory off-street parking spaces when the following conditions are certified to the Board:

(A) That federal funds are used to supplement rent or income of the occupants;

(B) That public and other services are reasonably accessible and within easy walking distance; and
(C) Occupancy is to be primarily by elderly persons sixty (60) years of age or over. However, in no case shall the number of spaces be reduced below one space per two dwelling units; nor shall the number of spaces be reduced merely to accommodate additional dwelling units.

4-103 ACCESSORY OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL ACTIVITIES

In all districts, accessory off-street parking shall be provided for residential activities as follows:

(A) Permanent Residential
   One space per dwelling unit, except in multi-family developments, one and one-half (1 1/2) spaces for each dwelling unit.

(B) Mobile Home
   One (1) space per mobile home.

(C) Semi-Transient Residential
   One (1) space per dwelling or rooming unit.

4-104 ACCESSORY OFF-STREET PARKING REQUIREMENTS FOR COMMUNITY FACILITY ACTIVITIES

Accessory off-street parking shall be provided for the specified number of square feet of gross floor area or seating capacity or other specified unit of measurement (or fraction of one-half (1/2) or more thereof) for the following specified uses within the activity types indicated:

<table>
<thead>
<tr>
<th>ACTIVITY TYPES</th>
<th>UNIT OF MEASUREMENT AND/OR REQUIREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Administrative Services</td>
<td>One (1) space for each four hundred (400) square feet of gross floor space.</td>
</tr>
<tr>
<td>All uses</td>
<td>(See Note-1)</td>
</tr>
<tr>
<td>2. Community Assembly</td>
<td>Two (2) spaces per classroom or one (1) space for each six high schools (6) seats in an auditorium.</td>
</tr>
<tr>
<td>All uses</td>
<td>Four (4) spaces per classroom or one (1) space for each six (6) seats in an auditorium, arena, or stadium; whichever requires the greater number of spaces.</td>
</tr>
<tr>
<td>3. Educational Facilities</td>
<td>For (a) through (c) one (1) space for each five hundred (500) square feet of gross floor area.</td>
</tr>
<tr>
<td>a. Kindergartens, Elementary and Jr. High Schools</td>
<td></td>
</tr>
<tr>
<td>b. High schools – (Grades 10-12)</td>
<td></td>
</tr>
<tr>
<td>4. Cultural and Recreational Services</td>
<td></td>
</tr>
<tr>
<td>a. Art Galleries (Non-Commercial)</td>
<td></td>
</tr>
</tbody>
</table>
b. Athletic Associations
c. Libraries
d. Museums
e. Planetariums and Aquariums
f. All other uses (See Note-1)

5. Essential Public Transport, Communications and Utility Services
   All uses (See Note-1)

6. Extensive Impact Facilities
   All uses (See Note-1)

7. Health Care Facilities
   All uses
   One (1) space for each one thousand (1,000) square feet of gross floor area, plus one (1) space for each four (4) beds.

8. Intermediate Impact Facilities
   All uses (See Note-1)

9. Special Personal and Group Care Facilities
   a. Nursing Homes, Retirement and Rest Homes
      Minimum of four (4) spaces plus one (1) space for each four (4) beds.
   b. Day Care Centers (See Note-1)
   c. All other uses
      One (1) space for each three (3) seats in the sanctuary of the facility.

10. Religious Facilities
    All uses
    One (1) space for each three (3) seats in the sanctuary of the facility.

NOTE-1: The number of accessory off-street parking spaces shall be determined under the conditional use provisions of this ordinance, as a condition precedent to the use of such activity.
4-105 ACCESSORY OFF-STREET PARKING REQUIREMENTS FOR COMMERCIAL ACTIVITIES

4-105.1 Uses Located on Freestanding Sites
One accessory off-street space shall be provided for the specified number of square feet of gross floor area (or fraction of one-half (1/2) or more thereof) for the following activity types when such activity is located on a freestanding site.

<table>
<thead>
<tr>
<th>ACTIVITY TYPES</th>
<th>GROSS FLOOR AREA (Square Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Animal Care &amp; Veterinarian Services</td>
<td>300</td>
</tr>
<tr>
<td>2. Automotive &amp; other Vehicular, Craft and Related Equipment Sales, Rental and Delivery</td>
<td>500</td>
</tr>
<tr>
<td>3. Automotive Repair and Cleaning</td>
<td>200</td>
</tr>
<tr>
<td>4. Automotive Servicing</td>
<td>200</td>
</tr>
<tr>
<td>5. Building Materials and Farm Equipment Sales</td>
<td>1,000</td>
</tr>
<tr>
<td>6. Business and Communications Service</td>
<td>400</td>
</tr>
<tr>
<td>7. Construction Sales and Services</td>
<td>500</td>
</tr>
<tr>
<td>8. Convenience Retail Sales and Services</td>
<td>150</td>
</tr>
<tr>
<td>9. Financial, Consulting and Administrative Services</td>
<td>400</td>
</tr>
<tr>
<td>10. Food and Beverage Service - General</td>
<td>150</td>
</tr>
<tr>
<td>11. Food Service - Limited</td>
<td>100</td>
</tr>
<tr>
<td>12. General Equipment Maintenance and Repair Services</td>
<td>500</td>
</tr>
<tr>
<td>13. General Personal Service:</td>
<td>300</td>
</tr>
<tr>
<td>Undertaking</td>
<td></td>
</tr>
<tr>
<td>One (1) space per one hundred (100) square feet of gross floor area, or where a chapel is provided one (1) space for each four (4) permanent seats plus one (1) space for every twenty-five (25) square feet of floor area where temporary seats are used whichever requires the greater number of spaces.</td>
<td></td>
</tr>
<tr>
<td>14. General Retail Trade</td>
<td>400</td>
</tr>
</tbody>
</table>
15. Group Assembly - Extensive

One (1) space per four (4) permanent seats plus one (1) space for every twenty-five (25) square feet of floor area where temporary seats are used.

16. Group Assembly - Limited:
   a. Art Galleries (Commercial)
   b. Motion Picture Theaters
   c. Theaters (Legitimate)
   d. Bowling Alleys and Billiard Parlors
   e. Coin Operated Amusement
   f. Commercial Sporting Facilities
   g. Dance Halls, Studios and Schools
   h. Exhibition Halls and Commercial Auditoriums
   i. Gardens (Botanical and Zoological)
   j. Marinas, Boat Docks and Boat Rental
   k. Recording & Motion Picture Production Studios
   l. Theatrical Producers, Band Orchestras and Entertainers

For (b) and (c) one (1) space per four (4) permanent seats plus one (1) for every twenty-five (25) square feet of area where temporary seats are used.

(For (d) through (i), See Note-l)

17. Professional Services - Medical

150

18. Professional Services – Other

400

19. Scrap Operations

(See Note-l)

20. Transient Habitation

One (1) space for each unit in a building serving transient guests, except that the board of appeals may permit a lesser number of spaces where it is adequately shown that most of the guests do not use private automobiles for or during their stay, but in no case shall there
be less than one (1) space for each two (2) units within the building serving transient guests.

21. Warehousing, Goods Transport

One (1) space per and storage two thousand (2,000) square feet of gross floor area plus one (1) space per five thousand (5,000) square feet of open storage area.

22. Wholesale Sales

1,000

NOTE-1: The number of accessory off-street parking spaces shall be determined under the conditional use provisions of this ordinance, as a condition precedent to the use of such activity.

4-105.2 Uses Located Within Commercial Complexes

Where two (2) or more commercial activities (including retail, wholesale or service activities) are grouped together such that they share a building, or a common site five and one-half (5 1/2) parking spaces shall be required for each one thousand (1,000) square feet of gross leasable building area.

4-106 ACCESSORY OFF-STREET PARKING REQUIREMENTS FOR MANUFACTURING ACTIVITIES

For all manufacturing activities, one (1) accessory off-street parking space shall be provided for each one thousand-five hundred (1,500) square feet of gross floor area or one (1) space for each three (3) employees during a single or two (2) successive shifts whichever requires the greater number of spaces.

4-107 ACCESSORY OFF-STREET PARKING REQUIREMENT FOR AGRICULTURAL AND EXTRACTIVE ACTIVITIES

Accessory off-street parking spaces shall only be required for those agricultural and extractive activities noted below. Unless a specific requirement is indicated, none exists.

<table>
<thead>
<tr>
<th>ACTIVITY TYPES</th>
<th>REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Plant Nursery</td>
<td>Five (5) spaces plus one (1) additional space for each five (5) acres devoted to such use.</td>
</tr>
<tr>
<td>2. Stockyards</td>
<td>(See Note-1)</td>
</tr>
<tr>
<td>3. Veterinary Services</td>
<td>(See Note-1)</td>
</tr>
<tr>
<td>4. Forest Nurseries</td>
<td>(See Note-1)</td>
</tr>
<tr>
<td>5. Mining and Quarrying Activities</td>
<td>(See Note-1)</td>
</tr>
</tbody>
</table>

NOTE-1: The number of accessory off-street parking spaces shall be determined under the conditional use provisions of this ordinance, as a condition precedent to the use of such activity.
4-108 OFF-SITE PARKING REQUIREMENTS
Off-site parking space accessory to any permitted use may be located on a zone lot other than the same zone lot as such use to which the spaces are accessory, provided that:

(A) Such spaces are not located within a residential or agricultural district;

(B) There is no way to arrange such spaces on the same zone lot as such use;

(C) Such spaces are located to draw a minimum of vehicular traffic to and through streets having predominantly residential frontage;

(D) Such spaces are located with the nearest point of such lot no further than two hundred (200) feet from the nearest boundary of the zone lot to which they are accessory;

(E) Such spaces are in the same ownership as the use to which they are accessory and/or necessary instruments are executed to ensure the required number of spaces will remain available throughout the life of such use; and

(F) Such spaces conform to all applicable district regulations of the district in which they are located.

4-109 OFF-STREET PARKING LOT DESIGN STANDARDS

4-109.1 Design Objectives
Parking areas shall be designed with careful regard given to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design. For reasons of use and appearance, it is desirable that parking areas be level or on terraces formed with the slope of the land. Changes in level between such terraces should be formed by retaining walls or landscaped banks. Efforts shall be made to assure that a parking area does not dominate a site or building. Such efforts may include depressing the level of the parking area, construction of earth berms, dividing large lots into smaller sub-lots, and other similar techniques.

4-109.2 Submission of Site Plan
Any application for a building permit, or for a use and occupancy permit where no building permit is necessary, that requires five (5) or more accessory off-street parking spaces to be provided on a zone lot, shall be accompanied by a site plan drawn to scale and fully dimensioned. Said plan shall show the location design and layout of such parking facilities and shall be approved by the Planning Commission. A site plan drawn to meet the requirements of Subsection 13-202.202, will comply. There shall be included either as a part of the parking area site plan or as a separate plan a landscaping plan for the parking area. Such landscape plan shall show any trees, shrubs, flowers, or ground covers together with retaining walls or screens, walkways, and traffic barriers.

4-109.3 Access Control
In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply.
(See Illustration 4-109.3A.)

**ILLUSTRATION 4-109.3A: Driveway Construction**

- **Property Line**
- **Corner Lot**
- **Interior Lot**
- **GAS STATION**
- **Front Yard**
- **R.O.W.**
- **Non-Residential Building**

> **DRIVEWAY CONSTRUCTION**

† **No Maximum**

‡ Also applies to trucking terminals and other commercial and industrial uses customarily having a large volume of tractor-trailer vehicular traffic.

* 40' minimum on state highways (at least as wide as adjacent driveway)

** 35' minimum on state highways (at least as wide as adjacent driveway)
(a) Maximum width of driveway opening at the property line.
   (1) Residential Uses: Twenty-five (25) feet.
   (2) Gasoline Service Stations, Freight and Trucking Terminals, or Other Commercial and Industrial Uses Customarily Having a Large Volume of Tractor-Trailer Vehicle Traffic: Forty (40) feet.
   (3) All Other Nonresidential Uses: Thirty-five (35) feet.

(b) Minimum distance from an adjoining interior lot line and a driveway opening - at the street right-of-way line:
   (1) Residential Uses: Five (5) feet.
   (2) Nonresidential Uses Twelve and one-half (12 1/2) feet.

(c) Minimum distance from the intersection of the street right-of-way lines on a corner lot and a driveway opening - at the right-of-way line:
   (1) Residential Uses: Twenty-five (25) feet.
   (2) Nonresidential Uses Twenty-five (25) feet.

(d) Minimum distance between two (2) driveways serving the same property and which provide access to the same street - measured at property line:
   (1) Residential Uses: Twenty-five (25) feet.
   (2) Nonresidential Uses Twenty-five (25) feet.
   (3) All Uses on a State Highway: Twenty-five (25) feet or the same as the widest driveway, whichever is greater.

(e) Radius of Curb Return. The curb return radius shall meet the following requirements; provided, however, that no such radius shall exceed the distance between the driveway opening at the property line and the adjoining property line or one-half (1/2) the distance to an adjacent driveway.

(f) Drainage. All driveways shall be constructed with proper drain pipes sized for the amount of water each should carry. Such pipes may be of concrete or metal, and headwalls and endwalls shall be constructed.

4-109.4 Dimensions of Parking Stalls and Maneuvering Spaces
Except as provided herein and by Subsection 4-109.5, the minimum dimensions of parking stalls and maneuvering spaces shall be as shown on Illustration 4-109.4A. Where a total of fifty (50) or more spaces are required downsizing not exceeding thirty (30) percent of the spaces, permitting a space reduction to eight (8) by sixteen (16) feet, may be allowed.
**ILLUSTRATION 4-109.4A: Parking Lot Design Details**

4-109.5 Special Provisions for Handicapped Parking
The following provisions shall apply to all uses and structures for which handicapped parking spaces are required by the provisions of Title 68, Chapter 18, Part 2, Tennessee Code Annotated.
4-109.501 **Number of Spaces Required**
A minimum of one (1) parking space for the handicapped shall be provided for the first fifty (50) regular parking spaces and one (1) additional handicapped space per each additional fifty (50) regular spaces.

4-109.502 **Dimensions and Location of Spaces**
Handicapped parking spaces shall be a minimum of twelve (12) feet six (6) inches wide and shall be located as near as possible to the main public entrances of a single building or centrally located in parking lots that serve more than one (1) building. (See Illustration 4-109.5A).

4-109.503 **Signage**
All handicapped parking spaces shall be clearly marked by signs (see Illustration 4-109.5A) which specify their intended use by handicapped persons.

*ILLUSTRATION 4-109.5A: Design Details for Handicapped Parking Spaces*
ILLUSTRATION 4-109.5A: Design Details for Handicapped Parking Spaces

(WHITE BACKGROUND, BLACK LETTERS)

(1 1/2"

IMPROPERLY PARKED VEHICLES MAY BE TOWED AND DRIVER FINED $100.00

OWNER/LESSEE/AGENT

PHONE NUMBER

←←←← 12” → → →

This sign is to be mounted just below the Handicap Parking Sign, at each Handicap Location.

The owner, lessee, or agent’s name is to be added in 1” high letters, as is the phone number to call for towed cars.

City of Portland
Codes & Engineering Departments

By: ________________________________

Date: 21 October 1997

Page 53 of 281
4-109.6 **Surfacing** (Amended by Ordinance 09-21, July 6, 2009)
All areas allowing vehicular traffic with off-street parking areas containing five (5) spaces or more shall be surfaced with asphalt or concrete and constructed to provide for adequate drainage for both on and off-site. In no case shall drainage be allowed to cross sidewalks.

4-109.7 **Lighting**
Any lighting used to illuminate off-street parking areas shall be directed away from property in any residential district in such a way as not to create a nuisance, and such lighting shall not exceed one-half (1/2) foot candle at or above any residential district boundary or commercial district boundary where residences are located and permitted.

4-109.8 **Border Barriers**
An off-street parking area containing five (5) or more parking spaces shall be provided with a rail, curb, fence, wall, earth berm, or other continuous barrier of a height sufficient to retain all cars completely within the property together with appropriate landscaping except at exits or access driveways.

4-109.9 **Landscaping within Parking Areas**
For the first twenty thousand (20,000) square feet of contiguous paved parking area, a permanently maintained landscaped area of a minimum of one thousand-five hundred (1,500) square feet shall be provided as a permanently maintained landscaped area. For all area above twenty thousand (20,000) square feet, seven and one-half (7 1/2) percent of the contiguous paved area shall be maintained in landscaped area.

4-109.10 **Large Parking Areas**
When off-street parking areas contain fifty (50) or more parking spaces, the Planning Commission may require the area to be subdivided into sub-lots containing not more than fifty (50) parking spaces separated by landscaped strips, landscaped works, or similar techniques.

4-109.11 **Parking Setbacks and Buffer Strips**
(a) Where the parking lot abuts side lot lines of a residential district and parking is permitted within the side yard, there shall be established a setback line ten (10) feet from such side lot lines.

(b) Where the parking lot is contiguous to a residential district which has common frontage in the same block with the parking lot, there shall be established a setback line twenty-five (25) feet from the street lot line.

(c) Where the parking lot abuts rear property lines of a residential district, there shall be established a setback line five (5) feet from the rear lot line.

(d) Where parking is to be provided in the front yard of a multi-family dwelling, there shall be established a setback line ten (10) feet from the street lot line. The land between the setback line and the lot line in a parking lot is for the purpose of this ordinance called a buffer strip. The ground in the buffer strip shall be prepared and shall be planted with trees, shrubs, and grass.
4-110 OFF-STREET LOADING REGULATIONS

The following regulations on permitted or required accessory off-street loading berths are adopted in order to provide needed space off public streets for loading and unloading activities, to help relieve traffic congestion in commercial areas, and thus to promote and protect public health, safety, and general welfare.

4-110.1 Applicability

Except as otherwise provided in this ordinance, the provisions of this chapter on accessory off-street loading regulations shall apply to residential activities, community facility activities, commercial activities, industrial activities, and agricultural and extractive activities permitted by right or as a conditional use under the applicable provisions of this ordinance.

4-110.2 Accessory Off-Street Loading Berths

In all districts, accessory off-street loading berths shall be provided in conformity with the requirements set forth in the table in this section for all new development after the effective date of this ordinance for the uses listed in the table, as a condition precedent to the use of such development. After the effective date of this ordinance, if the use of any building or other structure is enlarged or modified to increase the floor area the requirements set forth herein shall apply to the increased floor area of the enlarged or modified portion of such building or other structure.

Required Off-Street Loading Berths for New Construction, Enlargements or Modifications:

<table>
<thead>
<tr>
<th>TYPE OF USE</th>
<th>FOR FLOOR AREA (In square feet)</th>
<th>BERTHS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residential Multi-Family</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 20,000</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>20,000 to 100,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>100,001 to 300,000</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>(b) Community Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Community Assembly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 20,000</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>20,000 to 100,000</td>
<td>1</td>
<td></td>
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<tr>
<td>100,001 to 300,000</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2. Educational Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 20,000</td>
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<td></td>
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<tr>
<td>100,001 to 300,000</td>
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</tr>
<tr>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>3. Cultural and Recreational Services</td>
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</tr>
<tr>
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<td>None</td>
<td></td>
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<tr>
<td>20,000 to 100,000</td>
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<td></td>
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<tr>
<td>100,001 to 300,000</td>
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<td></td>
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<tr>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
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</tr>
</tbody>
</table>
4. Health Care

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue Range</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Health Care</td>
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<tr>
<td></td>
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<td></td>
<td>100,001 to 300,000</td>
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</table>

5. Special Personal and Group Care Facilities

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue Range</th>
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<tr>
<td>Group Care Facilities</td>
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<td></td>
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<td></td>
<td>100,001 to 300,000</td>
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</tr>
<tr>
<td></td>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
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</table>

(c) Commercial

1. Convenience Retail Sales and Service

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue Range</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Convenience Retail Sales and Service</td>
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<tr>
<td></td>
<td>10,000 to 25,000</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>25,001 to 40,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>40,001 to 60,000</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>60,001 to 100,000</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Each additional 150,000 or fraction of one-half or more thereof</td>
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</table>

2. Transient Habitation

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<th>Revenue Range</th>
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<tr>
<td>Transient Habitation</td>
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<tr>
<td></td>
<td>100,001 to 300,000</td>
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<tr>
<td></td>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
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</table>

3. Food and Beverage Services – General

<table>
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<tr>
<th>Category</th>
<th>Revenue Range</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food and Beverage Services – General</td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>25,001 to 40,000</td>
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<td></td>
<td>60,001 to 100,000</td>
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</tr>
<tr>
<td></td>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
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4. Professional Services – Medical

<table>
<thead>
<tr>
<th>Category</th>
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<tbody>
<tr>
<td>Professional Services – Medical</td>
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<td></td>
<td>100,001 to 300,000</td>
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<tr>
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<td>Each additional 300,000 or fraction of one-half or more thereof</td>
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5. General Personal Services; Financial, Consulting and Administrative; or Professional Services – Other

<table>
<thead>
<tr>
<th>Category</th>
<th>Revenue Range</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Personal Services; Financial, Consulting and Administrative; or Professional Services – Other</td>
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<td>None</td>
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<td></td>
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<td></td>
<td>100,001 to 300,000</td>
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</tr>
<tr>
<td></td>
<td>Each additional 300,000 or fraction of one-half or more thereof</td>
<td>1</td>
</tr>
<tr>
<td>Business and Communication Service, or Sales and Construction Services</td>
<td>Less than 10,000</td>
<td>None</td>
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<td>Each additional 150,000 or fraction of one-half or more thereof</td>
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<table>
<thead>
<tr>
<th>Wholesale Sales</th>
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<tbody>
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<tr>
<td>25,001 to 40,000</td>
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<td>40,001 to 60,000</td>
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<tr>
<td>60,001 to 100,000</td>
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<td></td>
</tr>
<tr>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Automotive Repair and Cleaning; Food Service – Limited; Automotive Servicing</th>
<th>Less than 10,000</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000 to 25,000</td>
<td>1</td>
<td></td>
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<tr>
<td>25,001 to 40,000</td>
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<td></td>
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<tr>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
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<table>
<thead>
<tr>
<th>General Retail Trade; Group Assembly – Limited; Group Assembly – Extensive; General Equipment and Repair Services</th>
<th>Less than 10,000</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000 to 25,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>25,001 to 40,000</td>
<td>2</td>
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<td>40,001 to 60,000</td>
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<tr>
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</table>

<table>
<thead>
<tr>
<th>Animal Care and Veterinarian Services; Undertaking Services</th>
<th>Less than 10,000</th>
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</thead>
<tbody>
<tr>
<td>10,000 to 25,000</td>
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<td>25,001 to 40,000</td>
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</table>

<table>
<thead>
<tr>
<th>Warehousing, Transportation and Storage</th>
<th>Less than 2,000</th>
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<tbody>
<tr>
<td>2,001 to 10,000</td>
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<tr>
<td>10,001 to 25,000</td>
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<tr>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
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</table>
12. Automotive and Other Vehicular, Craft, and Related Equipment Sales Rental and Delivery

<table>
<thead>
<tr>
<th>Weight Range</th>
<th>Berths Required</th>
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</thead>
<tbody>
<tr>
<td>Less than 10,000</td>
<td>None</td>
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<td>10,001 to 25,000</td>
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<tr>
<td>25,001 to 40,000</td>
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<td>60,001 to 100,000</td>
<td>4</td>
</tr>
<tr>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
<td>1</td>
</tr>
</tbody>
</table>

(d) Manufacturing

1. All Manufacturing Activities

<table>
<thead>
<tr>
<th>Weight Range</th>
<th>Berths Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 5,000</td>
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<td>5,001 to 20,000</td>
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<tr>
<td>20,001 to 40,000</td>
<td>2</td>
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<tr>
<td>40,001 to 60,000</td>
<td>3</td>
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<tr>
<td>60,001 to 100,000</td>
<td>4</td>
</tr>
<tr>
<td>Each additional 80,000 or fraction of one-half or more thereof</td>
<td>1</td>
</tr>
</tbody>
</table>

4-110.3 Accessory Off-Street Loading Berths Under Conditional Use Requirements

The number of accessory off-street loading spaces shall be prescribed by the Board of Appeals as part of the conditional use requirements of this ordinance. Such requirements shall be based upon a report from the Zoning Administrator which considers traffic generation, amount and frequency of loading and unloading operations, the time of operation, and such other factors as affect the need for off-street loading for the activity types indicated as follows:

(a) Community Facility Activities
   (1) Administrative Services
   (2) Essential public transport, communication and utility services
   (3) Extensive impact facilities
   (4) Intermediate impact facilities
   (5) Religious facilities

(b) Commercial Activities:
   (1) Scrap operation

(c) Agricultural and Extractive Activities:
   (1) Plant nursery
   (2) Mining and quarrying

4-110.4 Special Provisions for Multiple Uses Located on a Single Zone Lot

When any building or zone lot contains two (2) or more uses having different requirements for loading berths as set forth above, and if:

(a) The floor area of each separate use is less than the minimum floor area for which berths are required, and

(b) The total floor area of all the uses for which berths are required is equal to or greater than that required for any of the uses individually, off-street loading berths shall be
provided as if the total floor area of the uses for which berths are required were used for that use for which the most loading berths are required.

4-110.5 Size of Required Berths
Off-street loading berths shall have a minimum dimension of:

- **Length**: fifty-five (55) feet;
- **Width**: twelve (12) feet; and
- **Vertical Clearance**: fifteen (15) feet.

These dimensions of off-street berths shall not include driveways or entrances to, or exits from, such off-street berths.

4-110.6 Surfacing
All permitted or required open off-street loading berths shall be surfaced with asphalt, concrete, or other hard surfaced material, and constructed so as to provide for adequate drainage and prevent the release of dust.

4-111 LANDSCAPE PROVISIONS (Added by Ordinance 12-50, November 5, 2012)
The provision of trees, shrubs, and vegetation contributes to a desirable quality of life for residents and visitors by producing an aesthetically pleasant and healthy environment. The following requirements shall be considered as the minimum standards for the protection of natural plant communities and features and for the planning and continued maintenance of installed landscaping within the City of Portland. It is the intent of this section of the Ordinance to provide minimum landscape requirements for all zoning districts to minimize the impact between land uses and between specific zones, whether residential, commercial or industrial.

4-111.1 Definitions

**Buffer Yard**: A landscaped area provided to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another.

**Landscaped Area**: That area within the boundaries of a given lot consisting primarily of plant material, including, but not limited to, grass, trees, shrubs, flowers, vines, ground cover, and other organic plant materials. In organic materials, such as brick, stone, or aggregate, may be used within landscaped areas, provided that such material comprises no more than thirty-five (35) percent of the area of the required landscaped area. Flat concrete or asphalt areas, other than public walkways or bikeways, shall not be used within a required landscaped area.

4-111.2 Minimum Requirements
No matter the zoning classification, these minimum requirements shall be met by the developer/owner of the property to which these regulations are applicable.

a. All plant material shall meet the minimum standard of the American Standards for Nursery Stock.

b. Each continuous new roadway shall incorporate the same type of canopy trees.
c. All flowering trees shall have a minimum size of 1 ½” calipers or 6’ tall for any type of evergreen trees. Large shade trees shall be of 40’ mature height species and no less than 2” caliper.

d. No more than twenty-five (25) percent of all plantings in the buffer yard (trees or shrubs) shall be any one species.

e. All screen plants and trees shall be placed in a double-staggered row, six (6) feet off center unless otherwise specified by the Commission.

f. Unless otherwise specified, all Public Utility and Drainage Easements (P.U.D.E) and Rights-of-Ways (R.O.W.) shall be not be used for any buffer yard or landscaped areas except for grass or natural vegetation.

g. Foundation plants should be a minimum of 24” in height and width.

h. Foreground plants can be a minimum of a one-gallon container and groundcovers used in mass planting can be a minimum of 4” pots.

i. All trees and shrubs shall be hardy to the area and properly taken care of.

4-111.3 Prohibited Material for New Planting
The following is a list of prohibited material to be used in new plantings due to probability of plant diseases and likelihood of devastation during high winds which could cause damage to surrounding plant life and other structures.

<table>
<thead>
<tr>
<th>BOTANICAL NAME</th>
<th>COMMON NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acer saccharinum</td>
<td>Silver Maple</td>
</tr>
<tr>
<td>Albizia julibrissin</td>
<td>Mimosa</td>
</tr>
<tr>
<td>Celtis laevigata</td>
<td>Hackberry</td>
</tr>
<tr>
<td>Celtis occidentalis</td>
<td>Hackberry</td>
</tr>
<tr>
<td>Maclura pomifera</td>
<td>Osage Orange</td>
</tr>
<tr>
<td>Malus species</td>
<td>Crabapple (fruit-producing)</td>
</tr>
<tr>
<td>Paulownia tomentosa</td>
<td>Royal Paulownia</td>
</tr>
<tr>
<td>Prunus cerasifera ‘Atropurpurea’</td>
<td>Purple Leaf Plum</td>
</tr>
<tr>
<td>Pyrus calleryana</td>
<td>‘Bradford’ Bradford Pear</td>
</tr>
<tr>
<td>Any ornamental grasses and bamboo which produce rhizomes</td>
<td></td>
</tr>
<tr>
<td>White Pines shall be used only in areas pre-approved</td>
<td></td>
</tr>
</tbody>
</table>

4-111.4 Approved Material for New Planting
Please refer to the Approved Street Tree Species list for new planting material.

4-111.5 Requirements for Landscaping Plans, Plan Review, and Installation
The plan must be drawn on the same base map as the development plans and must identify the following:

a. Location and size of landscape yards, landscape strips within parking areas, screening areas and buffer yards.
b. Plant schedule containing the following:
   1. Quantity of each plant material
   2. Common and botanical names of plant material
   3. Size and spacing of all proposed landscape material at time of planting

c. Planting standards to ensure conformance with landscape industry standards.

d. Existing landscaping material on site.

e. Indicate existing plant materials and areas to be left undisturbed.

f. Methods and details for protecting existing plants.

g. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, fountains, street furniture, lights, or other similar items

h. Location of existing and proposed buildings

i. Parking layout and traffic patterns

j. Location of all overhead and underground utilities

k. Irrigation plan or water source to establish plants

l. All designs presented to the Planning Commission and Council are to be drawn and prepared by a landscape architect and/or landscape designer. A landscape designer shall entail any of the following:
   1. A bachelor of science degree in Landscape Design from an accredited university
   2. A four-year ornamental horticulture or biology degree from an accredited university
   3. A qualified landscape professional with at least five (5) years of experience in an accredited nursery business

m. Any additional requirements for developments specified in the Portland Design Review Standards shall also apply.

4-111.6 Landscape Material Standards

The following standards shall apply for all landscape materials:

a. Landscape and plant materials installed to satisfy the requirements of this section shall conform to or exceed the plant quality standards of the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen.

b. All shade trees shall have a single leader to 8 feet height.
c. Use of Riprap or Shot Rock: The use of riprap, shot rock or similar materials is strongly discouraged and shall only be used to stabilize soil around culverts and drains or where engineering requirements deem necessary for erosion control. Riprap, shot rock, or similar materials shall not be used to landscape where erosion can be controlled by vegetation.

d. All planting areas shall be mulched with three (3) to four (4) inch layer of bark, pine needles, or other suitable material, to cover the complete planting area. Mulch within six (6) inches of the approved tree trunks shall be no deeper than one-half (1/2) inch.

Description of Screens and Buffer Yards by Type

A definition of a screen or buffer yard is a landscaped area provided to separate and partially obstruct the view of two adjacent land uses or properties from one another.

1. **Type 1-Screen/Buffer Yard**
   A Type 1 screen/buffer yard is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the uses. The buffer yard shall be a minimum of ten (10) feet in width. The screening shall consist of intermittent visual obstruction to a height of at least ten (10) feet. Screening may be composed of, or a combination of, wall, solid fence (wood, brick, or masonry), landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The screen may contain 50% deciduous plants. The adjacency of the required screening shall be determined from the elevation of the adjacent residential property or property of a lower classification. A greater height, more opaque screening, or wider buffer yard may be required by the Building Inspector if it is determined that, due to topographic reasons or scale of development, the screening will not adequately block visual contact or create the impression of separation between uses.

2. **Type 2-Screen/Buffer Yard**
   A Type 2 Screen/Buffer Yard is intended to partially block visual contact between uses and to create an impression of the separation of spaces. The buffer yard shall be a minimum of twenty (20) feet in width. The screening shall be completely opaque from the ground to a height of three (3) feet, with intermittent visual obstruction above the opaque portion to a height of at least ten (10) feet. Screening may be composed of a wall, solid fence (wood, brick, masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. Deciduous plants may be used to meet the intermittent screening portion of the semi-opaque screen. The adjacency of the required screening shall be determined from the elevation of the adjacent residential property or property of a lower classification. A greater height, more opaque screening, or wider buffer yard may be required by the Building Inspector if it is determined that, due to topographic reasons or scale of development, the screening will not adequately block visual contact or create the impression of separation between uses.
3. **Type 3 Screen/Buffer Yard**
   A Type 3 Screen/Buffer Yard is intended to exclude all visual contact between uses. The buffer yard shall be a minimum of thirty (30) feet in width. The screening shall be completely opaque from the ground to a height of at least eight (8) feet. Screening may be composed of a wall, solid fence (wood, brick, masonry), landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observations of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. The adjacency of the required screening shall be determined from the elevation of the adjacent residential property or property of a lower classification. A greater height, more opaque screening, or wider buffer yard may be required by the Building Inspector if it is determined that, due to topographic reasons or scale of development, the screening will not adequately block visual contact or create the impression of separation between uses.

4-111.7 **Standards for Screening Materials**

a. When berms are utilized in screening they shall meet the following requirements:
   1. Shall have a minimum height of three (3) feet
   2. Shall have a minimum crown width of two (2) feet
   3. Shall have a maximum side slope of 2:1
   4. Shall be planted in grass or other suitable ground cover

b. When fences or walls are utilized in screening, they shall meet the following requirements:
   1. Shall be constructed of materials compatible with the principal building
   2. Wire fencing and unfinished cinder block walls shall not be permitted to meet the screening requirements
   3. The finished side of all fences and walls utilized to meet the requirements of this section shall face the street or adjoining properties

c. Trees and shrubbery shall be of a species adaptable/tolerant to the Portland area, shall be hardy, and proper care shall be taken in planting. These standards for landscaping of parking lots shall apply to the interior of all off-street parking areas. They shall not apply to vehicle and equipment sales lots, multi-level parking structures, areas devoted to drive-through lanes, or to vehicle and equipment storage areas. The requirements for parking area landscaping shall be in addition to the requirements for off-street parking lot design standards as specified in Section 4-109.
   1. **Minimum width of interior landscaped strips:** interior landscaped strips shall be a minimum of five (5) feet in width, exclusive of curbing and shall be planted with acceptable indigenous landscaping materials. If trees are located in interior landscaped strips, such strips shall be a minimum of eight (8) feet in width, exclusive of curbing.
   2. **Curbing required:** interior landscaped strips shall be surrounded with a concrete raised curb six (6) inches in height. Curb openings that allow storm water to enter landscape strips used for storm water quality bioretention areas are acceptable.
   3. **Number of trees recommended:** one (1) shade tree shall be provided per
twenty (20) parking spaces, or any fraction thereof. A maximum of fifty (50) percent of the required shade trees may be replaced by ornamental trees at a ratio of two (2) ornamental trees for each shade tree replaced.

4. Standards of terminal islands: the use of terminal islands for rows of parking spaces is encouraged for the location of trees required for interior parking areas. Parking area terminal islands containing trees shall be a minimum of four (4) feet in width and shall be the length of the two (2) adjacent parking spaces. Landscape terminal islands shall be surrounded with a concrete raised curb six (6) inches in height. In landscape strips or islands the planting of trees in alignment with parking space lines is encouraged to reduce the potential for damage from vehicles.

4-111.8 General Tree Planting Standards
The following general standards for tree planting shall apply:

a. Tree Sizes
   1. Shade trees shall be a minimum of two (2) inches in caliper.
   2. Ornamental trees shall be a minimum of one and a half (1 ½) inches in caliper.
   3. Evergreen trees shall be a minimum of height of six (6) feet at the time of planting.

b. Location
   1. No tree shall be planted closer than five (5) feet from a street right-of-way, driveway, sidewalk, or curb.
   2. No tree shall be planted closer than ten (10) feet from any fire hydrant, utility pole, or streetlight.
   3. No tree or shrub shall be planted so as to block visibility at any street intersection.

Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:

- Small trees (to 15 feet tall) no closer than six feet from building or two feet from paving, curbs, or walls with a minimum planting area five feet wide.
- Medium trees (to 30 feet tall) no closer than ten feet from building or three feet from paving, curbs, or walls with a minimum planting area six feet wide.
- Large trees (above 30 feet tall) no closer than fifteen feet from building or three feet from paving, curbs, or walls with a minimum planting area six feet wide, preferably eight feet wide.

4-111.9 Alternative Landscaping Options
The planning commission may approve alternative landscaping options if they accomplish equal levels of screening when compared to the types of landscaping described above, or when existing conditions on or adjacent to the site cause strict application of these standards. Existing conditions may include significant topographical differences, vegetation, structures, or utilities. Alternative options are sometimes allowed to preserve the historic character of a rural place or to encourage the use of native species. For an alternative landscape option to be approved, the applicant must show that a superior result can be achieved.
4-111.10 Preservation of Existing Vegetation and Alternative Plans
Upon the request of any owner of property to which this section applies, the Planning Commission may approve an alternative plan which is not in strict compliance with the requirements of this section, if the Commission finds that such alternative plan meets the purpose and intent of the requirements of this section and the alternative Landscape Plan is clearly superior to a plan that would be in strict compliance with this section. In making the determination, the Commission may consider the topography, shape, size, or other natural features of the property (including existing vegetation to be preserved); the suitability of an alternative screening; and other similar factors.

4-111.11 Installation Timing
A performance bond, letter of credit, or cashier’s check from a local institution shall be issued to ensure that the installation of all required plant material and the survival of such planting is completed prior to the issuance of the final certificate of occupancy. The performance bond is valid for one (1) year at which time all installation requirements shall be met. Failure to comply with installation requirements within the time period will result in the City using the bond to complete the remaining requirements.

The Building Inspector shall be consulted to determine the proper time to move and install plant materials so that stress to the plants is minimized. A temporary certificate of occupancy may be issued when extremes in weather or soil conditions are not favorable to landscaping. All new planting materials shall be completed by the next planting season not to exceed six (6) months’ time after the issuance of a temporary certificate of occupancy. Any plants that do not survive after their installation shall be replaced with the same species, or an approved species, within a twelve (12) month period.

4-111.12 Penalty
In the event that any such inspection determines that all or part of the requirements of this section are not performed within a timely manner, a notice of violation shall be sent to the property owner/developer outlining the corrective measures that shall be taken. In the event corrective measures have not commenced within one hundred-eighty (180) days of notification, the Building Inspector shall have the authority to withdraw any temporary Certificate of Occupancy.

4-111.13 Landscape Buffer Yard Determination
The following tables (Table 4-111-A to D) shall be used to determine the minimum area required as a buffer yard within each zoning classification.

4-111.14 Landscape Buffer Yard Determination by Zone

Zone A - Shall have a minimum width as determined by each specific zoning classification, but in no case shall this area be less than five (5) feet in width.

Zone B - Shall have a minimum width as determined by each specific zoning classification, but in no case shall this area be less than ten (10) feet in width. The minimum requirement between two land uses as described in Table 4-111-A shall be no less than twenty-five (25) feet. This zone shall also require a mixture of trees, shrubs, and bushes.
Zone C - Shall have a minimum width as determined by each specific zoning classification, but in no case, shall-this area be less than fifteen (15) feet in width. The minimum requirement between two land uses as described in Table 4-111-A shall be no less than fifty (50) feet. This zone shall also require a mixture of trees, shrubs, and bushes.

Zone 1 - This landscape or buffer yard zone shall have a minimum width of five (5) feet.

Zone 2 - This landscape or buffer yard zone shall have a minimum width of ten (10) feet.

Zone 3 - This landscape or buffer yard zone shall have a minimum width of fifteen (15) feet.

Zone 4 - This landscape or buffer yard zone shall have a minimum width of twenty-five (25) feet.

**TABLE 4-111-A**

<table>
<thead>
<tr>
<th>ZONING CLASS</th>
<th>RESIDENTIAL</th>
<th>COMMERCIAL</th>
<th>INDUSTRIAL</th>
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<tr>
<td>Type of Buffer Yard Required</td>
<td>Zone A</td>
<td>Zone B</td>
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**TABLE 4-111-B**

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<th>R-15</th>
<th>R-10</th>
<th>R-7.5</th>
<th>RM-1</th>
<th>R-MHP</th>
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**TABLE 4-111-C**

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<th>NSD</th>
<th>OPS</th>
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CHAPTER 2. SIGN REGULATIONS (Deleted and Replaced by Ordinance 02-38, November 4, 2002)

4-201 GENERAL PROVISIONS, APPLICABILITY AND PURPOSES

4-201.1 Purposes
The purposes of these sign regulations are: To encourage the effective use of signs as a means of communication within the City and its planning jurisdiction; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. These provisions are adopted in furtherance of the more general purposes set forth elsewhere in this zoning ordinance.

4-201.2 Applicability - Effect
A sign may be erected, placed, established, painted, created, or maintained within the City only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance. With the exception of signs permitted within the public right-of-way or temporary "For Sale" and development signs located on vacant property, all signs permitted by this ordinance are accessory to an established principal use or activity situated upon a zone lot.

The effect of this article as more specifically set forth herein is:
1. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;
2. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits.
3. To provide for temporary signs without commercial messages in limited circumstances in the public right-of-way;
4. To prohibit all signs not expressly permitted by this ordinance; and
5. To provide for the enforcement of the provisions of this ordinance.

4-202 DEFINITIONS AND INTERPRETATIONS

Words and phrases used in this article shall have the meanings set forth in this section. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

ANIMATED SIGN: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

BANNER: Any sign of lightweight fabric or similar material that is securely mounted to a pole or a building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
BANNER (COMMERCIAL): Any banner on which appears any commercial message.

BANNER (NONCOMMERCIAL): Any banner containing no commercial message.

BILLBOARD: An off-premises sign that is affixed to or erected upon a freestanding framework that directs attention to a profession, business, commodity, service, product or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

BEACON: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BUILDING MARKER: Any sign indicating the name of a building and date and incidental about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN: Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CHANGEABLE COPY SIGN: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

COMMERCIAL MESSAGE: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

FLAG: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

FREESTANDING SIGN: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

INCIDENTAL SIGN: A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

INTERSTATE SIGN: An on-site freestanding sign located within a Three Thousand Two Hundred (3,200) foot radius of the center of the Interstate 65 and Highway 109 interchange. An interstate on-site sign must be a minimum of seventy-five (75) feet and a maximum of one hundred twenty (120) feet above the ground. Any other type of sign attached to the interstate on-site sign support which
does not exceed the maximum height for its type of sign shall not be considered in calculating the signage of the interstate on-site sign, but it is subject to regulation by this sign regulation. Should the applicant be entitled to two or more ground signs, the support of the interstate on-site sign may be used in lieu of a separate ground sign support.

**MARQUEE**: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**MARQUEE SIGN**: Any sign attached to, in any manner, or made a part of a marquee.

**MONUMENT SIGN**: A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. The perimeter of monument signs is to be constructed of masonry, and such signs shall be externally lit.

**NONCONFORMING SIGN**: Any sign that does not conform to the requirements of this ordinance.

**PENNANT**: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PORTABLE SIGN**: A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, but not including trailer signs (as herein defined); signs converted to A- or T-frames; menu or sandwich board signs; spring board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of a business.

**PROJECTING SIGN**: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.

**RESIDENTIAL SIGN**: Any sign located in a district zoned for residential uses that contains no commercial message, except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

**ROOF SIGN**: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof. Roof signs as defined by this ordinance are not permitted.

**ROOF SIGN, INTEGRAL**: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

**SIGN**: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
SIGN, OFF-PREMISES: A permanent sign that directs attention to a profession, business, commodity, service, product, event or entertainment not located or sold on the premises on which the sign is located.

SIGN SETBACK LINE: An imaginary line created by this ordinance to establish an easily determined setback from any public thoroughfares for the placement of certain temporary signs. The sign setback line shall be ten (10) feet from the back of the street curb, edge of pavement or stabilized shoulder.

SPRINGBOARD SIGN: A temporary sign that moves upon springs and which otherwise meets the specifications for a PORTABLE SIGN as defined herein.

STREAMER: A streamer is defined the same as a pennant for purposes of this ordinance.

SUSPENDED SIGN: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN: Any sign that is used only temporarily and is not permanently mounted.

TRAILER SIGN: Any sign designed to be transported by means of wheels, whether or not the wheels remain attached, located on the ground and permanently attached thereto and which is usually a two-sided sign and including any single or double surface painted or posted panel type sign or any variation, thereof.

WALL SIGN: Any sign attached parallel to, but within six (6) inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

WINDOW SIGN: Any sign, pictures, symbol, or combination, thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

4-203 MASTER OR COMMON SIGNAGE PLAN REQUIRED
No permit shall be issued for an individual sign requiring a permit unless and until a Master Signage Plan or a Common Signage Plan for the zone lot on which the sign will be erected has been submitted to and approved by the Codes Director as conforming with this chapter.

4-203.1 Master Signage Plan
For any zone lot on which the owner proposes to erect one or more signs requiring a permit, unless such zone lot is included in a Common Signage Plan, the owner shall submit to the Codes Director, a Master Signage Plan containing the following:
1. An accurate plot plan of the zone lot, at such scale as the Codes Director, may reasonably require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this ordinance; and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs and signs not regulated by this ordinance need not be shown.

5. The name of the owner of the property and the name of the applicant (If different from the owner).

4-203.2 Common Signage Plan
If the owners of two (2) or more contiguous (disregarding intervening streets and alleys) zone lots or the owner of a single lot with more than one (1) building (not including any accessory building) file with the Codes Director for such zone lots a Common Signage Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included zone lot. This bonus may be allocated within each zone lot as the owner(s) elects.

4-203.3 Provisions of Common Signage Plan
The Common Signage Plan shall contain all of the information required for a Master Signage Plan and shall also specify standards for consistency among all signs on the zone lots affected by the plan with regard to:

- Color Scheme;
- Lighting;
- Location of Each Sign on the Buildings;
- Material; and
- Sign Proportions

4-203.4 Limit on Freestanding Signs under Common Signage Plan
The Common Signage Plan, for all zone lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the zone lots included in the plan have frontage and shall provide for shared or common usage of such signs. In any instance where the properties included within a Common Signage Plan may contain an intervening street, the number of freestanding signs shall be limited to one (1) for each street, and such properties shall be treated as a unified zone lot. The maximum height of the freestanding signs permitted shall be as specified in Table 4-207-C.

4-203.5 Other Provisions of Master or Common Signage Plans
The Master or Common Signage Plan may contain such other restrictions as the owners of the zone lots may reasonably determine.

4-203.6 Consent
The Master or Common Signage Plan shall be signed by all owners or their authorized agents in such form as the Codes Director shall require.

4-203.7 Joint Processing
A Master or Common Signage Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the city for the proposed development and shall be processed simultaneously with such other plan.
4-203.8 Amendment
A Master or Common Signage Plan may be amended by filing a new Master or Common Signage Plan that conforms with all requirements of the ordinance then in effect. In general, amendments shall be reviewed and acted upon by the Codes Director. Provided, however, that any amendment of a common signage plan which affects those items governed by Subsection 4-203.3, (Provisions of Common Signage Plan), of this section, shall be acted upon in a like procedure to the original plan.

4-203.9 Existing Signs Not Conforming to Master or Common Signage Plan
When a Master or Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three (3) years, all signs not conforming to the proposed amendment plan or to the requirements of this ordinance in effect on the date of submission.

4-203.10 Binding Effect
After approval of a Master or Common Signage Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such plan and any other provision of this ordinance, the ordinance shall control.

4-204 PERMITTING PROCEDURES

4-204.1 Permits Required
If a sign requiring a permit under any provision of this ordinance is to be placed constructed, erected, or modified on a zone lot, the owner of the lot shall first file an application as required in Subsection 4-204.2, below, and receive a permit for construction, placement, erection, or modification of such sign. Following final inspection and determination of compliance with all provisions of this ordinance, a use permit may be issued for such sign. Furthermore, the property owner shall maintain in force at all times a sign permit for such sign in accordance with Subsection 4-204.4 (Permits to Remain Current and in Force) of this section. No sign shall be erected in the public right-of-way, except in accordance with Section 4-210, (Signs in the Public Right-of-Way), and the permit requirements of Subsection 4-204.2 (Application and Review Procedures). No sign permit of any kind shall be issued for an existing or proposed sign, unless such sign is consistent with the requirements of this ordinance, (including those protecting existing signs), in every respect and with the Master Signage Plan or Common Signage Plan in effect for the property.

4-204.2 Application and Review Procedures
The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, and the submission and review of Common Signage Plans and Master Signage Plans.

1. Application
   All applications for sign permit of any kind and for approval of a Master or Common Signage Plan shall be submitted to the Codes Director. Prior to construction of any sign, a construction permit shall be obtained from the Codes Director. Sign use permits shall be obtained from the Codes Director upon final inspection of signs.
2. **Fees**
   Each application for a sign permit or for approval of a Master or Common Signage Plan shall be accompanied by the applicable fees, which shall be established by the Mayor and Board of Aldermen of the City from time to time by resolution. If a sign is constructed without approval of necessary permits the applicable fees shall be doubled.

3. **Completeness**
   Within ten (10) working days of receiving an application for a sign permit or a Master or Common Signage Plan, the Codes Director shall review it for completeness. If the Codes Director finds that it is complete, the application for plan review shall then be processed. If the application is incomplete, the Codes Director shall provide to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this chapter.

4. **Action on Plan**
   Following a determination of completeness of any application for approval of a Master Signage Plan or Common Signage Plan, the Codes Director shall act on one of the following dates:
   a. Fourteen (14) working days after submission of a complete application if the application is for signs for existing buildings; or
   b. Ten (10) working days after the date of final action on any related application for a building permit, site plan, or development plan for signs involving new construction.

5. **Failure to Act on Plan**
   Failure by the Codes Director to act within the time periods indicated above shall cause such plan to be approved. However, such approval shall not be construed so as to relieve the applicant from compliance with all provisions of this article. On or before such date, the Codes Director shall either:
   a. Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with the requirements of this ordinance; or
   b. Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in any way to conform with the requirements of this ordinance. In case of a rejection, the Codes Director shall specify in the rejection the section or sections of the ordinance with which the plan is inconsistent.

4-204.3 **Permits to Construct or Modify Signs**
   Signs identified as "P" or "S", on Table 4-207-A, may be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Codes Director. Such permits shall be issued only in accordance with the following requirements and procedures.

1. **Permit for New Sign or for Sign Modification**
   An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by engineering drawings to show the dimension, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan or Common Signage Plan then in effect for the
zone lot. One (1) application and for plan review or sign use may include multiple signs on the same zone lot. In any instance where an application involves multiple signs, fees shall be applied to individual signs included within such application.

2. **Inspection**
   The Codes Director shall cause an inspection of the zone lot for which a construction permit for a new sign or for modification of an existing sign is issued on or before six (6) months from the date of issuance. If the construction is not substantially complete within six (6) months from the date of issuance, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and electrical codes, the Codes Director shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete, but not in full compliance with this ordinance and applicable codes, the Codes Director shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected, if the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Codes Director shall affix to the premises the permanent symbol described above.

4-204.4 **Permits to Remain Current and in Force**
The owner of a zone lot containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Such permit shall be renewed annually as required by Subpart 2, of this subsection. Sign permits shall be issued for individual zone lots, notwithstanding, the fact that a particular zone lot may be included with other zone lots in a Common Signage Plan.

1. **Initial Sign Permit**
   An initial sign permit shall be issued by the Codes Director covering the completed sign installation, construction, or modification.

2. **Permits to Be Renewed Annually**
   An annual review and renewal shall be required for each property for which a sign permit has been issued. A single renewal permit shall be issued for all signs located upon a site. The purpose of this annual review is to insure compliance with all provisions of this article, specifically including the requirements for safety and maintenance found in Section 4-209 (Design, Construction, and Maintenance).

3. **Lapse of Sign Permit**
   Within sixty (60) days of the termination of a business, commercial or industrial enterprise, all signs relating to such activity shall be removed. The property owner shall be responsible for the removal of such signs or in the alternative, display a blank face until such property is occupied. The property owner shall be determined by the most recent property tax roll listing.

5. **Assignment of Sign Permits**
   A current and valid-sign permit is freely assignable to a successor as owner of the property or holder of a business license for me same premises, subject only to filing such application as the Codes Director may require and paying any applicable fee. The assignment shall be
accomplished by filing and shall not require approval.

4-205 TEMPORARY PERMITS
Permits for temporary signs shall be subject to the following requirements:

4-205.1 Temporary Sign Permits
Temporary signs shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements:

1. Permit Exception
   No permit is required for temporary signs erected, placed or maintained in accordance with Subsection 4-205.2 (Political Signs and Banners).

2. Sign Setback
   A temporary sign other than those permitted in Subsection 4-210.2 (Temporary Signs) shall not be erected, placed or maintained on the thoroughfare side of the sign setback line.

3. Traffic Hazard, Prohibited
   In addition to other setback requirements, temporary signs shall be located such that at any intersection ingress/egress point the traffic visibility shall not be impaired.

4. Other Conditions
   A temporary sign shall be allowed only in districts shown with a letter "S" or "P" for "Temporary Signs", on Table 4-207-A, and subject to all requirements for temporary signs, as noted therein. Political signs may be erected in any district subject to the requirements of Subsection 4-205.2, of this article.

4-205.2 Political Signs and Banners
Temporary political signs and banners shall be allowed subject to the following requirements:

1. Term
   Political signs are permitted for a period not to exceed sixty (60) days prior to an election and removed within three (3) days following such election. This time period shall include weekends and each day shall begin and end at 12:00 noon.

2. Size
   Temporary political signs shall not exceed sixteen (16) square feet.

4-205.3 Temporary Business Signs
Temporary business signs may be used for a period not to exceed sixty (60) days subject to the requirements and standards established herein. In addition to use of temporary business signs for general purposes, a temporary business sign may be used in lieu of permanent signs for the time period stipulated herein. Only one (1) temporary sign is permitted per business and may be of the following types:

1. Freestanding Signs
   A freestanding sign with a maximum size not to exceed 18" X 24".
2. **Temporary Commercial Banners**
   Temporary commercial banners shall not exceed forty (40) square feet shall be allowed upon the issuance of a temporary sign permit. No more than one (1) banner shall be permitted for each business or other tenant occupying any zone lot. A banner shall be securely attached to a building or other permanent structure on the zone lot.

3. **Other Temporary Business Signs**
   Portable signs, including A- or T-frame; menu or sandwich board signs, may be utilized as temporary business signs, provided that no such sign may be larger than thirty (30) by thirty-six (36) inches in size.

4-205.4 **Temporary Signs and Banners - Noncommercial**
Temporary noncommercial signs and banners shall be allowed upon the issuance of a temporary sign permit, subject to the following requirements:

1. **Term**
   A temporary sign permit shall allow the use of a banner for a period not to exceed sixty (60) days. Temporary signs utilized to announce special nonprofit civic events may be allowed for a period not to exceed thirty (30) days.

2. **Size and Number**
   Temporary noncommercial banners shall not exceed forty (40) square feet. No more than one (1) banner shall be permitted for each business or other tenant. Where more than one business is located upon any zone lot, the approval of such banners shall be at the discretion of the Codes Director.

3. **Installation**
   A banner shall be securely attached to a building or other permanent structure on the zone lot.

4-205.5 **Inflatable Signs and Tethered Balloons**
Temporary permits for inflatable signs and tethered balloons shall be allowed upon issuance of a temporary sign permit, subject to the following requirements.

1. **Term**
   A temporary sign permit shall allow the use of an inflatable sign or tethered balloon for a period not to exceed seven (7) days.

2. **Installation**
   An inflatable sign or tethered balloon shall be securely attached and/or anchored so as to remain safe and secure during the term of its use. No balloon or inflatable sign shall exceed ten (10) feet in height (Height of actual balloon or sign).

4-205.6 **Garage Sale Signs**
One (1) temporary sign announcing a garage sale may be erected on the property for which it advertises. It shall not exceed eight (8) square feet in sign area per face. Property with two (2) or more frontages shall be permitted one (1) additional sign per frontage. Such signs may be
posted only between Wednesday at noon and Monday at noon. See Subsection 4-210.2 (Temporary Signs) for additional requirements for garage sale signs.

**4-205.7 For Sale Signs**
For Sale signs of not more than sixteen (16) square feet pertaining to the sale, lease or rental of the property where such sign is located may be permitted subject to the following provisions. If the said property faces more than one (1) street, one (1) sign may be allowed for each frontage. Each such sign shall be located not nearer than ten (10) feet to a street right-of-way.

**4-205.8 Construction/Development Signs**
A sign of not more than sixteen (16) square feet indicating the name of the contractors, engineers, developers and/or architects of a construction project. Temporary shall mean in connection with this sign the period of time commencing with construction of the project and terminating with completion of the project. In any instance where a construction may extend more than a year such sign shall be renewed annually.

**4-205.9 Open House Signs**
"Open House" signs of not more than sixteen (16) square feet pertaining to the sale, lease or rental of the property may be permitted subject to the following provisions. Such signs may be posted only between Friday at noon and Monday at noon. Each such sign shall be located not nearer than ten (10) feet to a street right-of-way.

**4-206 SIGNS EXEMPT FROM REGULATION UNDER THIS ORDINANCE**
The following signs shall be exempt from regulation under this ordinance:

A. Any public notice or warning required by a valid and applicable Federal, state, or local law, regulation, or ordinance;

B. Any sign that is not legible from a distance of more than three (3) feet beyond the lot line of the zone lot or parcel on which such sign is located;

C. Works of art that do not include a commercial message;

D. Holiday lights and decorations with no commercial message, but only in conjunction with the appropriate holiday;

E. Private street name and traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort.

F. "No trespassing", "no hunting", "no fishing", "no loitering", and like signs not exceeding one (1) square foot in area;

G. Incidental signs as defined by this article; and

H. On-premise identification signs for home occupations provided that only one (1) unlighted sign not exceeding four (4) square feet in area may be permitted on any zone lot and that any
such sign shall contain only the name of the business and/or the business owner.

4-207 SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS

4-207.1 General
Signs shall be allowed on private property in the City in accordance with and only in accordance with, Table 4-207-A. If the Letter "P" appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. If the Letter "S" appears for a sign type in a column, such sign is allowed only with proper permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the Letter "N" appears for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances.

Although permitted under the previous paragraph, a sign designated by an "S" or "P", in Table 4-206-A, shall be allowed only if:

1. The sum of the area of all building and freestanding signs on the zone lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table 4-207-B;

2. The size, location, and number of signs on the lot conform with the requirements of Tables 4-207-C and 4-207-D, which establish permitted sign dimensions by sign type, and with any additional limitations listed in Table 4-207-A;

3. The characteristics of the sign conform with the limitations of Table 4-207-E (Permitted Sign Characteristics) and with any additional limitations on characteristics listed in Table 4-207-A.

4-207.2 Protection of First Amendment Rights
Any sign, display or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this ordinance.

4-207.3 Flags
Permits for flags shall be subject to the following:
1. Governmental Flags
   Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes.

2. Nongovernmental Flags
   Flags which present the name, corporate symbol, logo or other means of identification of any private for-profit commercial enterprise are deemed to be signs and shall be subject to the provisions of this article (with the exception of height requirements). No such flag shall exceed twenty-four (24) square feet per face. The total area (both faces) shall be
calculated and this amount debited against the allowable freestanding sign area for the site. The applicant shall have a choice of erecting a freestanding sign or utilizing a flag in those circumstances where the size of the flag is equal to the size of the allowable freestanding sign. A flag and a freestanding sign combination are permissible only in those circumstances where the total area of both the flag (doubled) and the freestanding sign shall not exceed the total allowable area for freestanding signs on the site.

3. Other Flags
Decorative flags and flags representing religious or charitable organizations, schools, bands, athletic teams, competitions, clubs, holidays, political parties, and special events are deemed to be banners and are regulated by the provisions of Subsection 4-205.3.

4-207.4 Freestanding Signs
The number, location, and spacing of freestanding signs shall be governed by the provisions of this section.

1. Residential and Office Subdivision
Residential and office subdivisions may erect freestanding identification and information signs. Such signs shall be located at the primary entrance(s) to the development/subdivision. Upon approval by the Planning Commission, a subdivision sign may be erected in the right-of-way provided that, in the opinion of the Codes Director, it does not pose a traffic hazard.

Such signs shall be administered and maintained by an established property owners' association or maintenance organization and in no way shall be the responsibility of the city or county. These signs shall not exceed sixteen (16) square feet in area, and any permit issued for such signs shall not exceed twelve (12) months duration.

2. Other Freestanding Signs
Freestanding signs other than those regulated by Subpart 1 (above) of this section, shall be limited to one (1) per entrance, but no more than a total of two (2) such signs for the development, subject to the spacing distance limitations noted in Subpart 3, of this section.

3. Spacing Limitations of Freestanding Signs
Freestanding signs on any premises shall be spaced at minimum intervals of two hundred (200) feet along each public way which views the premises. In the event that less than two hundred (200) feet of any premises is visible from any one public way, only one (1) sign shall be permitted along that public way.

4-208 Computations
The following principles shall control the computation of sign area and sign height.

4-208.1 Computation of Area of Individual Signs
The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the
background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

4-208.2 Computation of Area of Multi-Faced Signs

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.

4-208.3 Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest point of the sign face. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases where the normal grade of the sign is lower than the grade of the adjacent public street, normal grade shall be construed the grade of the adjacent public street. Adjacent public street shall mean the street providing approved vehicle access to the property and which does or would bear the street address for the property.

4-208.4 Computation of Maximum Total Sign Area for a Zone Lot

The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in Table 4-207-B (Maximum Total Sign Area) to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district where the lot is located. Lots fronting on two (2) or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

4-209 DESIGN, CONSTRUCTION, AND MAINTENANCE

All signs shall be designed, constructed, and maintained in accordance with the following standards:

A. Except for banners, flags, temporary signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

B. Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable, and sound structural condition.

(1) To prevent rust, peeling, flaking, fading or rotting, all signs and supports shall be painted, unless they have been anodized or similarly treated.

(2) Broken panels, missing letters, defective illumination, torn fabric, flaking or peeling paint and other damage to a sign shall be replaced or repaired.
C. All freestanding signs shall be designed to withstand a seventy (70) mile per hour wind loading. The drawings for all such signs shall be signed and stamped by a Tennessee licensed engineer certifying compliance with this provision.

D. Materials used in construction of permanent signs shall be of a weather resistive nature. Construction must be accomplished in such a manner that such signs will not be readily deteriorated by weather.

E. If a determination is made by the Codes Director that any sign is unsafe, not secure, in violation of this section, or in violation of any applicable law or a public danger, notice of such violation shall be given to the property owner and/or occupant where such sign is located. The property owner and/or occupant shall have thirty (30) days from the date of said notice to remove, repair or remedy said violation. If such remedial action or removal does not occur, the Codes Director may cause the removal of the sign. The property owner and/or occupant shall be responsible for the cost of removal within thirty (30) days, after notification of such costs. Any costs that continue to go unpaid shall cause a lien to be set against the affected property. To the extent permissible by law, said lien shall be superior to all other liens and encumbrances, except tax liens, provided that within sixty (60) days after such cost and expense is incurred, the City files notice of lien in the office of the County Register of Deeds. Upon payment of the incurred costs and any additional costs that may arise, the lien shall be released by the City. Any sign which presents an immediate danger to the public may be removed at the direction of the Codes Director in accordance with the procedures set forth, above.

4-210 SIGNS IN THE PUBLIC RIGHT-OF-WAY
No signs shall be allowed in the public right-of-way, except the following which do not require a sign permit.

4-210.1 Permanent Signs
1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;

2. Bus stop signs erected by a public transit company;

3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and

4. Awning, projecting, and suspended signs projecting over a public right-of-way in conformity with the conditions of Table 4-207-A, of this ordinance.

5. Informational signs of any civic or religious organization which announce the location, time and place of meetings of the organization provided they do not exceed four (4) square feet.

6. Freestanding residential and office subdivision identification signs as specified in Subsection 4-207.4, Subpart 1 (Freestanding Signs).
4-210.2 Temporary Signs
Temporary signs shall comply with Subpart 3, of Subsection 4-205.1 (Traffic Hazard, Prohibited) and meet the following requirements:

1. Directional Real Estate Signs
New Subdivision Directional Signs may be permitted according to the following design standards. Such signs may be no larger than nine (9) square feet in area nor greater than four (4) feet in height. The wording appearing on the sign shall be according detailed drawing (Figure 1). One (1) sign is permitted at the primary entrance(s) to the development or at the beginning of the street upon which the development/subdivision connects directly to an arterial or collector street as shown on the Major Route Plan. Up to four (4) realty firms may be listed upon one sign. All such signs shall be set back a minimum of ten (10) feet from the edge of pavement and shall be located such that at any intersection or ingress/egress point the traffic visibility shall not be impaired. New Subdivision Directional Signs will be erected and maintained by the owner or developer of the development being advertised.

Figure 1: NEW SUBDIVISION DIRECTIONAL SIGN DETAIL

2. Announcement of Auction Sales
Temporary announcement signs for auction sales which do not exceed a maximum size of four (4) feet by four (4) feet. A maximum of five (5) such signs advertising the sale may be permitted. Such signs may be posted no more than fifteen (15) days prior to the auction and shall be removed on the day following the auction. Temporary directional pointers not exceeding two (2) square feet in area may be permitted on the day of the auction.

3. Garage Sale Signs
Temporary garage sale announcement signs which do not exceed a maximum size of four (4) square feet. A maximum of five (5) such signs shall be permitted. Such signs may be posted only between Wednesday at noon and Monday at noon.

4-210.3 Emergency Signs
Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

4-210.4 Political Signs
Temporary political signs as specified in and subject to the time constraints established by Subsection 4-205.2 (Political Signs and Banners).

4-210.5 Other Signs Forfeited
Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

4-211 SIGNS PROHIBITED UNDER THIS ORDINANCE
All signs not expressly permitted under this ordinance or exempt from regulation hereunder in accordance with the previous section are prohibited within the City. Such signs include, but are not limited to:
A. Beacons;
B. Pennants and streamers;
C. Strings of lights not permanently mounted to a rigid background, except those exempts under the provision of Section 4-206; and
D. Inflatable signs and tethered balloons not in accordance with Subsection 4-205.5.
E. Signs painted on or attached to trees, fence posts, rocks or other natural features, telephone or utility poles, or painted on the roofs of building visible from any public thoroughfare;
F. Signs using the words "stop", "danger", or any other word, phrase, symbol or character in a manner that misleads, confuses or distracts a vehicle driver;
G. Trailer signs;
H. Roof Signs;
I. Any sign or sign structure other than freestanding and vertical wall extension, any portion of which extends above the parapet, building roof line or canopy against which the sign is located;

4-212 NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS
Except, as otherwise, provided herein, the owner of any zone lot or other premises on which exists a sign that does not conform with the requirements of this ordinance or for which there is no current and valid sign permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring it into conformity with the requirements of this ordinance.

4-212.1 Signs Existing on Effective Date
Signs existing in the City which were made nonconforming by the adoption of this ordinance shall be permitted to remain in place and be maintained, provided that no action is taken which increases the degree or extent of the nonconformity. A change in the information on the face of an existing nonconforming sign which lists the various tenants located within a building or
complex of buildings is expressly allowed. In any instance where a business shall cease to operate, and a new firm wishes to occupy the building or space, a new master or common signage plan shall be required.

4-212.2 Submittal of a Master or Common Signage Plan Required
Prior to issuance of a permanent sign permit involving changes and/or additions for signs existing, as of (November 4, 2002), a Master or Common Signage Plan, as specified in Section 4-203, is required to be submitted. Applicable fees shall apply to such submittal.

4-212.3 Sign Removal Required
A sign that was constructed painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed, shall be forthwith removed without notice or action from the City. To reinstate a lapsed permit or replace a sign removed under authority of this section all applicable fees shall be doubled.

4-213 UNLAWFUL CUTTING OF TREES AND SHRUBS
No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

(A) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the city.

(B) On property that is not under the ownership or control of the person doing or responsible for such work unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(C) In any area where such trees or shrubs are required to remain under a permit issued under this ordinance.

4-214 NON-CONFORMING & OFF-PREMISES/OFF-SITE (BILLBOARD) SIGNS

4-214.1 Replacement of Non-Conforming Off-Premises (Off-Site/Billboard) Signs
A permitted non-conforming off-premises or off-site/billboard sign may be replaced as permitted by a sign complying with Tenn. Code Annotated, Title 13, Section 13-7-208 (h). However, if an off-premises sign, including an off-site/billboard, is replaced with a digital sign then no expansion of the sign shall be permitted. Any off-premises signs other than an off-site/billboard currently permitted by the Tennessee Department of Transportation and/or the City of Portland is a non-conforming sign. Any billboard replaced under this provision shall be considered a non-conforming use and structure.

4-214.2 Cap and Replacement Restrictions
a. Maximum number of permitted non-conforming off-site/billboard signs. The maximum number of permitted non-conforming off-site/billboard signs shall be limited to those signs existing on effective date of this amendment (December 3, 2018).
b. Off-site sign inventory. The Planning Department shall maintain an inventory of off-site/billboard signs within the city.

c. Off-site signs within areas annexed into the City. If property is annexed into the city and contains an existing legally permitted off-site/billboard sign at the time of annexation, the sign(s) shall be, upon annexation, added to the city's inventory of off-site/billboard signs.

d. Replacement signs. A permit for the construction of a replacement offsite/billboard sign with a digital billboard may only be issued after the removal of the existing off-site sign(s) and support structures unless said pole is to be used as a replacement sign per Section 4-213.3.4.

4-214.3 Design of Replacement off-premises (off-site/billboard) signs

a. Any off-premises (off-site/billboard) sign replaced as permitted herein shall be placed in the same location as the previously permitted sign. For purposes of permitting the replacement sign the same location shall mean within five (5) feet of the location of the previous sign and the replacement sign shall comply with all required setbacks for signs as required by Table 4-207-C.

b. Any off-premises (off-site/billboard) sign replaced shall be the same height or lesser height of the sign being replaced.

c. Any off-premises (off-site/billboard) sign replaced with an digital sign shall be no less than three thousand five hundred (3,500) feet from the intersection of Highway 52 and Highway 109, and Highway 109 and Interstates 65.

d. Any off-premises (off-site/billboard) sign replaced with an digital sign shall be no less than three thousand (3,000) feet from any other existing or permitted billboard signs utilizing an electronic display screen (digital) sign.

e. No single-faced off-premise (off-site/billboard) sign shall be replaced with a double-faced or more faced billboard or digital sign.

f. Any off-premises (off-site/billboard) sign replaced shall require the installation of low-level landscaping consisting a continuous hedge row of shrubs and trees of a species on the leased or owned parcel surrounding the base of the sign extending a minimum of five (5) feet from the base of the sign. No chain link or wire fencing shall be placed around the base of the sign.

g. No replacement sign shall be permitted to be placed on-top or under an existing billboard or besides an existing billboard. To be eligible for the replacement with a digital sign, any side-by-side or stacked billboards must be removed and replaced, within the timeframe described herein, only with a single digital billboard sign of a size no larger than the larger of the two billboards.
h. All existing billboards replaced with a digital or automatic changeable message copy may include a digital sign face for 100% of the coverage of the sign or display surface area.

i. All text size on any replacement billboard shall of such sufficient size to be clearly legible from a distance of five hundred (500) feet.

j. Any billboard replaced with a digital copy shall be limited message to remain static for a minimum of eight (8) seconds with a maximum change time of two (2) seconds.

k. The digital sign shall contain a default design that will freeze the sign face in a legible image or position if a malfunction occurs or the sign will turn off.

l. All billboard replacements as authorized herein shall, in addition to this code, comply with the requirements of Title 54, Chapter 21, Section 122, Tenn. Code Annotated.

m. Owners of digital billboards shall coordinate with the City of Portland to convey real time emergency information such as Amber Alerts or other emergency directives.

n. Any conflicts between the Code and the Statute the more restrictive standard shall apply.

4-215 INTERSTATE SIGN DISTRICT

a. Interstate signs shall be limited to the area within three thousand two hundred (3,200) feet radius of the center of the Interstate 65 and Highway 109 interchange.

b. One (1) interstate sign structure shall be allowed in addition to the allowable freestanding or building signs.

c. One (1) interstate sign structure shall be allowed per lot of record within the Interstate Sign District. Each interstate sign structure may have up to three (3) signs.

d. Interstate signs are an accessory use to primary use of property and shall only be permitted and installed with construction or after construction of primary use of property.

e. Interstate signs shall not be erected closer than one hundred (100) feet from any residential zoned district. For the purpose of determining the spacing required in this subsection, distances shall be measured from the sign structure to the property line of the nearest residential zoned district.

f. The maximum height of an interstate sign shall not exceed one hundred twenty (120).

g. The minimum height to the bottom of an interstate sign shall not be less than seventy-five (75) feet.
h. The maximum sign area of an interstate sign shall not exceed three hundred (300) square feet.

i. Interstate signs shall comply with freestanding sign setback requirements for zoning district in which it is being erected.
THE TABLES APPEARING IN THIS CHAPTER, WITH DISTRICT HEADINGS, HAVE THE FOLLOWING MEANINGS:

**RESIDENTIAL DISTRICTS**
- **RS**: Residential, Single-Family Detached Districts (1)
- **RSD**: Residential, Single-Family and Duplex Districts (2)
- **RM-1**: Residential, Multi-Family High Density Districts
- **R-MHP**: Residential, Manufactured Home Parks

**COMMERCIAL DISTRICTS**
- **GCS**: General Commercial Services Districts
- **CBD**: Central Business Districts
- **ISD**: Interchange Services Districts
- **OPS**: Office/Professional Service Districts
- **NSD**: Neighborhood Service Districts
- **HCD**: Heavy Commercial Distribution Districts
- **HSD**: Highway Services Districts

**INDUSTRIAL DISTRICTS**
- **I-R**: Restrictive Industrial Districts
- **I-G**: General Industrial Districts
- **I-S**: Special Industrial Districts

**NOTES.**
1. Includes RS-40, RS-20, and RS-15, Residential Districts
2. Includes R-40, R-15, R-10 and R-7.5 Residential Districts
TABLE 4-207-A: PERMITTED SIGNS BY TYPE AND ZONING DISTRICT

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>All</th>
<th>RS</th>
<th>All</th>
<th>RSD</th>
<th>RM-1</th>
<th>COM. FAC., (a)</th>
<th>OPS &amp; NSD</th>
<th>ISD</th>
<th>GCS</th>
<th>HCD</th>
<th>HSD</th>
<th>CBD</th>
<th>All Ind.</th>
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<tbody>
<tr>
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<tr>
<td>Residential, (b)</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>N</td>
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<td>Other</td>
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<td>S</td>
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<td>S</td>
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<td>S</td>
<td>S</td>
<td>S</td>
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<tr>
<td>Incidental, (c)</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>P</td>
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<td>Monument</td>
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<td>P</td>
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<td>P</td>
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<td>P</td>
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<td>Canopy</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>(e)</td>
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<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<td>Roof</td>
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<td>N</td>
<td>N</td>
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<td>Suspended, (f)</td>
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<td>S</td>
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<td>Temporary, (g)</td>
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<td>S</td>
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<tr>
<td>Wall</td>
<td>P</td>
<td>(b)</td>
<td>P</td>
<td>(b)</td>
<td>P</td>
<td>(b)</td>
<td>P</td>
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<td>S</td>
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<tr>
<td>MISCELLANEOUS</td>
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<tr>
<td>Flag, (h)</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>P</td>
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<tr>
<td>Trailer</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

P = Allowed Without Sign Permit
S = Allowed Only with Sign Permit
N = Not Allowed

(a) This column does not represent a zoning district. It applies to Community Facility Activities permitted under the zoning ordinance.

(b) No commercial message allowed on sign, except for a commercial message drawing attention to an activity legally offered on the premises. One (1) sign only is permitted. Occupant may select either freestanding sign or wall sign.

(c) No commercial message of any kind allowed on sign if such message is legible from any location off the zone lot on which the sign is located.

(d) Only address and name of occupant allowed on sign.

(e) No commercial message of any kind allowed on sign.

(f) If such a sign is suspended or projects above a public right-of-way, the issuance of and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for such a sign in such form and such amount as the Codes Director may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least five hundred thousand dollars ($500,000) per occurrence per sign.

(g) The conditions of Section 4-205, of this ordinance shall apply.

(h) See Subsection 4-205.2, for provisions applicable to flags.

(i) See Subsection 4-205.3, for provisions applicable to commercial banners as temporary signs.
**TABLE 4-207-B: MAXIMUM TOTAL SIGN AREA PER ZONE LOT BY ZONING DISTRICT**

The maximum total area of all signs on a zone lot except incidental, building marker, temporary signs in compliance with Section 11-105, and identification signs, and flags, shall not exceed the lesser of the following:

<table>
<thead>
<tr>
<th>Maximum Area (in sq. ft.)</th>
<th>All RS</th>
<th>All RSD</th>
<th>RM-1</th>
<th>R-MHP</th>
<th>COM. FAC., (a)</th>
<th>OPS &amp; NSD</th>
<th>ISD</th>
<th>GCS</th>
<th>HCD</th>
<th>HSD</th>
<th>CBD</th>
<th>I-R</th>
<th>I-G &amp; I-S</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8</td>
<td>8</td>
<td>150</td>
<td>150</td>
<td>100</td>
<td>100</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
</tr>
</tbody>
</table>

| Percentage of Ground Floor Area of Principal Building | NA | NA | NA | NA | 4% | 6% | 10% | 2% | 8% | 2% | 2% | 2% |
|--------------------------------------------------------|----|----|----|----|----|----|-----|----|----|----|----|----|---|

| Square Feet of Signage per Linear Foot of Street Frontage | NA | NA | 0.5 | 0.5 | 2.0 | 3.0 | 6.0 | 4.0 | 4.0 | 1.0 | NA | NA |
|-----------------------------------------------------------|----|----|-----|-----|-----|-----|-----|-----|-----|-----|----|----|---|

**NOTES:**

(a) This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential zoning districts. Such uses may include, but are not necessarily limited to, churches, schools, parks, and hospitals. (See Article III, for full listing).
TABLE 4-207-C: NUMBER, DIMENSIONS, AND LOCATION OF INDIVIDUAL SIGNS BY DISTRICT

Individual signs shall not exceed the applicable maximum number dimensions or setbacks shown on this table and on TABLE 4-207-D.

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>All RS</th>
<th>All RSD</th>
<th>All RM</th>
<th>R-MHP</th>
<th>COM. FAC., (a)</th>
<th>OPS &amp; NSD</th>
<th>ISD</th>
<th>GCS</th>
<th>HCD</th>
<th>HSD</th>
<th>CBD</th>
<th>I-R</th>
<th>I-G</th>
<th>I-S</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FREESTANDING</strong></td>
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</tr>
<tr>
<td>Area (sq. ft.)</td>
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<td>8</td>
<td>12</td>
<td>12</td>
<td>40</td>
<td>40</td>
<td>160</td>
<td>80</td>
<td>160</td>
<td>60</td>
<td>80</td>
<td>80</td>
<td>320</td>
<td></td>
</tr>
<tr>
<td>Height (ft.) (e)</td>
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<td>5</td>
<td>5</td>
<td>5</td>
<td>6, b</td>
<td>6, b</td>
<td>18</td>
<td>18</td>
<td>18</td>
<td>18</td>
<td>6, b</td>
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<td>Setback (ft.)</td>
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<td>10</td>
<td>10</td>
<td>10</td>
<td>10, c</td>
<td>10</td>
<td>10</td>
<td>18</td>
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<td>Number Permitted (c)</td>
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<td>NA</td>
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<tr>
<td>1. Per Zone Lot</td>
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<tr>
<td>2. Per Feet of Street Frontage</td>
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<td>1 per 200</td>
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<td>1 per 100</td>
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<td>1 per 100</td>
<td>1 per 200</td>
<td>1 per 100</td>
<td>1 per 200</td>
<td>1 per 100</td>
<td>1 per 200</td>
<td>NA</td>
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<tr>
<td><strong>BUILDING</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Area (Maximum sq. ft.)</td>
<td>8</td>
<td>8</td>
<td>12</td>
<td>12</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Wall Area (Percent), (d)</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>15</td>
<td>15</td>
<td></td>
</tr>
</tbody>
</table>

a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential zoning districts. Such uses may include, but are not necessarily limited to, churches, schools, funeral homes, and cemeteries.

b. Within these districts, all freestanding signs shall be monument signs, as defined in Section 4-202, (DEFINITIONS AND INTERPRETATIONS).

c. In addition to the setback requirements on this table, signs shall be located such that there is at every street intersection a clear view between heights of three (3) feet and ten (10) feet in a triangle formed by the corner and points on the curb thirty (30) feet from the intersection or entrance way. Exception to this setback requirement is contained in Section 4-205.

d. The percentage figure here shall mean the percentage of the area of the wall of which such sign is a part or to which each such sign is most nearly parallel. Provided, however, that the area of such signs shall not exceed the area of a freestanding sign permitted for the property.

f. See Subsection 4-203.4, for limitations on the number and height of freestanding signs located within developments covered by common signage plans.
### TABLE 4-207-D: NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE

<table>
<thead>
<tr>
<th>Number Allowed</th>
<th>Minimum Sign Area</th>
<th>Vertical Clearance From Sidewalk, Private Drive or Parking</th>
<th>From Public Street</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>From Public Street</td>
<td>NA</td>
</tr>
</tbody>
</table>

No sign shall exceed any applicable maximum numbers or dimensions, or encroach on any applicable minimum clearance shown on this table.

#### FREESTANDING

| Residential, Other and Incidental | See Table 4-206-C | See Table 4-206-C | NA | NA |

#### BUILDING

<table>
<thead>
<tr>
<th>Banner</th>
<th>See Subsection 4-205.3</th>
<th>See Subsection 4-205.3</th>
<th>9 Feet</th>
<th>12 Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Marker</td>
<td>1 per Building</td>
<td>4 Square Feet</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Canopy</td>
<td>1 per Occupant</td>
<td>25% of Vertical Surface of Canopy</td>
<td>9 Feet</td>
<td>12 Feet</td>
</tr>
<tr>
<td>Identification</td>
<td>1 per Occupant</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Incidental</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Marquee</td>
<td>1 per Occupant</td>
<td>NA</td>
<td>9 Feet</td>
<td>12 Feet</td>
</tr>
<tr>
<td>Projecting</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Residential</td>
<td>1 per Zone Lot</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Roof, Integral</td>
<td>2 per Principal Building</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Suspended</td>
<td>1 per Entrance</td>
<td>NA</td>
<td>9 Feet</td>
<td>NA</td>
</tr>
<tr>
<td>Temporary</td>
<td>See Section 4-205</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Wall</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Window</td>
<td>NA</td>
<td>25% of Total Window Area</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

#### MISCELLANEOUS

<table>
<thead>
<tr>
<th>Banner</th>
<th>See Subsection 4-205.3</th>
<th>See Subsection 4-205.3</th>
<th>9 Feet</th>
<th>12 Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flag</td>
<td>NA</td>
<td>NA</td>
<td>9 Feet</td>
<td>12 Feet</td>
</tr>
<tr>
<td>Portable</td>
<td>1 Where Allowed</td>
<td>20 Square Feet</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
(AMENDED BY ORDINANCE 06-12, JUNE 5, 2006)

**TABLE 4-207-E PERMITTED SIGN CHARACTERISTICS BY ZONING DISTRICT**

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>All RS</th>
<th>All RSD</th>
<th>RM-1</th>
<th>R-MHP</th>
<th>COM. FAC., (a)</th>
<th>OPS &amp; NSD</th>
<th>ISD</th>
<th>GCS</th>
<th>HCD</th>
<th>HSD</th>
<th>CBD</th>
<th>I-R</th>
<th>I-G &amp; I-S</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Animated</strong></td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Changeable Copy</strong></td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>N</td>
<td>A</td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td><strong>Illumination, Internal</strong></td>
<td>N</td>
<td>N</td>
<td>A, (b)</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td><strong>Illumination, External</strong></td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>A, (b)</td>
<td>A, (b)</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td><strong>Illumination, Exposed</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulbs</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Neon</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
</tbody>
</table>

A = Allowed  
N = Not Allowed

a. This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential zoning districts. Such uses may include, but are not necessarily limited to, churches, schools, funeral homes, and cemeteries.

b. No direct light or significant glare from the sign shall be cast onto any adjacent zone lot that is zoned and used for residential purposes.
ARTICLE V: ESTABLISHMENT OF DISTRICTS PROVISIONS FOR OFFICIAL ZONING MAP

CHAPTER 1. ESTABLISHMENT OF DISTRICTS

5-101 REGULAR DISTRICTS
In order to implement all purposes and provisions of this ordinance, the following districts are hereby established:

(A) Residential Districts
   RS-40 Single Family Low Density Residential Districts
   R-40 Low Density Residential Districts
   RS-20 Single Family Low Density Residential Districts
   RS-15 Single Family Low Density Residential Districts
   R-15 Low Density Residential Districts
   R-10 Low Density Residential Districts
   R-7.5 Medium Density Residential Districts
   RM-1 High Density Residential Districts
   R-MHP Mobile Home Park - Residential Districts

(B) Commercial Districts
   CBD Central Business Districts
   OPS Office/Professional Service Districts (Amended by Ordinance 515, September 3, 1996)
   GCS General Commercial Service Districts
   ISD Interchange Service Districts (Amended by Ordinance 515, September 3, 1996)
   MPO Medical/Professional Office Districts
   NSD Neighborhood Service Districts (Amended by Ordinance 515, September 3, 1996)
   HCD Heavy Commercial Distribution (Amended by Ordinance 00-4, April 3, 2000)

(C) Industrial Districts
   IR Restrictive Industrial Districts
   IG General Industrial Districts
   IS Special Industrial Districts

5-102 SPECIAL DISTRICTS
The following are hereby established as special districts which are applicable to the provisions set forth in this ordinance.

(A) Floodplain Districts
   (GFP) General Floodplain Districts

(B) Planned Unit Development Districts
CHAPTER 2. PROVISIONS FOR OFFICIAL ZONING MAPS

5-201 INCORPORATION OF MAPS
The boundaries of districts established by this ordinance are shown on the official zoning maps which are hereby incorporated into the provisions of this ordinance. The zoning maps in their entirety, including all amendments, shall be as much a part of this ordinance as if fully set forth and described herein.

5-202 IDENTIFICATION AND ALTERATION OF THE OFFICIAL ZONING MAP
The official zoning map shall be identified by the signature of the mayor attested by the city recorder, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map, referred to in Article I, of this Ordinance, Number 387, of the City of Portland, Tennessee, together with the date of the adoption of this ordinance.

If in accordance with the provisions of this ordinance changes are made in district boundaries or other matter portrayed on the official zoning maps, such changes shall be entered on the official zoning maps promptly after the amendment has been approved by the City Council. No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article XIII, Chapter 7.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the building inspector shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the planning region.

5-203 REPLACEMENT OF OFFICIAL ZONING MAP
In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature of number of changes and additions the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city recorder, and bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted, by the City of Portland, Tennessee."

All prior official zoning maps or any significant parts thereof shall be preserved, together with all available records pertaining to their adoption or amendment.
CHAPTER 3. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

5-301 RULES
When uncertainty exists as to the boundaries of districts shown on the official zoning map, the following shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(C) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(F) Boundaries indicated as parallel to or extensions of features indicated in Subparts "A" through "E" above, shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of map;

(G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subparts "A" through "F" above, the Board of Appeals shall interpret the district boundaries;

(H) Where a district boundary line divides a lot, which was in single ownership at the time of passage of this ordinance, the Board of Appeals may permit the extension of the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.
CHAPTER 4. APPLICATION OF DISTRICT REGULATIONS

5-401 GENERAL DISTRICT REGULATIONS
The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(A) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or other structure shall hereafter be erected or altered:
   (1) to exceed the height or bulk;
   (2) to accommodate or house a greater number of families;
   (3) to occupy a greater percentage of lot area;
   (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required; or in any other manner contrary to the provisions of this ordinance.

(C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(D) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
ARTICLE VI: PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

CHAPTER 1. STATEMENT OF PURPOSE

6-101 GENERAL PURPOSES OF RESIDENTIAL DISTRICTS
The residential districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of general welfare. These goals include, among others, the following more specific purposes:

(A) To provide sufficient space in appropriate locations for residential developments to adequately meet the housing needs of the present and expected future population of the urban area, with due allowance to the need for a variety of choices in site selection.

(B) To permit improved movement on the public ways and to effectively utilize existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly all through traffic in residential areas.

(C) To protect residential areas against flood, fire, explosions, toxic and noxious matter, radiation, and other dangers, and against offensive matter, heat, glare, humidity, and other objectionable influences.

(D) To protect residential areas against undue congestion, as far as possible, by regulating the density of population, the intensity of activity, and the bulk of buildings in relation to one another, and by providing for off-street parking spaces for automotive vehicles.

(E) To require the provision of open space in residential areas whenever practicable; and to encourage the provision of better standards of open space by permitting moderately larger bulk, higher density, and greater intensity with better standards of open space, in order to open up residential areas to light and air, to provide open areas for rest and recreation, and to break up the monotony of continuous building bulk, and thereby to provide a more desirable environment for urban living.

(F) To provide for access of light and air to windows and for privacy, as far as possible, by controls over the height of buildings and structures.

(G) To provide appropriate space for public and private educational, religious, recreational, and similar facilities, and public utilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences, and to coordinate the intensity of residential land use with the appropriate community facilities.

(H) To provide a zoning framework conducive to freedom of architectural design in order to encourage the development of more attractive and economical building forms.
To provide sufficient space in appropriate locations for agricultural activities.

To promote the most desirable use of land and direction of building development in accordance with a well-considered general plan to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the community's tax revenues.

6-102 PURPOSES OF RESIDENTIAL DISTRICTS

6-102.1 R-40, Low Density Residential Districts
These districts are designed to provide suitable areas for low density residential development characterized by an open appearance. Generally, the residential development will consist of one- and two-family detached dwellings intermixed with farming and agricultural uses. These districts also include community facilities, public utilities and open uses which serve specifically the residents of these districts, or which are benefitted by an open residential environment without creating objectionable or undesirable influences upon residential developments. It is the intent of this ordinance that these districts be located in areas where full urban services are not available and may not be economically feasible to provide. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

6-102.2 R-15 and R-10, Low Density Residential Districts
These districts are designed to provide suitable areas for low density residential development characterized by an open appearance. Generally, the residential development will consist of one- and two-family dwellings and such other structures as are accessory thereto. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts, or which are benefitted by an open residential or undesirable influence upon residential developments. Further, it is the intent of this ordinance that these districts shall be served by complete urban services and facilities and that provision be made for the orderly expansion and maintenance of urban residential development within the urban area. It is the express purpose of this ordinance to exclude from these districts all buildings and other structures and uses having commercial characteristics whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

6-102.3 R-7.5, Medium Density Residential Districts
These districts are designed to provide suitable areas for medium density residential development where complete urban facilities are available prior to development. These districts will be characterized by one- and two-family dwellings and such other structures as are accessory thereto. These districts are intended also to permit community facility and public utility installations which are necessary to service and do service, specifically, the
residents of these districts, or which are benefitted by and compatible with a medium density residential environment. It is the express purpose of this ordinance to exclude from these
districts all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

6-102.4 RS-40, RS-20, and RS-15, Single Family Districts (Deleted and Replaced by Ordinance 435, February 3, 1992)
These districts are designed to provide suitable areas for single family dwellings at a variety of densities. The RS-20 and RS-15 Districts are designed to provide a low-density environment where urban services are available. The RS-40 District is to provide a very low-density environment wherein residential activities lacking full urban services may co-exist with permitted agricultural activities.

6-102.5 RM-1, High Density Residential Districts
These districts are designed to provide suitable areas for high density development where sufficient urban facilities are available prior to development. All types of residential activities excepting mobile homes are permitted. It is the intent of these districts to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone and open space on such lot relative to the number of dwelling units thereon. These districts are intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or which installations are benefitted by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings and other structures and uses having commercial characteristics and not planned as an integral part of a total residential development whether operated for uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

6-102.6 R-MHP, Mobile Home Park Residential Districts
These districts are designed to provide suitable areas for mobile home parks where sufficient urban facilities are available prior to development. Mobile homes and buildings necessary to support the residential occupancy of these structures are permitted. These districts are intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of these districts, or which are benefitted by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.
CHAPTER 2. USES AND STRUCTURES
The uses and structures indicated herein may be permitted within the various residential districts found within the Planning Region only in the manner and subject to any specific design criteria herein established.

6-201 USES PERMITTED
Uses permitted within residential districts as a matter of right are segmented into two (2) groupings:
(A) Principally permitted uses, and
(B) Accessory uses and activities.

6.201.1 Principally Permitted Uses
The uses principally permitted within the residential districts shown on the Zoning Map of Portland include the residential use and occupancy of the dwelling unit types shown on Table 6-201A.

6-201.2 Accessory Uses
In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth below. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in this ordinance.

(a) Off-street parking and loading serving a principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employees, patrons or other persons participating in the principal activity.

(b) Home occupations accessory to a residential activity subject to:
   (1) The specific definition of the term appearing in Article III, Chapter 2.

   (2) The performance-oriented criteria set out below; and
   i. No more than one (1) person other than a member of the immediate family occupying such dwelling shall be employed.
   ii. The home occupation shall clearly be incidental and subordinate to the residential uses of the property.
   iii. In no way shall the appearance of the structure be altered or the occupation, within the residence be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lights, signs, or the emission of noise or vibration.
   iv. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be
met off the street and other than in a required front yard.

v. The home occupation shall not involve the storage of commercial vehicles or the use of such vehicles for delivery of goods or materials to or from the premises.

vi. No home occupation shall require internal or external alterations or involve construction features or the use of mechanical or electrical equipment that would change the fire rating of the structure or the district in which the structure is located.

vii. No equipment or process shall be used in such home occupation which creates noise, vibration glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or processes shall be, used which creates visual or audible interference in any radio or television receivers off the premises.

viii. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

(3) The specific prohibition of the activities listed below as home occupations:

i. The manufacture and repair of transportation equipment.

ii. A barber or beauty shop, parlor or salon, or any similar type activity where clientele or patrons are served on the premises.

(c) Private swimming pools, tennis courts and other outdoor recreational facilities exclusively for the use of the residents.

(d) Private barns, stables, sheds, and other farm buildings. The raising of crops.

(e) Living quarters for persons regularly employed on the premises.

(f) Child care for four (4) or less preteenager children. Provided that the dwelling unit in which this activity occurs shall meet all applicable state and local regulations.

6-202 TEMPORARY USES
The temporary uses and structures specified in Subsection 13-203.302, (Necessary or Seasonal Uses Temporary in Nature) as permissible within residential districts may be permitted for the limited time periods indicated for each such use or activity.

6-203 CONDITIONAL USES
A conditional use is an activity, use, or structure which is subject to a finding by the Board of Appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in Table 6-201A may be allowed within the districts indicated.
6-204 **USES PROHIBITED**
Any uses or structures not allowable as permitted uses, temporary uses, accessory uses or uses permitted on appeal are prohibited within the various residential districts.

6-205 **RESTRICTIONS OF BUILDINGS PERMITTED ON RESIDENTIAL ZONE LOTS**
Only one (1) principal (residential) building may be permitted on any zone lot except as may otherwise be approved as follows:

(A) As part of a complex of dwellings subject to the provisions of Section 6-402 through 6-405, or

(B) As part of a planned unit development district as provided in Article XI, of this ordinance.

6-206 **Agriculture/Farm Exemption**
Regulations within this Ordinance shall not be construed to regulate agriculture/farm uses as defined in the Tennessee Code Annotated.
# Table 6.201A: PERMITTED AND CONDITIONAL USES AND STRUCTURES ALLOWABLE WITHIN RESIDENTIAL DISTRICTS

<table>
<thead>
<tr>
<th>DISTRICTS</th>
<th>RS-40</th>
<th>R-40</th>
<th>RS-20</th>
<th>RS-15</th>
<th>R-15</th>
<th>R-10</th>
<th>R-7.5</th>
<th>RM-1</th>
<th>R-MHP</th>
</tr>
</thead>
<tbody>
<tr>
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**KEY TO INTERPRETING USES CLASSIFICATIONS**

- P = Permitted use within the district indicated (No Special Provisions apply).
- C = Conditional use subject to provisions of Section indicated.
- () = Use permitted to supplemental provisions contained within the Section shown in the parenthesis.
- X = Use not permitted within the district.

**NOTE:** *Where explosives are to be stored on a mining or quarrying site the provisions on Subsection 13-508.3, shall apply.
### I. RESIDENTIAL ACTIVITIES

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#### A. Permanent Residential Activity

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#### B. Semi-Transient Residential Activity

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### II. COMMUNITY FACILITIES ACTIVITIES

#### A. Administrative Services (No Special Provisions)

|          | → | → | → | → | → | → | → | → | → |

#### B. Community Assembly (C (13-506.1))

|          | → | → | → | → | → | → | → | → | → |

#### C. Educational Facilities (C (13-506.2))

|          | → | → | → | → | → | → | → | → | → |

#### D. Cultural and Recreational Services (C (13-506.3))

|          | → | → | → | → | → | → | → | → | → |

#### E. Essential Public Transport, Communication and Utility Services (No Special Provisions)

|          | → | → | → | → | → | → | → | → | → |

#### F. Extensive Impact Facilities (C (13-506.4))

|          | X | X | X | X | X | X | X | X | X |

#### G. Health Care Facilities (C (13-506.5))

|          | → | → | → | → | → | → | → | → | → |

#### H. Intermediate Impact Facilities (C (13-506.4))

|          | → | → | → | → | → | → | → | → | → |

#### I. Special Personal and Group Care (C (13-506.6))

|          | → | → | → | → | → | → | → | → | → |

#### J. Religious Facilities (C (13-506.7))

|          | → | → | → | → | → | → | → | → | → |

#### K. Special Institutional Care Facilities (C (13-506.8))

|          | → | → | → | → | → | → | → | → | → |

### III. AGRICULTURAL AND EXTRACTIVE FACILITIES

#### A. Agricultural Services

|          | P | P | X | X | X | X | X | X | X |

#### B. Crop and Animal Raising

|          | P | P | X | X | X | X | X | X | X |

#### C. Egg Production, Feedlots and Stockyards (C (13-508.1))

|          | → | X | X | X | X | X | X | X | X |

#### D. Mining and Quarrying (C (13-508.2))

|          | X | X | X | X | X | X | X | X | X |

#### E. Plant and Forest Nurseries (C (13-508.4))

|          | → | X | X | X | X | X | X | X |

#### F. Keeping of Horses (C (13-508.5))

|          | → | X | X | X | X | X | X | X |

### KEY TO INTERPRETING USES CLASSIFICATIONS

- **P** = Permitted use within the district indicated (No Special Provisions apply).
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- **NOTE:** *Where explosives are to be stored on a mining or quarrying site the provisions on Subsection 13-508.3, shall apply.

### CHAPTER 3. HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS

The provisions of this chapter, except as provided in Section 6-404, (Alternative Provisions for the Location of Open Space and Placement of One- and Two-Dwellings) of this article, apply to any building or other structure on any zone lot or portion of a zone lot located in any residential district,
including all new developments, enlargements, extensions, and conversions.

6-301 MAXIMUM PERMITTED LOT COVERAGE
Within the various residential districts, the maximum zone lot coverage by all buildings (principal and accessory) shall not exceed the percentage of the total area of the zone lot indicated in TABLE 6-301A.

6-302 MINIMUM ZONE LOT REQUIREMENTS
Within the various residential districts, the minimum area and width (measured at the building line) of zone lots used for residential purposes shall not, except as provided in Section 6-404, of this article, be less than that indicated in TABLE 6-301A.

6-302.1 In-Fill Development Requirements (Added by Ordinance 06-26, June 5, 2006)
The Planning Commission shall require that all in-fill developments meet the following minimum standards. For the purpose of this Chapter, in-fill developments are to include residentially zoned lots being created or modified within a well-established area of the City of Portland.

(a) In-fill development shall be encouraged throughout the City of Portland and within the Portland Planning Region to promote the most efficient and effective manner of providing public services.

(b) The creation of the residential in-fill development lots shall be of like size and general shape as the existing lots in the immediate area.

(c) No matter the number of lots created or modified, the Planning Commission shall have final authority to approve such lots being created or modified through the Subdivision process described in the Subdivision Regulations of Portland, Tennessee.

6-303 DENSITY REGULATIONS

6-303.1 Basic Requirements
The residential density permitted upon any zone lot found within the various residential districts is controlled by the development area required for each dwelling or rooming unit permitted to locate thereon. This is determined by dividing the total area of the zone lot by the "development area per dwelling or rooming unit" which is presented in TABLE 6-301A, for the residential zoning districts.

6-303.2 Adjustment for Lot Area Remainder
In all districts where residential uses are permitted, if an amount of lot area not allocated to a dwelling unit is less than that required for one (1) such dwelling, the remaining lot area may be used to satisfy lot area requirements if it represents not less than three-fourths (3/4) of the total required for such additional unit.

6-304 HEIGHT REGULATIONS
**6-304.1 Basic Requirements**
No portion of any building or other structure shall, except as provided in Subsection 6-304.2, exceed twenty (20) feet in height along any yard line of a zone lot and two (2) feet above twenty (20) feet in height for every one (1) foot removed from any yard line. At no point, however, shall any building or other structure exceed the height requirement set forth in Table 6-301A.

**6-304.2 General Exception to Height Regulations**
The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

**6-305 YARD REGULATIONS**

**6-305.1 Application of the Lot Line Equivalent to Measurement of Yards**
The following provisions shall apply in the determination of a lot line equivalent.

A front lot line equivalent is a straight line joining the rearmost points of the side lot lines. In the case of rounded property corners at street intersections, the foremost point of a side lot line shall be assumed to be the point at which the side and the front lot line would have met without such rounding.

A rear lot line equivalent is a straight line joining the rearmost points of the side lot lines.

A side lot line equivalent is a straight line joining the ends of the front yard line and the rear yard line on the same side of the zone lot. In all residential districts, the width or depth of a yard shall be measured perpendicular to lot line equivalents.

**6-305.2 Yard Diagrams**
The yard diagrams appearing on Illustration 3-202B shall be used in clarifying the meaning of the "line" and "yard" definitions of this section.

**6-305.3 Permitted Obstruction in Required Yards**
In all residential districts, the following shall not be considered obstructions when located within a required yard except that these items shall comply with Subsection 6-305.4.

(a) In Any Yard:

Air conditioning units provided that no such unit shall extend more than one-half (1/2) the required width of the yard.

Arbor and trellises.

Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

Chimneys projecting not more than three (3) feet into and not exceeding two (2) percent of the area, of the required yard.
Driveways subject to other specific provisions of this ordinance related directly thereto.

Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.

Fire escapes or staircases, the riser of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not project more than three (3) feet into, and not exceeding ten (10) percent of the area of the required yard.

Flagpoles having only one structural ground member.

Fountains.

Mailboxes.

Open terraces, including natural plant landscaping. Sculpture or other similar objects of art.

Street furniture such as, but not limited to benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.

Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.

Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.

Walls, including retaining walls, or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length, of, and on any side of, such walls, including retaining walls, or fences, and not roofed or structurally part of a building.

(b) In Any Rear Yard:

Clothes poles or clothes lines.

Recreational equipment.

Accessory structures provided that any such structure shall be located at least five feet from all lot lines and from any building on the same lot.

6-305.4 Obstruction Prohibited at Street Intersections
On a corner lot, no fence, wall, hedge, or other planting or structure that will materially obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines (see the following illustration). In case of rounded
street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding.

**ILLUSTRATION 6-305.4A: VISION OBSTRUCTION PROHIBITION**

6-305.5 Basic Requirements

6-305.501 Front Yards
In all residential districts the minimum requirement for front yards, excepting as otherwise provided in Section 6-404, of this article, shall be as set forth in Table
6-305.502 Side Yards
In all residential districts, the minimum requirement for side yards shall be as set forth in Table 6-301A, except as otherwise provided in Subsections 6-305.601, 6-305.605 and 6-305.606.

6-305.503 Rear Yards
In all residential districts, the minimum requirement for rear yards shall be as set forth in Table 6-301A, except as otherwise provided in Subsections 6-305.602 and 6-305.603.

6-305.6 Special Conditions Affecting Yards

6-305.601 Special Provisions for Party Walls
Within those districts where semi-detached and attached dwellings are permitted the following shall apply to such buildings.

(1) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit the spread of fire. Such walls shall be fire rated as required by the Standard Building Code.

(2) The firewall shall bisect the line dividing each portion of the building or lot so that one-half (1/2) of the firewall is held by each of the abutting properties.

(3) If a firewall is destroyed or damaged by fire or other casualty, any owner may restore said wall and if other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call a larger contribution from the others under any rule of law requiring liability for negligent or willful acts and omissions.

(4) Each abutter who may share in the ownership of any firewall shall have an easement on the property of any other owner(s) for the purpose of reconstruction and protection of remaining unit(s) from the elements.

6-305.602 Special Provisions for Shallow Interior Lots
In all residential districts, if an interior lot consists entirely of a tract of land:

(1) Which was owned separately and individually from all other tracts of land, both on the effective date of this ordinance and on the date of application for a zoning permit; and

(2) Which is less than one hundred (100) feet in depth.

The depth of a required rear yard for such interior lot may be reduced by one (1) foot
for each foot by which the maximum depth of such zone lot is less than one hundred (100) feet provided that such reduction in the depth of the required rear yard does not exceed ten (10) feet.

**6-305.603 Rear Yard Exception for Through Lots**

In all residential districts, no rear yard regulations shall apply to any through lot which extends less than two hundred fifty (250) in depth from street to street. The depth of such lot shall be considered to be the mean length of its side lot lines. In lieu thereof, a front yard shall be required for each street frontage.

**6-305.604 Yard Requirements for Zone Lots of Unusual Shape**

In all residential districts, wherever a zone lot is of such unusual shape that the yard provisions of these regulations cannot be specifically applied, the Building Inspector may substitute special yard requirements for such lot only to the extent that these regulations are inapplicable and not to exceed the average of the yard requirements on adjacent lots in the district.

**6-305.605 Special Yard Requirements for Corner Lots**

The minimum required width of a side yard abutting a street shall be one-half (1/2) the minimum required front yard depth for the district. Parking within this side yard is prohibited.

**6-305.606 Minimum Side Yard for Residential Structure with Façade Parallel to a Side Lot Line**

For any residential structure constructed with a front and/or rear building facade parallel to a side lot line, the required side yard shall be not less than one-half (1/2) the minimum required front yard depth for the district.

**6-305.607 Special Provisions for Front Yard Setback**

Any alteration, addition or construction of a building or structure on a zone lot shall extend no closer to the street which abuts the designated front yard than the average of the distances of the buildings located within one hundred (100) feet on each side of the lot whereon the alteration, addition or construction is to occur; provided that no building shall be required to provide a front yard of greater than twice the minimum front yard for the district. The average front yard requirement shall not prohibit alterations or additions to an existing structure which has irregular front walls provided said alteration or addition extends no closer to the street. The Board of Appeals shall have jurisdiction to vary from this strict application upon property where such provision would create an undue hardship.

**6-305.608 Special Yards and Setbacks Along District Boundaries**

Along such portion of the boundary of any RM-1 District which coincides with a side or rear lot line of a zone lot in any other residential district the following shall apply:

1. **Buffer Yards:** An open area unobstructed from the ground to the sky shall be provided within the RM-1 District said area being at least thirty (30) feet in width or depth. Such open area shall not be used for accessory off-street
parking, or for accessory off-street loading, or for storage or processing of any kind.

(2) **Special Front Setbacks:** Regardless of the front yard provisions established for any RM-1 District, no building located on any zone lot adjacent to any other residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot; provided that no building shall be required to setback more than twice the minimum front yard applicable within the zoning district wherein it is located.

### 6-306 STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS

In all residential districts, the minimum distance between any two buildings anyone of which has legally required windows facing the other (referred to as Building A and Building B) shall vary according to the length and height of such buildings. Such minimum distance shall be either thirty (30) feet or the distance required under the following formula, whichever is the greater distance:

\[
S = \frac{1}{6}(1^a + 1^b + 2(h_a + h_b))
\]

Where:

- \(S\) = required minimum horizontal distance between any wall of Building A, at any given level, and any wall of Building B, at any given level, or the vertical prolongation of either.
- \(1^a\) = total length of Building A.
  - The total length of Building A is the length of that portion or portions of a wall or walls of Building A, from which, when viewed directly from above, lines drawn perpendicular or radial from Building A will intersect any wall of Building B.
- \(1^b\) = total length of Building B.
  - The total length of Building B is the length of that portion or portions of a wall or walls of Building B from which, when viewed directly from above, lines drawn perpendicular or radial from Building B will intersect any wall of Building A.
- \(h_a\) = height of Building A.
  - The height of Building A, at any given level, is the height above natural grade level of any portion or portions of a wall or walls along the total length of Building B.
- \(h_b\) = height of Building B.
  - The height of Building B, at any given level, is the height above natural grade level of any portion or portions of a wall or walls along the total length of Building B.

If "\(1^a + 1^b\)" is equal to zero, the formula set forth above shall not apply, and the minimum distance shall be thirty (30) feet.
ILLUSTRATION FOR SECTION 6-306: STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS

6-307 ACCESS REQUIREMENTS
No building shall be erected on a lot which does not abut at least one (1) public street for at least fifty (50) feet. This section shall not apply to properties abutting a cul-de-sac, which shall abut the street at least thirty-five (35) feet; or to properties whose access is provided by a private easement; provided, however, that when a permanent easement to a public street is used as access to a lot or tract of land having been or being separated by deed or plat from other property, such easement shall be at least fifty (50) feet in width from and after the time of adoption of this ordinance and shall not be used to provide access to more than one (1) lot or tract of land. This section shall not be construed to prohibit the development of buildings on lots or tracts with permanent access provided by private streets provided such development is in the form of condominium ownership of such private improvements which has been approved by the Planning Commission and will be in private ownership and control in perpetuity.
TABLE 6-301A: HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS - RESIDENTIAL DISTRICTS

<table>
<thead>
<tr>
<th>DISTRICTS</th>
<th>RS-40</th>
<th>R-40</th>
<th>RS-20</th>
<th>RS-15</th>
<th>R-15</th>
<th>R-10</th>
<th>R-7.5</th>
<th>RM-1</th>
<th>R-MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Maximum Lot Coverage by all Buildings (as % of lot area)</td>
<td>15</td>
<td>15</td>
<td>20</td>
<td>25</td>
<td>25</td>
<td>30</td>
<td>35</td>
<td>50</td>
<td>35</td>
</tr>
</tbody>
</table>

II. Minimum Zone Lot Requirements

A. Residential Buildings

1. Area (in square feet) | 40,000 | 40,000 | 20,000 | 15,000 | 15,000 | 10,000 | 7,500 | 6,000 | See Special Provisions(1) |

2. Width (in feet, measured at the building line) | 100 | 100 | 75 | 75 | 60 | 60 | 50 | See Special Provisions(1) |

B. Other Uses

1. Area (in square feet) | 40,000 | 40,000 | 40,000 | 30,000 | 30,000 | 20,000 | 15,000 | 6,000 | 10,000 |

2. Width (in feet) | 200 | 200 | 200 | 150 | 150 | 100 | 100 | 50 | 75 |

III. Development Area per Dwelling Unit (in square feet) | 40,000 | 30,000 | 20,000 | 15,000 | 11,500 | 7,500 | 5,625 | 3,600 | See Special Provisions(1) |

IV. Maximum Height (in feet) | 35 | 35 | 35 | 35 | 35 | 35 | 35 | 35 | See Special Provisions(1) |

Stories | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | See Special Provisions(1) |

V. Minimum Yard Requirements (in feet)

A. Residential Activity Buildings

1. Front
   - Arterial Streets | 50 | 50 | 50 | 50 | 50 | 50 | 50 | See Special Provisions(1) |
   - Collector Streets | 40 | 40 | 40 | 40 | 40 | 40 | 40 | See Special Provisions(1) |
   - Minor Streets | 30 | 30 | 30 | 30 | 30 | 30 | 30 | See Special Provisions(1) |

2. Side
   - One- and Two-Story Buildings | 20 | 20 | 15 | 15 | 15 | 15 | 10 | 7.5 | See Special Provisions(1) |


B. Other Uses

1. Front
   - Arterial Streets | 50 | 50 | 50 | 50 | 50 | 50 | 50 | 40 | 40 |
   - Collector Streets | 40 | 40 | 40 | 40 | 40 | 40 | 40 | 30 | 30 |
   - Minor Streets | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 20 | 20 |

2. Side
   - One- and Two-Story Buildings | 20 | 20 | 15 | 15 | 15 | 15 | 15 | 12 | 12 |
   - Three-Story Buildings | 30 | 20 | 30 | 30 | 30 | 30 | 20 | 20 | 20 |

3. Rear - | 30 | 30 | 30 | 30 | 30 | 25 | 20 | 20 | 20 |

NOTE: (1) See Detailed Design Criteria, Section 6-405.
CHAPTER 4. SUPPLEMENTAL PROVISIONS

6-401 DEVELOPMENT PLANS REQUIRED
The purpose of this chapter is to establish a mechanism for achieving assured implementation of the specific design criteria set forth for various housing types in Sections 6-402 thru 6-405. The plans are required as a means of demonstrating the manner in which individual developments are intended to comply with the design criteria application to the specific use. The approval process is intended as a means of legally insuring implementation of the approved plan.

6-401.1 Procedure for Submission and Review
The provisions of this section shall apply to properties which are, at the time of application for approval, either:

(a) Located within a zoning district wherein such use is currently permitted, or

(b) Proposed for location upon a site for which a change in the zoning classification is proposed in order to allow such use.

Where a change in the zoning classification is required to permit such use, the procedure set forth in Subsection 6-401.2, shall apply. Where the use is to be located within a zoning district wherein such use is currently permitted the applicant may proceed under the provisions of Subsection 6-401.3.

6-401.2 Preliminary Site Development Plan
The provisions of this subsection shall apply to all requests for reclassification of properties where the intended use is subject to the detailed design provisions appearing in Sections 6-402 thru 6-405.

6-401.201 Information Required
(1) General Location Sketch Map at a scale not smaller than 1" = 2,000', showing:
   - The approximate boundaries of the site.
   - External (public access) streets or roads in relation to the site.
   - Surrounding development (i.e., general residential, commercial, and industrial areas) within the general vicinity of the site.
   - Any public water and sewer systems in relation to site.

(2) Site plan drawn to a scale no smaller than 1" = 200', showing:
   - The proposed ground coverage, floor area, and building heights.
   - The location and dimensions of proposed internal streets, structures, off-street parking spaces and amenity facilities (i.e., pools, tennis courts, etc.)
- Points of access to public streets.

- The location and size of available water and sewer lines.

- The location of proposed drainageways and a general concept for storm water management.

(3) Any other information as may reasonably be required by the Building Inspector.

6-401.202 Planning Commission Recommendation

Seven (7) copies of the proposal containing the information required above shall be submitted to the Portland Regional Planning Commission at least fifteen (15) days in advance, for recommendation. The Planning Commission may:

(1) Recommend approval of the plan as submitted.

(2) Recommend disapproval of the plan.

(3) Recommend approval of the plan with conditions or recommendations for alterations.

6-401.203 Action by City Council

After review and recommendation by the Planning Commission, the applicant may proceed to the City Council with the proposal. At the meeting of the Council where the proposal is presented the preliminary site development plan along with the action recommended by the Planning Commission shall be presented for review. The City Council may approve or disapprove the proposal, or in an instance where the Planning Commission has recommended approval with conditions or recommendations for alterations, the Council may establish specific conditions within the purview of this ordinance for approval.

Upon action by the City Council preliminarily approving the plan and the proposed change in zoning classification the applicant may proceed to prepare and present to the Planning Commission a final site development plan as set forth in Section 6-401.3. Only upon approval of a final site development plan shall the action of the City Council preliminarily approving the change in zoning become final. In any instance where such plan is not submitted and approved within two (2) years following the preliminary action of the City Council authorizing a change in the zoning classification of any property subject to this provision, the action shall become void and be of no further effect. In any instance where final development plans may be submitted for only a portion or portions of the land contained in the preliminary development plan, the City Council may for good cause extend the period for final development plan approval. Provided, however, that each extension so granted shall not exceed a one (1) year period of duration and that an annual review and approval by City Council shall be required. In any instance of an extension of approval granted hereunder, the City Council shall find that the property is under continuing active development.
6-401.3 Final Site Development Plan
The provisions of this section shall apply to all properties proposed for use as sites for housing types which are subject to the detailed design provisions appearing in Sections 6-402 thru 6-405.

6-401.301 Information Required
(See Subsection 13-202.202)

6-401.302 Review Procedure
Seven (7) copies of the proposal containing the information required above shall be submitted to the Portland Regional Planning Commission at least fifteen (15) days in advance, for consideration. The Planning Commission may, upon a finding of substantial compliance as set forth in Subsection 6-401.303:
(1) Approve the plan as submitted.
(2) Disapprove the plan.
(3) Approve the plan with modifications. In any instance where a plan is approved with modifications, the issuance of a use and occupancy permit shall be conditioned upon compliance with these modifications.

6-401.303 Determination of Substantial Compliance
The final site development plan shall be deemed in substantial compliance with the preliminary site development plan provided modifications by the applicant do not involve changes which in aggregate:
(1) Violate any provisions of this ordinance;
(2) Involve any increase in the number of dwelling units shown on the preliminary development plan;
(3) Involve a reduction of more than two (2) percent of the area shown on the preliminary development plan as reserved for open space including parking areas;
(4) Increase the floor area proposed in the preliminary development plan by more than three (3) percent.

6-402 DEVELOPMENT STANDARDS FOR MULTI-FAMILY DWELLINGS

6-402.1 Purpose
The special provisions set forth herein are intended to provide design criteria for multi-family dwellings located on a zone lot or portion of a zone lot. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by review of the site plan required for all such development by Section 6-401.

Provided, however, that in any instance where this use is located within a development subject to the provisions of Section 6-404, of this article, this requirement may be fulfilled by submission of the plans required by those sections.
6-402.2 Design Criteria, General
It is the intent that multi-family dwellings where they are permitted:
(a) May be appropriately intermingled with other types of housing;
(b) Shall not contain more than twelve (12) dwelling units per floor on a single unbroken frontage; and
(c) Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

6-402.3 Design Criteria, Detailed
(a) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walls, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.
(b) Sidewalks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts or garages and for convenient circulation and access to all facilities.
(c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings, and grounds and to screen out objectionable features. The planting plan shall be submitted with the final site development plan.
(d) Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.
(e) Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.
(f) Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents.
(g) Well-equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.
(h) All public streets located within any multi-family development shall meet the construction specifications set forth in the subdivision regulations.
(i) The planning commission shall act to ensure that any private drives, parking areas or other vehicular ways used for common access for two (2) or more residences will be suitably paved and maintained as a condition of approval of the project.
(j) All dwelling units shall be so positioned as to assure the availability of adequate fire protection. The fire department shall adjudge the adequacy of protection.

6-402.4 Access
(a) Access to Each Dwelling
Each multi-family building shall meet the requirements of access set forth in Section 6-307, of this article.

(b) Service Access
Access and circulation shall adequately provide for firefighting, other emergency equipment, service deliveries, furniture moving vans and refuse collection.

6-402.5 Parking
Parking shall be provided in accordance with Article IV, Chapter 1, of this ordinance. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

6-402.6 Open space Requirements
Any open space held in common ownership shall:
(a) Be suitably improved for the use intended.

(b) Be protected by private deed covenants sufficient to insure the improvement and continued maintenance of all such properties.

(c) Serve as recreational area and open space only.

(d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

6-402.7 Density Permitted
The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the multi-family dwellings are to be located. In any instance where a particular development is located in more than one district, the density shall be separately computed for each district, and no density may be transferred between districts.

6-402.8 Yard Requirements
Within any development approved under the provisions of this section the following yard requirements shall apply:
(a) For units located entirely within the interior of the site no yards as such are required.

(b) In addition to the provisions of Subsection (a), (above), for units located along the
periphery of the site abutting any residential district other than an RM-1 District the provisions of Subsection 6-305.608, shall apply. Along all other district boundaries the basic yard provisions established for the district within which the development is located shall apply along all portions of such lots as may abut the periphery, excepting any portion of such lots as may involve the use of party walls meeting the provisions of Subsection 6-305.601.

6-402.9 Building Spacing
The provisions for spacing of buildings set forth in Section 6-306, of this article, shall apply to all buildings and structures approved under the provisions of this section.

6-403 DEVELOPMENT STANDARDS FOR ATTACHED DWELLINGS

6-403.1 Purpose
The provisions set forth herein are intended to apply to all attached dwellings, as defined by this ordinance, whether such units are popularly described as townhouses, atrium houses, or by any other name. The specific provisions appearing below shall apply to all attached dwellings regardless of the district in which such may be located.

Provided, however, that in any instances where this use is located within a development approved under the provisions of Section 6-404, of this article, alternative standards for yards, building spacing, and open space may be substituted. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by review of the site plan required for such developments by Section 6-401. Provided, however, that in any instance where this use is located within a development subject to the provisions of Section 6-404, of this article, this requirement may be fulfilled by submission of the plans required by those sections.

6-403.2 Design Criteria, General
It is intended that attached dwellings where they are permitted:
   (a) May be appropriately interconnected with other types of housing;

   (b) Shall not form long, unbroken lines of row housing; and

   (c) Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

6-403.3 Design Criteria, Detailed
   (a) The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the attached dwellings are to be located. In any instance where a particular development is located in more than one district, the density shall be separately computed for each district, and no density may be transferred between districts.

   (b) The minimum zone lot for any single family attached dwelling not located within a development approved under the provisions of Section 5-404, of this article, shall be
as required to meet basic district provisions.

(c) The maximum lot coverage ratio set forth for the district may be exceeded for a given lot within a development of attached dwellings. However, such ratio shall apply to the project when considered in aggregate (i.e., total building coverage divided by total gross development site area). In any instance where a development may lie within two or more zoning districts the coverage ratio for each district shall apply to all development within it. No transfer of bulk or site coverage shall be permitted among zoning districts.

(d) Minimum width for the portion of the lot on which an attached dwelling is to be constructed shall be twenty-two (22) feet.

(e) Not more than six (6) contiguous dwellings shall be built in a row with the same or approximately the same front line and not more than twelve (12) dwellings shall be contiguous.

(f) Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

6-403.4 Access
(a) Each attached dwelling shall meet the requirements for access set forth in Section 6-307, of this article;

(b) Access and circulation shall adequately provide for firefighting equipment, service deliveries, furniture moving vans, and refuse collection; and

(c) Pedestrian access shall be provided at the rear of each attached dwelling.

6-403.5 Parking
Parking shall be provided in accordance with Article IV, Chapter 1, of this ordinance. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit and space is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

6-403.6 Open Space Requirements
Any open space held in common ownership shall:
(a) Be suitably improved for the use intended.

(b) Be protected by private deed covenants sufficient to insure the improvement and continued maintenance of all such properties.
(c) Serve as recreational area and open space only.

(d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

6-403.7 Recreation Area
Adequate recreational facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.

Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Activities may vary from horseshoe pitching, shuffleboard, swimming, to tennis or golf, horseback riding, and boating in large projects. Well-equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

6-403.8 Planting
The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and ground, and to screen out objectionable features. The planting plan shall be submitted with site plans.

Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

6-403.9 Yard Requirements
The yard requirements established for the district shall be met excepting along points of attachment between attached dwellings. Along all points of attachment party walls, (see Subsection 6-305.601), shall be provided.

6-403.10 Building Spacing
The provisions for spacing of buildings set forth in Section 6-306, of this article, shall apply to all buildings and structures approved under the provisions of this section.

6-404 ALTERNATIVE PROVISIONS FOR THE LOCATION OF OPEN SPACE AND PLACEMENT OF ONE- AND TWO-FAMILY DWELLINGS

6-404.1 Purpose
The purpose of this section is to provide a permissive voluntary alternative procedure to be utilized in the placement of one- and two-family dwellings and in the location of open spaces associated therewith. These provisions are intended to provide for variations in lot size and open space requirements within the residential districts. The density standards established for individual districts are to be maintained on an overall basis and thereby provide desirable and proper open-air space, tree cover recreation areas, or scenic vistas; all with the intent of preserving the natural beauty of the area, while at the same time maintaining the necessary maximum population density limitations of the district in which this procedure may be
permitted.

6-404.2 General Provisions
The provisions contained within this section are intended to provide a flexible procedure for locating dwellings upon sites. As such, the provisions do not constitute a use but an alternative procedure for the spacing of buildings and the use of open areas surrounding those buildings. It is necessary, however, that the purposes and intent of this ordinance be assured and that proper light, air, and privacy be made available for each dwelling unit.

6-404.3 Development Standards
The following standards and requirements shall apply to all density developments.

6-404.301 General Standards for Development
In the interest of promoting the most appropriate and economical use of the land while assuring that the character of the residential district is maintained, the Planning Commission in its review of a proposed development shall consider the following:

(1) The protection of the character, property values, privacy and other characteristics of the surrounding neighborhood;

(2) The provisions for surface drainage control, sewage disposal, water supply, recreation and traffic control; and

(3) The preservation and protection of existing trees, ground cover, top soil, streams, rock outcroppings and scenic or historic sites from dangers and damage caused by excessive and poorly planned grading of streets and building sites.

6-404.302 Availability of Public Utilities
Generally, all public utilities, specifically including water and a central sewage collection and treatment system shall be available. Where public sewer is not available, no lot or housing site may be created which is less than twenty thousand (20,000) square feet in area, and all septic fields for each dwelling unit shall be located within the area of fee simple ownership of said dwelling unit.

6-404.303 Permitted Density
The density permitted is intended to be within the range of that allowable within more typical developments offering no common open space. The maximum number of dwelling units permitted shall be computed as follows:

(1) From the gross acreage available within the development shall be subtracted:

   (1) any portion of the site which is within the right-of-way and/or easement for major utilities such as gas or electric transmission lines where the full use of the land is not available to the landowner because restrictions thereon; (2) any portion of the site which lies within the floodway portion of the General Floodplain (GFP) District.

(2) The area remaining after the above adjustments shall be divided by the minimum development area per dwelling unit for the district in which the
dwelling unit is located. For developments located in more than one zoning district, the density shall be computed separately for portion of the development lying within each district. No developmental density may be transferred across zoning district boundaries.

6-404.304 Minimum Lot Area and Lot Width
No lot of record may be created within the district indicated which has less area than required for the type dwelling indicated in Table 6-404.304. The minimum lot width at the building shall be as approved by the Planning Commission.

**TABLE 6-404.304: MINIMUM LOT AREA BY DWELLING UNIT TYPE**

<table>
<thead>
<tr>
<th>DWELLING UNIT TYPE</th>
<th>DISTRICTS</th>
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<tbody>
<tr>
<td></td>
<td>RS-40</td>
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<tr>
<td>One-Family</td>
<td></td>
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<td>Detached</td>
<td>20</td>
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<tr>
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<td>Semi-Detached</td>
<td>/</td>
</tr>
<tr>
<td>Attached</td>
<td>/</td>
</tr>
</tbody>
</table>

NOTE: / Indicates Use is not Permitted.

6-404.305 Yard Requirements
Within any development approved under the provisions of this section the following yard requirements shall apply:

(1) For units located entirely within the interior of a site no yards as such are required. However, each dwelling unit shall on its own lot have one (1) yard containing not less than six hundred (600) square feet. This yard shall be reasonably secluded from view from streets and from neighboring property and shall not be used for off-street parking or for any accessory building.

(2) In addition to the provisions of Subpart (1), (above), for units located along the periphery of the site the basic yard provisions established for the district within which the development is located shall apply along all portions of such lots as may abut the periphery.

6-404.306 Building Spacing
The provisions for spacing of buildings set forth in Section 6-306, of this article, shall apply to all buildings and structures approved under the provisions of this section.

6-404.307 Lot Coverage
Individual dwellings may exceed the maximum lot coverage provisions established for
the district in which such site is located. However, in no instance shall the aggregate site coverage of all dwellings exceed the coverage provisions established for the district in which such site is located. In the event a project lies within two or more zoning districts, the coverage ratio applicable to each zone district shall apply to these dwellings located within it. No transfer of bulk is permitted among zoning districts.

6-404.308 Access to Dwellings
Access to dwellings shall be provided in accordance with the provisions of Section 6-307.

6-404.309 Pedestrian Circulation
The pedestrian circulation system and its related walkways shall be insulated as completely as possible from the street system in order to provide separation of pedestrian underpasses or overpasses in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

6-404.4 Open Space Requirements
Any open space held in common ownership shall:
(a) Be suitably improved for the use intended.

(b) Be protected by private deed covenants sufficient to insure the improvement and continued maintenance of all such properties.

(c) Serve as recreational area and open space only.

(d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

6-405 DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS

6-405.1 Purpose
The provisions set forth herein are intended to apply to all mobile home parks (as defined by this ordinance) which may be established, and to all expansions and additions to existing parks, following the adoption of this ordinance. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by review of the site plan required for all such development by Section 6-401.

6-405.2 Design Criteria, General
It is intended that mobile home parks where they are permitted:
(a) Shall be located so as to minimize hazards from objectionable smoke, noxious odors, unusual noise, the possibility of subsidence, the probability of flood or erosion or the probability of insect or rodent infestation;

(b) Shall be served by adequate urban services and facilities, to specifically include public water and wastewater facilities; and
(c) Shall be so designed, constructed and maintained as to assure a safe and healthful residential environment.

6-405.3 Design Criteria, Detailed

(a) Each mobile home shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.

(b) Street sidewalks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

(c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings, and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.

(d) Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

(e) Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.

(f) Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents.

(g) Well-equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.

(h) All public streets located within any mobile home park shall meet the construction specifications set forth in the subdivision regulations.

(i) The Planning Commission shall act to ensure that any private drives, parking areas or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

(b) All mobile homes shall be so positioned as to assure the availability of adequate fire protection. The fire department shall adjudge the adequacy of protection.

6-405.5 Density
The maximum overall density of dwellings within mobile home parks shall not exceed eight (8) per gross acre.
6-405.6 Access
Direct vehicular access to the mobile home park shall be provided by means of an abutting improved public street or way and access to each mobile home stand shall be by a permanently maintained private street or way which is protected by a permanent easement. Sole vehicular access shall not be by an alley.

6-405.7 Minimum Size of Mobile Home Parks
No mobile home park located within the Planning Region shall be created following the adoption of this ordinance which contains less land area than that which is required by this ordinance for locating thereon a minimum of ten (10) mobile homes. No presently existing mobile home park may be enlarged or expanded unless it is demonstrated that such land area, contiguous to the present site, is available to meet this standard.

6-405.8 Required Services and Facilities

6-405.801 Water Supply and Distribution System
Each mobile home park shall be served by a public water supply of adequate quantity, quality, and pressure. Adequate fire protection shall be provided for each mobile home located within the park. *
NOTE: *The Municipal Fire Department shall adjudge the adequacy of fire protection.

6-405.802 Sewage Disposal
Each and every mobile home within a mobile home park shall be served by a central sewage collection and treatment system.

6-405.803 Solid Waste Disposal System
Solid Waste collection stands shall be provided for waste containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

6-405.804 Service Buildings
Service buildings housing sanitation and laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems.

6-405.805 Recreation Area
Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. Attractive outdoor sitting areas shall be provided, appropriate in size, type, and number to the needs of the residents.

Two hundred-fifty (250) square feet of land area per mobile home space shall be set aside for recreational use. This land shall be grouped into areas of sufficient size to meet the recreation needs of expected residents. Where mobile home parks are
intended to serve families with children these lands may be utilized as playgrounds. Such playgrounds shall be suitably equipped for their intended usage.

6-405.9 **Street Width and Construction, Including Sidewalks**

6-405.901 **Streets**
All mobile home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

1. **Pavement Widths:** Pavement shall be a minimum of twenty-four (24) feet in width.

2. **Paving Required:** All streets shall be paved with an all-weather bituminous or concrete surface.

3. **Visibility at Intersections:** Visibility at intersections of streets shall be as set forth in Subsection 6-305.4, of this ordinance.

4. **Street Grades:** No street within a mobile home park shall exceed twelve (12) percent.

6-405.902 **Walks**
All mobile home developments shall be provided with safe, convenient, all season pedestrian accesses of adequate width and gradient.

1. **Common Walk System:** A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three (3) feet.

2. **Individual Walks:** All mobile home stands shall be connected to common walks, streets, driveways and parking spaces by individual walks. Such individual walks shall have a minimum width of two (2) feet.

6-405.10 **Spacing of Mobile Homes and Site Coverage**
(a) Mobile homes shall be so harbored on each space that there shall be at least twenty-five (25) feet of clearance between mobile homes; for mobile homes parked end-to-end, the end-to-end clearance may be less than twenty-five (25) feet but not less than fifteen (15) feet.

(b) There shall be a minimum distance of ten (10) feet between the nearest edge of any mobile home stand on an abutting interior street.

(c) Mobile home stands shall not occupy an area in excess of twenty-five (25) percent of the respective lot area. The total area occupied by the mobile home and its accessory structures shall not exceed fifty (50) percent of the respective lot area.

6-405.11 **The Individual Mobile Home Site**
(a) **General:** The limits of each mobile home lot shall be marked on the ground by suitable
means. Location of lot limits on the ground shall be the same as shown on accepted plans.

(b) **Mobile Home Stands:** The mobile home stands shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift, or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, or wind. In addition, such stand shall comply with the publication "NCSBCS" Standard for Manufactured Home Installations (ANSI A225°1-1982) including NFPA Standard for Fire safety Criteria for Mobile Home Installations, Sites and Communities (NFPA 501A-1982), which is hereby adopted by reference.

(c) **Outdoor Living Area:** Each mobile home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall not be less than three hundred (300) square feet with a minimum dimension of fifteen (15) feet.

### 6.405.12 Buffer and Screening
A landscape buffer shall be provided along the perimeter of the site boundaries. Such area shall have a width as indicated below:

(a) Along any boundary adjoining property utilized for residential purposes - fifty (50) feet.

(b) Along any boundary adjoining property utilized for other than residential purposes - twenty-five (25) feet.

Within the first fifteen (15) feet of the landscaped buffer closest to the boundary line, a continuous fence at least eight (8) feet in height or a landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

### 6.405.13 Open Space Requirements
Any open space held in common ownership shall:

(a) Be suitably improved for the use intended.

(b) Be protected by private deed covenants sufficient to insure the improvement and continued maintenance of all such properties.

(c) Serve as recreational area and open space only.

(d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.
6-406 FOUNDATION OR PERIMETER SKIRTING ENCLOSURES FOR PRINCIPAL BUILDINGS

Principal buildings not located within a mobile home park, as defined by the city zoning ordinance, shall have a masonry perimeter foundation or masonry perimeter skirting around the complete perimeter of the structure. Masonry may include but is not limited to brick, stone, stucco, EFIS (Exterior Insulation Finishing System) and split-face block. Metal and/or vinyl products are not appropriate for foundations or perimeter skirting. This section is not intended to prohibit slab foundations. Principal buildings shall be attached to the perimeter foundation or perimeter skirting per the City adopted Residential Building Code or U.S. Department of Housing and Urban Development(HUD) standards, whichever is applicable.
(Article VII, Deleted and Replaced with New Text by Ordinance 515, September 3, 1996)

ARTICLE VII: COMMERCIAL DISTRICT REGULATIONS

CHAPTER 1. STATEMENT OF PURPOSE

7-101 GENERAL PURPOSES OF COMMERCIAL DISTRICTS

The commercial districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

(A) To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.

(B) To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other-hazards, and against offensive noise, vibration, smoke, dust, and other particulate matter, odororous matter, heat, humidity, glare, and other objectionable influences.

(C) To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.

(D) To provide sufficient and appropriate space, and in particular sufficient area, to meet the needs of the area's expected future need for modern, planned commercial floor space, including the need for off-street parking space in areas where a large proportion of customers come by automobile, and to encourage the tendency of commercial establishments to concentrate in integrated planned developments, to the mutual advantage of both consumers and merchants.

(E) To provide sufficient space in appropriate locations for commercial districts to satisfy specific functional needs of the area and in particular the need for medical services, and the needs of the general public traveling along major thoroughfares.

(F) To provide sufficient space in appropriate locations for the mixture of compatible residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.

(G) To provide appropriate locations for transitional uses intervening between commercial developments and residential areas, and thereby alleviate the friction inherent between dissimilar activities.

(H) To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.

(I) To provide freedom of architectural design, in order to encourage the development of more attractive, efficient, and economic building forms, within appropriate standards which ensure
that buildings are in character with their surroundings.

(J) To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial development, to strengthen the economic base of the area, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings.

### 7-102 PURPOSES OF COMMERCIAL DISTRICTS

#### 7-102.1 CBD - Central Business District
This district is designed to provide for a wide range of retail, office, amusement and service uses. High intensity of use is permitted in this district, and increased building bulk is permitted as a means of encouraging such development. A setting conducive to, and safe for, a significant volume of pedestrian traffic is desired in order to promote a high level of contact with the ultimate consumers of goods and services.

#### 7-102.2 GCS - General Commercial Service Districts
This district is designed to provide for a wide range of commercial uses concerned with retail trade and consumer services; amusement and entertainment establishments; automotive and vehicular service establishments; transient sleeping accommodations; drive-in stores; eating and drinking places, financial institutions; and offices. The uses in this district service a broad market spectrum and, therefore, ease of automotive access is a requirement. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Appropriate open space between commercial and residential areas is required.

#### 7-102.3 ISD - Interchange Service Districts
This district is designed to provide adequate space in appropriate locations for uses which serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize building in proximate residential districts. Appropriate locations for this district are near major transportation interchanges in clustered development patterns and not patterns of striped commercial development extending in a continuous manner along major traffic arteries.

#### 7-102.4 MPO - Medical/Professional Office Districts
This district is designed to provide adequate space in appropriate locations for accommodating medical, dental or similar personal services, and uses ancillary thereto; and to provide for professional and business offices. In addition, certain commercial trade and service uses are permitted if necessary to serve the frequent and recurring needs of persons shopping and working in these districts. Bulk limitations are designed to maximize compatibility with lesser uses of land or building in proximity to residential districts.
7-102.5 **NCD – Neighborhood Convenience Service Districts**
These districts are designed to provide for uses to serve the recurring household needs and personal service requirements of the occupants of nearby residential areas. The permitted establishments are those which provide for regular local shopping and which, therefore, are visited frequently by customers. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. These districts may occur along or away from arterial streets, characteristically are small, and are widely distributed throughout the community for convenient accessibility. The bulk regulations are established to provide for maximum compatibility between the commercial activity in these districts and adjacent residential activity. The establishment of districts of this nature must be preceded by the development of residential areas capable of supporting the proposed activities.

7-102.6 **OPS - Office/Professional Service Districts**
These districts are designed to provide for transitional uses between more intensive commercial activities occurring along major traffic arteries and residential areas. The permitted uses are ones which tend to produce relatively low volumes of traffic. In addition to the office activities, certain community facilities are permitted which are compatible with other uses permitted within these districts. The intensity of use permitted within these districts is controlled by more restrictive regulation of the bulk of buildings consistent with their intended transitional function.

7-102.7 **HCD - Heavy Commercial Distribution Districts** *(Added by Ordinance 00-4, April 3, 2000)*
These districts are intended to provide adequate space in appropriate locations suitable for accommodating warehousing and bulk distribution operations along with firms engaged in wholesale sales as well as retailing of heavy equipment, building materials, and similar bulk items. Appropriate locations for these activities are along major arterial and collector streets near industrial operations that such facilities are intended to support. Due to the high volumes of truck traffic associated with these operations, they are not considered suitable for location in residential areas or at points where truck traffic must access such districts directly via streets within residential neighborhoods.
CHAPTER 2. USES AND STRUCTURES

7-201 GENERAL PROVISIONS
Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Article III, Chapter 3, of this ordinance. The procedure for interpreting the classes and type of activities is provided in Article III, Sections 3-301 through 3-304. TABLE 7-201A presents a tabulation of uses and structures which are classified as "principal permitted" (P) or "conditional" (C) uses within the various commercial districts. Where supplemental design provisions have been established for a principal use a cross-reference to the section containing these supplemental provisions appears in TABLE 7-201A.

7-202 PRINCIPAL PERMITTED USES, (P)
Principal permitted uses are permitted as a matter of right within the district indicated, subject to:

(A) Approval of either a Site Development Plan as required by ARTICLE XIII, and

(B) Compliance with any supplemental provisions established for such use.

7-203 CONDITIONAL USES, (C)
A conditional use is an activity, use, or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval by the Board of Appeals. Each use or activity is subject to a finding by the Board of Appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 7-201A may be allowed within the districts indicated.

7-204 ACCESSORY USES
In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth below.

(A) Accessory Child Care
Child care for preteenage children shall be considered an accessory use when operated by a health care, commercial or industrial activity where the care is provided solely for the children of their employees and meets all applicable state and local regulations for a child care center for children.

(B) Accessory Storage
Storage of goods sold by a principal commercial activity engaged in by the same firm on the same lot shall be considered an accessory use.

(C) Off-Street Parking
Off-street parking and loading serving a principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employees, patrons or other persons participating in the principal activity.
(D) Production for Retail Sale

Production of goods for sale by a firm engaged in a principal commercial activity on the same lot shall be considered an accessory use, but only if:

1. All goods so produced are sold at retail by the same firm either on the same or other lots;

2. Such production does not occupy more than forty-nine (49) percent of the total floor area occupied by such firm on the lot;

3. Such production does not, in any case, occupy more than two thousand (2,000) square feet of such floor area; and

4. Such production occurs only in an enclosed building.

(E) Residential Occupancy in Connection with Nonresidential Activity

Residential occupancy may be permitted as an accessory use to a principal nonresidential activity located on the same zone lot subject to the following:

1. Only One Unit Permitted
   No more than one (1) dwelling or rooming unit may be permitted in connection with a principal nonresidential activity located upon the same zone lot.

2. Occupancy Limited
   Any dwelling or rooming unit permitted under the provisions of this section shall be limited to occupancy by person(s) employed in the principal nonresidential activity, located upon the same zone lot.

3. Residential Occupancy Prohibited
   No dwelling or rooming unit may be located upon any site with a nonresidential activity that is defined by this ordinance as a "hazardous occupancy."

(F) Employee Cafeteria

Operation of a cafeteria for employees, residents, patrons and others participating in the principal activity by an organization engaged in an industrial or community facility activity on the same lot where the principal activity is permitted as a conditional use, any accessory cafeteria must be approved as a part of the action granting approval of the principal activity.

(G) Administrative Office

Operation of an administrative office of a firm engaged in a principal commercial or industrial activity upon the same zone lot.

7-205 TEMPORARY USES

The temporary uses and structures specified in Subsection 13-203.302, as permissible within commercial districts may be permitted for the limited time periods indicated for each such use or activity.
7-206 USES NOT PERMITTED
Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various commercial districts.
(Amended by Ordinance 09-19, July 6, 2009)

**TABLE 7-201A: PERMITTED AND CONDITIONAL USES AND STRUCTURES ALLOWABLE WITHIN MIXED USE AND COMMERCIAL DISTRICTS**

<table>
<thead>
<tr>
<th>DISTRICTS</th>
<th>CBD</th>
<th>GCS</th>
<th>ISD</th>
<th>MPO</th>
<th>NSD</th>
<th>OPS</th>
<th>HCD</th>
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<tr>
<td><strong>I. RESIDENTIAL ACTIVITIES</strong></td>
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<td><strong>A. Permanent Residential Activity</strong></td>
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<td><strong>B. Semi-Transient Residential Activity</strong></td>
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<td>(1) Apartment Hotel</td>
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<td>(2) Boarding or Rooming Houses</td>
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<td>(3) Residential Hotel</td>
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<td><strong>II. COMMUNITY FACILITIES ACTIVITIES</strong></td>
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<td><strong>A. Administrative Services</strong></td>
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<td>E. Essential Public Transport, Communication and Utility Services</td>
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### III. COMMERCIAL ACTIVITIES

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<th>Districts</th>
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<th>NSD</th>
<th>OPS</th>
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<td>A. Animal Care and Veterinary Services</td>
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<td>B. Automotive Parking</td>
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<td>C. Automotive Repair and Cleaning</td>
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<td>D. Automotive and Other Vehicular, Craft and Related Equipment Sales, Rental and Delivery, Service and Repair</td>
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<td>H. Convenience Retail Sales and Services</td>
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<td>J. Food and Beverage Service – General</td>
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<td>N. General Retail Trade</td>
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<td>P</td>
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<td>P</td>
</tr>
<tr>
<td>T. Transient Habitation</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>U. Undertaking Service</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>V. Warehousing, Goods, Transport, and Storage</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>W. Wholesale Sales and Business Supply</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>X. Self-storage facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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### IV. MANUFACTURING ACTIVITIES

<table>
<thead>
<tr>
<th>Districts</th>
<th>CBD</th>
<th>GCS</th>
<th>ISD</th>
<th>MPO</th>
<th>NSD</th>
<th>OPS</th>
<th>HCD</th>
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</thead>
<tbody>
<tr>
<td>A. Manufacturing – Limited</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

**KEY TO INTERPRETING USES CLASSIFICATIONS**

- **P** = Permitted use within the district indicated (No Special Provisions apply).
- **C** = Conditional use subject to provisions of Section indicated.
CHAPTER 3. HEIGHT, BULK, LOT SIZE AND OPEN SPACE REQUIREMENTS APPLICABLE TO COMMERCIAL AND COMMUNITY FACILITIES ACTIVITIES

7-301 APPLICABILITY AND GENERAL PURPOSES

The provisions of this chapter apply to all buildings used principally for commercial, manufacturing, or community facility activities, or to buildings used partly for community facility activities and partly for commercial activities, on any zone lot or portion of a zone lot located in any commercial district, including all new development or enlargements. Residential buildings and mixed buildings involving residential occupancy shall be controlled by the provisions of Chapter 4, of this article.

7-302 MAXIMUM PERMITTED LOT COVERAGE

7-302.1 Building Coverages
Except as provided in Section 7-306, within the various commercial districts the maximum lot coverage by all buildings (principal and accessory) utilized by commercial, manufacturing, or community facility activities shall not exceed the percentage of the total area of the zone lot indicated in TABLE 7-301A.

7-302.2 Impermeable Surface Ratio
In all commercial districts, the impermeable surface ratio, computed by dividing the impermeable surface area of the site by the total site area, shall not exceed 0.8.

7-303 MINIMUM LOT AREA REQUIREMENTS
Within the various commercial districts, the minimum area of zone lots utilized commercial, manufacturing, or community facility activities shall not be less than that indicated in TABLE 7-301A.

7-304 HEIGHT REGULATIONS

7-304.1 Basic Requirements
Within the various commercial districts, the maximum height of all buildings shall not, except as provided in Subsection 7-304.2 and Section 7-306, exceed that set forth in TABLE 7-301A.

7-304.2 Permitted Obstructions (Deleted and Replaced by Ordinance 02-06, September 5, 2002)
Height limits do not apply to masts, spires, belfries, church towers, clock towers, chimney flues, water tanks, cooling towers, elevator of stair bulkheads, flag poles, aerials, antennas, ventilators, parapet walls, wire, chain link and other transparent fences or any other appurtenances usually required to be placed above roof level and not intended for human habitation.

7-305 YARD REGULATIONS

7-305.1 Permitted Obstructions in Required Yards
In all commercial districts, the following shall not be considered obstructions when located
within a required yard except that items shall comply with Subsection 6-305.4.

(a) Arbors and trellises.

(b) Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

(c) Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.

(d) Driveways subject to other specific provisions of this ordinance related directly thereto.

(e) Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.

(f) Fire escapes or staircase, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.

(g) Flagpoles, having only one structural ground member.

(h) Fountains.

(i) Mailboxes.

(j) Open terraces, including natural plant landscaping.

(k) Retaining walls.

(l) Sculpture or other similar objects of art.

(m) Street furniture such as, but not limited to benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.

(n) Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.

(o) Wall or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

**7-305.2 Measurement of Yard Width**
In all commercial districts, the width or depth of a yard shall be measured perpendicular to lot lines.

**7-305.3 Dimension of Yards**
Except as otherwise provided herein, in all Commercial districts yards of such dimensions as
set forth in TABLE 7-301A, shall be provided for all commercial, manufacturing and community facilities activities.

7-305.4 Accessory Off-Street Parking in Required Yards
Accessory off-street parking may be permitted within the required yards of commercial districts only to the extent set forth below. Within any area where permitted such parking areas shall:

(a) Be properly maintained and have no obstructions thereon, except as permitted by Subsection 7-305.1.

(b) Not obstruct the visibility triangle as required by Subsection 6-305.4.

(c) Be permitted within five (5) feet of the front lot line.

7-305.5 Special Provisions for Shallow Interior Lots
In all commercial districts if an interior lot consists entirely of a tract of land:

(a) Which was owned separately and individually from all other adjoining tracts of land, both of the effective date of this ordinance and on the date of application for a zoning permit; and

(b) Which is less than one hundred (100) feet deep, the depth of a required rear yard for such interior lot may be reduced by one (1) foot for each two (2) feet by which the maximum depth of such interior lot is less than one hundred (100) feet. No rear yard is required on any interior lot with a maximum depth of eighty (80) feet or less. However, if an open area extending along the rear lot line of an interior lot eighty (80) feet or less in depth is provided, it shall be at least ten (10) feet in depth, and it shall be open and unobstructed from the ground to the sky.

7-305.6 Special Provision, for Through Lots
In all commercial districts, no rear yard is required for a through lot. In lieu thereof, a front yard shall be required for each frontage.

7-305.7 Special Provisions Applying to Required Yards and Building Setbacks
Along Boundaries Separating Commercial and Residential District

In all commercial districts, along such portion of the boundary of a commercial district which coincides with a lot line of a zone lot in any residential district the following yard provisions shall apply. Except as required to meet the provisions of Subsection 7-305.703, the open space may be utilized for parking.

7-305.701 Special Front Setback
Regardless of the front yard provisions established for any commercial district, no building located on any zone lot adjacent to any residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot whereon the commercial activity is located; provided that
no building shall be required to setback more than twice the minimum front yard applicable within the commercial district.

7-305.702 Special Side and Rear Yards
Along all portions of the boundary of any commercial zone lot where such lot abuts or is contiguous to any residential zone lot without an intervening public street an open area, unobstructed from the ground to the sky, shall be provided within the commercial district, said area being at least ten (10) feet in width or depth.* Such open area shall not be used for accessory off-street parking, or accessory off-street loading, or for storage or processing of any kind.

* Minimum required yards shall be increased one (1) foot for each one and one-half (1 1/2) feet of height of a building or other structure in excess of thirty (30) feet above the mean of the elevations at the base of the building.

7-305.703 Screening Alone Residential District Boundaries
To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year-round evergreen screening. Screening as provided herein, shall not less than six (6) feet in height, shall be provided from the grade of the property upward, and shall be permanently maintained.

7-305.8 Special Provisions for Party Walls
In commercial districts, side or rear yard requirements may be waived along the side or rear adjacent to another commercially zoned lot if the following conditions are met:

(a) At all points of attachment, adjoining buildings shall be separated from each other by a four (4) hour wall in accordance with the Standard Building Code.

(b) A fire wall may bisect the dividing line of two (2) adjacent lots so that one-half (1/2) of the fire wall is located on each of the properties, provided that the owners of each property sign a covenant running with the land and granting an easement on the property to the owners of the adjoining property the right to maintain, reconstruct and protect the fire wall.

(c) In the event of the construction of a building on the lot line, the wall along the lot line, if it is not constructed as a party wall between two (2) buildings, shall be built in such a manner that it will meet all requirements of the Standard Building Code without regard to the wall or building on the adjoining property.

(d) No wall constructed within ten (10) feet of a property line shall have less than a four (4) hour fire rating and shall have such additional ratings as required by the Standard
Building Code.

7-305.9 Special Provisions for Yards Within the CBD Districts
Except as provided in Subsection 7-305.7 and Chapter 4, of this article, within the CBD Districts, no yards, as such, are required for any commercial buildings or use. However, if an open area extending along a side or rear lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed from the ground to the sky. In the instance of residential uses, the provisions of Chapter 4, of this article, applicable to the use shall apply. In the instance of community facilities activities, yards shall as require for "community facility and mixed-use buildings" located within RM-1 Districts.

7-305.10 Setback for Pump Island Canopies
Pump island canopies shall be so located that a vertical downward projection of the edge nearest the front lot line shall not be closer than one-half (1/2) the building setback for the district in which the use is located.

7-305.11 Special Provision for Location of Vehicles and Similar Goods Within Front Yard Setbacks of Lots Situated in General Commercial Services Districts  
(Added by Ordinance 04-01, April 5, 2004)
Within General Commercial Services Districts, vehicles, manufactured homes, construction equipment, and similar bulk items normally displayed and stored in outdoor areas may be located within the front yard setbacks required by this Ordinance, subject to the following restrictions and stipulations:
   a. No stored or displayed vehicle or other item shall be located closer than ten (10) feet to the nearest point of any public right-of-way.

   b. No stored or displayed vehicle or other item shall be located within any area where landscaping or screening is required.

   c. No stored or displayed vehicle or other item shall be located so as to obstruct any "visibility triangle" required by Subsection 6-305.4.

7-305.12 Design Criteria for Commercial Structures  
(Added by Ordinance 06-25, June 5, 2006)
The Planning Commission may, during the Site Plan phase of development, require the following design criteria for all commercial structures and shall base such approval of said Site Plans with the following criteria in mind:

   (a) Where a single structure is proposed for construction, the architectural features shall be harmonious with surrounding structures. Such features such as height, roofs, roof lines, materials, and appearances shall be taken into consideration by the Planning Commission.

   (b) Where more than one (1) structure, or in the case of multi-use structures, all such buildings shall have like height, building materials and appearances to ensure consistency within the proposed commercial development and with surrounding properties.
(c) Design of roof systems and alternating roof lines shall be encouraged to provide for diversity in appearance.

(d) All Site Plans shall be required to have such information concerning these items listed above in the "Notes" section of the Plan.

7-306 HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS APPLICABLE TO RESIDENTIAL ACTIVITIES PERMITTED IN COMMERCIAL DISTRICTS
The provisions of this chapter apply to any residential building or mixed building located on any zone lot or portion of a zone lot in any commercial district in which such building is permitted. The provisions of Subsection 7-306.1 apply to all buildings constructed after the adoption of this ordinance. The special provisions of Subsection 7-306.2 apply to conversion of any existing structure for residential occupancy.

7-306.1 Provisions Applicable to Residential Buildings
The density, bulk, yard and lot size provisions applicable to the RM-1 District shall apply to all residential buildings located upon any zone lot or portion of a zone lot in any commercial district in which such building is permitted. Where more than one building is located upon a single zone lot, the building space provisions of Section 6-306 shall apply. The supplemental provisions appropriate to the particular residential use appearing in Article VI, CHAPTER 4, shall apply to all residential buildings located in any commercial district.

7-306.102 Provisions Applicable to Mixed Buildings
The density or number of dwelling units permitted within any mixed building shall be determined by use of the following procedure:

1) The zone lot upon which the mixed building is located will be apportioned as to its non-residential/residential components. (Example: if twenty-five (25) percent of a mixed building is to be utilized for commercial purposes then seventy-five (75) percent of the lot area will be used in calculating the residential density permitted.)

2) The residential density permitted will then be calculated, utilizing the residential portion of the lot, in a like manner as for any zone lot located within an RM-1 district.

The parking provisions applicable to residential uses located within RM-1 districts shall apply.

7-306.2 Provisions Applicable to Conversion of Existing Buildings
The provisions of this section shall apply to the conversion of existing commercial buildings to mixed or residential buildings.

7-306.201 Density Permitted
The mixed-use buildings shall be apportioned into its residential and commercial use components as set out in Subsection 7-306.102 (1). One (1) dwelling unit may be permitted for each five hundred (500) square feet of gross floor area allocated to
As Amended February 4, 2019

residential usage.

7-306.202 Code Compliance
All residential activities established under this provision shall fully comply to all applicable provisions of the standard building and housing codes.

7-306.203 Parking
Efforts shall be made to comply as fully as possible with the parking requirements established for multi-family residential buildings located in RM-1 Districts. This provision may be met by an agreement demonstrating that parking is reserved exclusively for use by residential occupants.

TABLE 7-301A: HEIGHT BULK, LOT SIZE, AND OPEN SPACE REQUIREMENTS WITHIN MIXED USE AND COMMERCIAL DISTRICTS

<table>
<thead>
<tr>
<th>I. PROVISIONS APPLICABLE TO COMMERCIAL, INDUSTRIAL, AND COMMUNITY FACILITIES ACTIVITIES</th>
<th>CBD</th>
<th>GCS</th>
<th>ISD</th>
<th>MPO</th>
<th>NSD</th>
<th>OPS</th>
<th>HCD</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Maximum Lot Coverage by All Buildings (as % of Total Lot Area)</td>
<td>(1)</td>
<td>65</td>
<td>50</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>70</td>
</tr>
<tr>
<td>B. Maximum Impermeable Surface Ratio (as % of Total Lot Area)</td>
<td>(1)</td>
<td>80</td>
<td>80</td>
<td>75</td>
<td>65</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>C. Minimum Area Requirement for Zone Lots (in 000 Square Feet)</td>
<td>(2)</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>40</td>
</tr>
<tr>
<td>D. Maximum Height (in Feet) (Amended by Ordinance 02-26, September 5, 2002)</td>
<td>65</td>
<td>65</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>45</td>
</tr>
</tbody>
</table>

NOTE: All buildings two (2) stories or greater in height shall be sprinkled for fire protection (Amended by Ordinance 02-26, September 5, 2002)

E. Minimum Yard Requirements

<table>
<thead>
<tr>
<th>(1) Front</th>
<th>(2) Side</th>
<th>(3) Rear</th>
</tr>
</thead>
<tbody>
<tr>
<td>(4)</td>
<td>50(3)</td>
<td>50(3)</td>
</tr>
<tr>
<td>(4)</td>
<td>10(5)</td>
<td>10(5)</td>
</tr>
<tr>
<td>(4)</td>
<td>20</td>
<td>20</td>
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</table>

II. PROVISIONS APPLICABLE TO RESIDENTIAL AND COMMUNITY FACILITIES ACTIVITIES

(NOTE: For Community Facilities, see section cited on TABLE 7-201A and Section 7-306, for provisions applicable to residential activities permitted in CBD Districts)

GENERAL NOTES

1. Except as required by Section 7-306, the entire site may be covered.
2. The minimum zone lot shall be as required to meet other provisions of the district.
3. Where this district abuts any residential district, the special yard and setback provisions of Subsection 7-305.7, shall apply.
4. See Subsection 7-305.9, for special yard provisions.
5. See Subsection 7-305.8, for party way provisions.
CHAPTER 4. SUPPLEMENTAL DESIGN PROVISIONS

7-401 APPLICABILITY
The supplementary regulations appearing within this section shall apply as set out in Subsections 7-401.1, and 7-401.2, of this section, to new uses and to existing uses.

7-401.1 Application to New Uses
No zoning permit shall be issued for the use of any building or land, where such use was not established prior to the adoption of this ordinance unless the activity follows all supplementary design provisions specified for such activity within this article.

7-401.2 Application to Existing Uses
Where any use of a building or land was established prior to the adoption of this ordinance, such activity may be continued or expanded according to the provisions of Article XII, of this ordinance; provided, however, that any expansion of such activity shall comply as fully as possible with the supplementary use regulations specified for such activity within this section.

7-402 PLANS REQUIRED
The purpose of this chapter is to establish a mechanism for achieving assured implementation of the specific design criteria set forth in the sections which follow. The intent of this provision is to assure coordination of certain critical design elements within commercial complexes by Planning Commission review of the development plan required for all such development by Article XI, Section 11-202, of this ordinance. The plans are required as a means of demonstrating the manner in which individual developments are intended to comply with the applicable design criteria. The approval process is intended as a means of legally assuring implementation of the approved plan.

7-403 DEVELOPMENT STANDARDS APPLICABLE TO ALL COMMERCIAL ACTIVITIES

7-403.1 Parking and Access Control
The parking and access control provisions contained in Article IV, Chapter 1, shall apply to all commercial activities.

7-403.2 Standards for Internal Walkways
The following design standards for internal walkways shall apply to all commercial activities.

(a) Walkways, a minimum of five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the building. At a minimum, these walkways shall connect street crossings to the major points of building entry.

(b) Walkways shall be provided along the full length of the building on any side which provides building access to the public or where public parking is available, to provide safe and comfortable pedestrian access to the building.

(c) Internal walkway surfaces shall be designed to be visually attractive and distinguishable from driving surfaces through use of durable, low maintenance materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and
comfort.

7-403.3 Exterior Storage
Exterior storage of goods or materials except transportation equipment and building materials is prohibited. The placement of waste disposal facilities is permitted in the rear of the commercial operation only and shall not be located in any front or side yard. Such facilities shall be totally screened using similar exterior materials from which the outside walls of the principal building are constructed and shall be maintained in a clean and orderly manner.

7-403.4 Lighting
During hours of darkness when commercial establishments are in operation, parking areas and pedestrian ways on the premises shall be lighted to an intensity of at least 0.6-foot candle. No such lighting shall be directed in a manner which illuminates adjoining residential premises, and no source of incandescent or mercury vapor illumination shall be directly visible from any residential property, or from any street. No neon lights inside or outside structures shall be visible from any residential property, or from any street.

7-403.5 Architectural Guidelines
All buildings located upon a site shall incorporate similar design elements, such as surface materials, color, roof treatment, windows and doors on all sides of the building(s) to achieve a unity of design. The sides of a building that face a public street shall include elements such as windows, doors, color, texture, landscaping and wall treatment to provide visual interest and prevent development of a long continuous blank wall.

7-404 SPECIAL PROVISIONS APPLICABLE TO COMMERCIAL ACTIVITIES PERMITTED WITHIN NEIGHBORHOOD CONVENIENCE SERVICE (NCS) DISTRICTS
It is intended that commercial activities when permitted within this district shall be small, unobtrusive, and produce negligible off-site impact. To this end, no individual commercial establishment shall be of such size or character as to create the impression of general commercial development. In addition, hours of operation, outdoor display of goods, signage, and lighting shall be restricted so as to reduce or eliminate possible negative influences upon the surrounding residential neighborhood.

7-404.1 Maximum Size of Establishments
No individual commercial establishment shall have a gross floor area exceeding five thousand (5,000) square feet.

7-404.2 Conduct of Operations
All sales, service, or display in connection with commercial establishments shall be within completely enclosed buildings, and there shall be no display, service, or storage outside such buildings. No public address systems or other devices for reproducing or amplifying voices or music shall be mounted outside such buildings or be audible beyond any line of the lot on which the building, is situated.

7-404.3 Special Parking Provisions
Where any commercial use or activity permitted within NCS District adjoins any existing residential use, no parking area may be located within any buffer yard required by the
provisions of Subsection 7-305.703. Such yards may be used only for purposes of screening.
ARTICLE VIII: INDUSTRIAL DISTRICT REGULATIONS

CHAPTER 1. STATEMENT OF PURPOSE

8-101 GENERAL PURPOSES OF INDUSTRIAL DISTRICTS
The industrial districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following specific purposes:

(A) To provide sufficient space, in appropriate locations, to meet the needs of the area for all types of distributive, industrial, and related activities, with due allowance for the need for choice of suitable sites.

(B) To protect distributive, industrial, and related activities, as well as residential and related activities by providing for the separation of these uses, and as far as possible, assure that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.

(C) To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.

(D) To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.

(E) To protect industrial activities and related developments against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.

(F) To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the community's tax revenues.

8-102 PURPOSES OF INDUSTRIAL DISTRICTS

8-102.1 IR, Restrictive Industrial Districts
This class of district is intended to provide space for a wide range of industrial and related uses which conform to a high level of performance criteria and have the least objectionable characteristics. It is required that all operations of such establishments be carried on within
completely enclosed buildings thus providing a standard of development which removes most adverse characteristics that affect neighboring properties. These districts may provide a buffer between other districts and other industrial activities which have more objectionable influences. New residential activities are excluded, and community facilities and commercial establishments which provide needed services for industry and are complementary thereto are permitted.

8-102.2 IG, General Industrial Districts
This class of district is intended to provide space for the types of industrial activities which by reason of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from non-industrial uses. New residential activities are excluded, and commercial establishments and community facilities which provide needed services for industry and are complementary thereto are permitted.

8-102.3 IS, Special Industrial Districts
This class of district is intended to provide suitable areas for intense or potentially noxious industrial operations, including open land operations. It is specifically intended that all newly created districts be so located as to prevent possible negative impact upon adjoining uses. To this end, these districts are to be protected from encroachment by other activities.

Adult Oriented Business: This class of district shall also provide suitable areas for uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, thereby, having a deleterious effect upon adjacent areas and that special regulation of these uses is necessary to ensure that these effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. (Added by Ordinance 549, October 6, 1997)
CHAPTER 2. USES AND STRUCTURES

8-201 GENERAL PROVISIONS
Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Article III, Chapter 3, of this ordinance. The procedure of interpreting the classes and type of activities is provided in Article III, Chapter 3, Sections 3-301 thru 3-304. Table 8-201A presents a tabulation of uses and structures which are classified as either "principal permitted" or "conditional" uses within the various industrial districts. Where supplemental provisions have been established for a principal permitted use, a cross reference to the section containing these supplemental provisions appears in Table 8-201A.

8-202 PRINCIPALLY PERMITTED USES
Principally permitted uses are permitted within the district indicated:
(A) Subject to approval of a site development plan as required by Subsection 11-202.202; and
(B) Subject to compliance with any supplemental provisions established for such use.

8-203 CONDITIONAL USES
A conditional use is an activity, use, or structure which is subject to a finding by the Board of Appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in Table 8-201A, are allowed within the districts indicated.

8-204 ACCESSORY USES
In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as the such principal activity and meets the further conditions set forth below. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in this ordinance.

8-204.1 Partial List of Accessory Activities
Such accessory activities include, but are not limited to; the activities indicated below:
(a) Off-street parking and loading serving the principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employee patrons or other persons participating in the principal activity.

(b) Child care for preteenage children when operated by a health care, commercial or industrial activity where the care is provided solely for the children of their employees. The facility shall be located on the same zone lot as the principal activity and meet all applicable state and local regulations for a day care center for children. This activity shall not be permitted in any Special Industrial (IS) District.

(c) Residential occupancy in connection, with a principal nonresidential activity on the same zone lot, but only if:
(1) No more than one (1) dwelling or rooming unit is permitted.
(2) The unit is occupied by persons(s) employed in the principal nonresidential activity located upon the zone lot, and

(3) The nonresidential activity does not constitute a hazardous occupancy as defined by this ordinance.

(d) Operation of a cafeteria for employees, residents, patrons or others participating in the principal activity by an organization engaged in a community facility on the same zone lot. Where the principal activity is permitted by conditional use only, an accessory cafeteria must be approved as a part of the action granting said permit.

8-205 TEMPORARY USES
The temporary uses and structures specified in Subsection 13-203.302, as permissible within industrial districts may be permitted for the limited time periods indicated for each such use or activity.

8-206 USES NOT PERMITTED
Any uses or structures not allowable as permitted uses, conditional uses, temporary uses, or accessory uses are prohibited within the various industrial districts.
### TABLE 8-201A: PERMITTED AND CONDITIONAL USES AND STRUCTURES ALLOWABLE WITHIN INDUSTRIAL DISTRICTS

<table>
<thead>
<tr>
<th>I.  MANUFACTURING ACTIVITIES</th>
<th>IR</th>
<th>IG</th>
<th>IS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Manufacturing – Limited</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>B. Manufacturing – Intermediate</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>C. Manufacturing – Extensive</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II.  COMMERCIAL ACTIVITIES</th>
<th>IR</th>
<th>IG</th>
<th>IS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Animal Care and Veterinarian Services</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>B. Automotive and Other Vehicular, Marine Craft, Aircraft and Related Equipment Sales, Rental and Delivery</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>C. Automotive Parking</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>D. Automotive Repair and Cleaning</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>E. Automotive Servicing</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>F. Construction Sales and Service</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>G. General Equipment and Repair Services</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>H. Food and Beverage Service – General</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>I. Scrap Operation</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>J. Warehousing, Goods Transport and Storage</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>K. Wholesale Sales and Business Supply</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>L. Adult Oriented Business (Added by Ordinance 549, October 6, 1997)</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>III. COMMUNITY FACILITY ACTIVITIES</th>
<th>IR</th>
<th>IG</th>
<th>IS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Amended by Ordinance 559, January 5, 1998)</td>
<td>IR</td>
<td>IG</td>
<td>IS</td>
</tr>
<tr>
<td>A. Administrative Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>B. Community Assembly</td>
<td>C (13-506.1)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>C. Essential Public Transport, Communication and Utility Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>D. Extensive Impact Facilities</td>
<td>C (13-506.4)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>E. Intermediate Impact Facilities</td>
<td>C (13-506.4)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>F. Religious Facilities</td>
<td>C (13-506.7)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>G. Special Institutional Care Facilities</td>
<td>C (13-506.8)</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**KEY TO INTERPRETING USES CLASSIFICATIONS**

- P = Permitted use within the district indicated (No Special Provisions apply).
- C = Conditional use subject to provisions of Section indicated.
- ( ) = Use permitted to supplemental provisions.
- X = Use not permitted within the district.
CHAPTER 3. HEIGHT, BULK, LOT SIZE, AND OPEN SPACE REQUIREMENTS

8-301 APPLICABILITY AND GENERAL PURPOSES
The provisions of this chapter apply to any building or other structure on any zone lot or portion of a zone lot located in any industrial district, including all new developments or enlargements.

8-302 MAXIMUM PERMITTED LOT COVERAGE
Within the various industrial districts, the maximum lot coverage by all buildings (principal and accessory) shall not exceed the percentage of the total area of the zone lot indicated in Table 8-301A.

8-303 MINIMUM LOT AREA REQUIREMENTS
Within the various industrial districts, the minimum area of zone lots shall not be less than indicated in Table 8-301A.

8-304 HEIGHT REGULATIONS

8-304.1 Basic Requirements
Within the various industrial districts, the maximum height of all buildings shall not, except as provided in Section 8-304.2, exceed that set forth in Table 8-301A.

8-304.2 Permitted Obstructions
In all industrial districts, the following shall not be considered obstructions and may, therefore, exceed the maximum height provision otherwise applicable within the districts.

1. Chimneys or flues.
   (b) Elevator or stair bulkheads, roof water tanks, or cooling towers.
   (c) Flagpoles and aerials.
   (d) Ornamental church towers, spires, and belfries.
   (e) Parapet walls not more than four (4) feet high.
   (f) Wire, chain link, or other transparent fences.
   (g) Other appurtenances usually required to be placed above roof level and not intended for human occupancy.

8-305 YARD REGULATIONS

8-305.1 Permitted Obstructions in Required Yards
In all industrial districts, the following shall not be considered obstructions when located within a required yard except that items shall comply with Subsection 6-305.4.
(a) Arbors and trellises.

(b) Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

(c) Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.

(d) Driveways subject to other specific provisions of this ordinance related directly thereto.

(e) Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.

(f) Fire escapes or staircases, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.

(g) Flagpoles, having only one structural ground member.

(h) Fountains.

(i) Mailboxes.

(j) Open terraces, including natural plant landscaping.

(k) Retaining walls.

(l) Sculpture or other similar objects of art.

(m) Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.

(n) Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.

(o) Vents necessary for use of fallout shelter constructed below grade of such yards, but excluding all other parts of such shelters.

(p) Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

8-305.2 Measurement of Yard Width or Depth
In all industrial districts, the width or depth of a required yard shall be measured perpendicular to straight lot lines, or for curved lot lines, in such a way that such yard is bounded by the arc of curve which is concentric with such curved lot line and elsewhere therefrom the required yard width or depth specified in this ordinance.
8-305.3 Dimension of Yards
In all industrial districts yards of such dimensions as set forth in Table 8-301A, shall be provided.

8-305.4 Uses of Required Yard Areas
The following uses may be made of yard areas, provided such uses are otherwise permissible in this district.

(a) Landscaping
   All required yard areas not occupied by driveways or sidewalks shall be devoted to landscaping as defined in Article III, Chapter 2.

(b) Driveways
   Driveways may be located within any required yard; provided, however, that no more than fifty (50) percent of the area of any required yard may be used as a driveway.

(c) Sidewalks

(d) Parking
   Within all industrial districts, any yard may be used for off-street parking or loading, except as provided in Subsection 8-305.7. However, such areas shall not be used for storage or processing of any kind.

8-305.5 Special Provisions for Shallow Corner Lots
Except as provided in Subsection 8-305.901, in all industrial districts, if a corner lot consists entirely of a tract of land:

(a) Which was owned separately and individually from all other tracts of land, both on the effective date of this ordinance and on the date of application for a zoning permit; and

(b) Which is less than eighty (80) feet deep, no rear yard is required. However, if an open area is provided along a rear lot line of any such tract of land, such open area shall extend the full length of such rear lot line, shall not be less than ten (10) feet deep, and shall be open and unobstructed from finished grade level to the sky except as otherwise provided in Subsection 8-305.1.

8-305.6 Special Provisions Applying Along Railroad Right-of-Way
In all industrial districts, other provisions of this ordinance notwithstanding, along such portion of a rear or side lot line which coincides with a boundary of a railroad right-of-way, no rear or side yard shall be required.

8-305.7 Special Yard and Setback Requirements Along Boundaries Separating Industrial and Residential Districts
In all industrial districts, along such portion of the boundary of an industrial district which coincides with a lot line of a zone lot in any residential district the following yard provisions apply. Except as required to meet the provisions of Subsection 8-305.702, the open space may be utilized for parking.
**8-305.701 Special Front Setback**
Regardless of the front yard provisions established for any industrial district, no building located on any zone lot adjacent to any residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot whereon the industrial activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the industrial district.

**8-305.702 Required Yards Along District Boundary Coincident with Side or Rear Lot Line**
Except as provided in Subsection 8-305.901, in all industrial districts, along such portion of the boundary of an industrial district which coincides with a side lot line or rear lot line of a zone lot in any residential district, and open area unobstructed from the ground to the sky at least one hundred (100) feet wide shall be provided within the industrial district.

The first fifty (50) feet of such open area (measured from the property line) shall not be used for off-street parking, off-street loading, or storage, or processing of any kind.

**8-305.703 Screening Along Residential District Boundaries**
To assist in the prevention of the transmission of light and noise from within any industrial district into any abutting residential district screening shall be required where such district abuts or is contiguous to any residential district, without an intervening street, alley, or other public way. Such screening shall be provided within the industrial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year-round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward, and shall be permanently maintained.

**8-305.8 Special Provisions for Shallow Interior Lots**
Except as provided in Subsection 8-305.901, in all industrial districts, if an interior lot consists entirely of a tract of land:

(a) Which was owned separately and individually from all other tract of land, both on the effective date of this ordinance and on the date of application for a zoning permit; and

(b) Which is less than one hundred (100) feet deep, the depth of a required rear yard for such interior lot may be reduced by one (1) foot for each two (2) feet by which the maximum depth of a zone lot is less than one hundred (100) feet. However, if an open area is provided along a rear lot line of any zone lot with a maximum depth of less than one hundred (100) feet, such open area shall be not less than ten (10) feet in depth, and such area shall be open and unobstructed from finished grade level to the sky, except as otherwise provided in Subsection 8-305.1.
8-305.9 Required Yards within IS Districts
Due to the potentially noxious activities which may be permitted within IS Districts special yard provisions are required.

8-305.901 Provisions Applicable to Zone Lots Occupied by Any Activity
Classified as Extensive Manufacturing

In its review of any application for approval of an extensive manufacturing activity proposed for location within an IS District the City Council shall establish yards and building separations sufficient to protect the health safety and economic benefit of persons owning or occupying nearby property. As an absolute minimum, such yards shall be as indicated below.

(1) Use Adjoins Residential Property: Along any rear or side lot line which adjoins residential property, whether such property is presently occupied for residential purposes or only zoned for such use, an open area unobstructed from the ground to the sky at least one hundred fifty (150) feet wide shall be provided within the industrial district. Such open area shall not be used for off-street loading, or storage or processing of any kind.

(2) Use Adjoins Commercial or Industrial Property: Along any lot line which adjoins property, either classified or presently utilized for commercial or industrial purposes, an open area at least one hundred (100) feet wide shall be provided. Such area may be utilized for off-street parking or loading, but shall not be used for storage or processing of any kind.

8-305.902 Zone Lots Occupied by Other Than Extensive Manufacturing Activities
Yards for zone lots located within IS Districts and occupied by other than extensive manufacturing activities may be as provided for IG Districts.

8-305.10 Special Provisions for Party Walls
Within I-R and I-G Industrial Districts where side or rear yards are required, except as required by Subsection 8-305.7, such provisions may be waived, along the side or rear of such lot line adjacent to another commercially or industrially zoned lot on which another commercial or industrial establishment is located, or is being constructed. In any instance where this provision is applied the structures involved are to have a common or party wall. All party walls shall be subject to the provisions of the Standard Building Code and the National Fire Protection Association Fire Code.

(a) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit the spread of fire. Such walls shall have fire rating of not less than that specified by the appropriate building and fire prevention codes.

(b) The firewall shall bisect the line dividing each portion of the building or lot so that one-half (1/2) of the firewall is held by each of the abutting properties.

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(c) If a firewall is destroyed or damaged by fire or other casualty, any owner may restore said wall and if other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule of law requiring liability for negligent or willful acts and omissions.

(d) Each abutter who may share in the ownership of any firewall shall have an easement on the property of any other owner(s) for the purpose of reconstruction and protection of remaining property from the elements.

(e) All party walls shall be subject to the Standard Building Code and National Fire Protection Association Code.

**TABLE 8-301A: HEIGHT, BULK, LOT SIZE, AND OPEN SPACE REQUIREMENTS APPLICABLE TO INDUSTRIAL ACTIVITIES LOCATED WITHIN INDUSTRIAL DISTRICTS**

<table>
<thead>
<tr>
<th>Districts</th>
<th>IR</th>
<th>IG</th>
<th>IS</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Maximum Lot Coverage by All Buildings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As Percent (%) of Total Lot Area</td>
<td>50</td>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>II. Minimum Zone Lot Requirements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Area (in Square Feet)</td>
<td>(2)</td>
<td>40,000</td>
<td>(2)</td>
</tr>
<tr>
<td>B. Width (in Feet, Measured at Building Line)</td>
<td>50</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>III. Maximum Height</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(In Feet)</td>
<td>45</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>IV. Minimum Yard Requirements (In Feet)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Front</td>
<td>20</td>
<td>20</td>
<td>(5)</td>
</tr>
<tr>
<td>B. Side</td>
<td>(3)</td>
<td>(3)</td>
<td>(5)</td>
</tr>
<tr>
<td>C. Rear</td>
<td>20 (4)</td>
<td>20 (4)</td>
<td>(5)</td>
</tr>
</tbody>
</table>

**NOTE:**

1. For requirements applicable to community facilities activities see the specific sections cited on Table 8-201A.
2. The minimum lot shall be as required to meet other provisions of this chapter.
3. Along the periphery of an industrial site which adjoins commercial or industrial property classified as residential the provisions of Subsection 8-305.7 shall apply.
4. Except along residential district boundaries (see Subsection 8-305.7).
5. See Subsection 8-305.9, for special yard provisions applicable within IS Districts.
CHAPTER 4. SUPPLEMENTAL PROVISIONS

8-401 SPECIAL PROVISIONS APPLICABLE TO EXTENSIVE MANUFACTURING AND SCRAP COMMERCIAL ACTIVITIES
Due to the potential for environmental damage associated with certain noxious uses included within the extensive manufacturing and scrap operations activity classifications, a special procedure is established for the review and approval of such uses.

8-401.1 Review and Approval by City Council
Each application for a reclassification of property, where such may be required, or for any building, or use and occupancy permit which involves either the establishment or expansion of any use or activity classified within either the extensive manufacturing or scrap operations use classifications shall be subject to review and approval by the City Council.

8-401.101 Nature of Review Process
The general purpose of the review process required by this section is to assure protection of the public health, safety, and welfare from potential harm inherent within these two activity groupings. It is intended that this shall be accomplished by the requirement that each and every such use or activity subject to the provisions of this section shall, prior to either its establishment or enlargement, receive approval of a certificate of environmental review as provided herein.

8-401.102 Information Required
Any applicant filing for approval under the provisions of this section shall upon request provide information as to:

1. The nature of the operations and/or processes proposed;
2. The materials; including storage, processing and handling methods, proposed; and
3. The nature and potential level of atmospheric emissions associated with the intended operation.

In general, such information shall be complete and sufficient to reveal the intended function and ultimate operation of such use. In this regard, the City Council shall adjudge the adequacy of the information provided.

8-401.103 Review Process and Public Hearing
The City Council may conduct meetings as may be required in order to establish the findings necessary for approval of such request. However, prior to final consideration of any information as has been provided to the City Council such shall be made available for public view and comment.

8-401.104 Action by City Council
Once a public hearing has been concluded, the City Council may consider final action on a certificate of environmental review. The council may:
(1) Approve the application as submitted

(2) Disapprove the application; or

(3) Conditionally approve the application.

In any instance where a conditional approval may be granted such approval is continuously subject to compliance with the conditions set out in the grant of approval and any violation shall be deemed a violation of this ordinance to be pursued as set out in Article XIII, Chapter 7.

8-402 SPECIAL PROVISIONS APPLICABLE TO ADULT ORIENTED BUSINESSES
(Added by Ordinance 549, October 6, 1997)

(A) Adult oriented businesses are permitted in all IS Districts with the exception of those lots which have a contiguous side or rear lot line to any lot with a residential zoning designation.

(B) Whenever used in this ordinance, the following words or phrases shall have the meaning ascribed to them:

(1) **Adult Bookstore:** an establishment having a substantial or significant portion of its stock in trade books, magazines, and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined in Article III, chapter 2, or this ordinance, or an establishment with a segment or section devoted to the sale of or display of such material.

(2) **Adult Mini-Motion Picture Theater:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material that is distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined in Article III, Chapter 2, of this ordinance, for observation by patrons therein.

(3) **Adult Motion Picture Theater:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material that is distinguished or characterized by an emphasis on material that is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined in Article III, Chapter 2, of this ordinance, for observation by patrons therein.

(4) **Adult Entertainment Center:** An enclosed building, no portion or which enclosed building is licensed to sell liquor, that permits a customer to view a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus; cleft of the buttocks, vulva or genitals, or that charges any admission or fee for the viewing of any such activity.

(5) **Massage Parlor:** An establishment or place primarily in the business of providing
massage services.

(6) **Sauna:** An establishment or place primarily in the business of providing: (i) a steam bath and (ii) massage services.

(C) No adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult entertainment center, massage parlor, or sauna shall be operated or maintained within one thousand (1,000) feet of a residentially zoned district, or within five hundred (500) feet of a church, state licenses day care facility, public library, public or private educational facility that serves persons having an age of seventeen (17) or younger, elementary school, middle school, high school, or municipal park. Only one of the above regulated uses shall be allowed per block face. As used in this section, “block face” shall contain a maximum of five hundred (500) linear feet of road frontage. The distance limitations shall be measured in a straight line from the lot lines of the land containing regulated uses to the lot lines of properties described.

(D) All new regulated uses, and all existing regulated uses by December 1, 1997, shall comply with the following sign requirements.

1. All signs shall be flat wall signs.

2. The amount of allowable sign area shall be one (1) square foot of sign area per foot of lot frontage on a street, but shall not in any circumstance be permitted to exceed ten (10) percent of the building facade.

3. No merchandise or pictures of the products or entertainment provided on the premises shall be displayed in window areas or any area where they can be viewed from any roadway.

4. Window areas shall not be covered or made opaque in any way.

5. No sign shall be placed in any window.

6. A one (1) square foot sign may be placed on the door to state hours of operation and admittance to adults only.
ARTICLE IX: FLOODPLAIN DISTRICTS

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION
The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Portland, Tennessee, Mayor and Board of Alderman do ordain as follows:

SECTION B. FINDINGS OF FACT
1. The City of Portland, Tennessee, Mayor, and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.

2. Areas of the City of Portland, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

SECTION C. STATEMENT OF PURPOSE
It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

4. Control filling, grading, dredging and other development which may increase flood damage or erosion;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
SECTION D. OBJECTIVES
The objectives of this Ordinance are:

1. To protect human life, health, safety, and property;

2. To minimize expenditure of public funds for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;

6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

7. To ensure that potential homebuyers are notified that property is in a floodprone area;

8. To maintain eligibility for participation in the NFIP.
ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

"Appeal" means a request for a review of the local enforcement officer’s interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHB). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see “Special Flood Hazard Area”.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

"Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see “Structure”.
"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not “per se” covered under the Program.

"Exception" means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community’s participation in the NFIP.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community’s participation in the NFIP.

"Existing Structures" see "Existing Construction".

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Floodling" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a
one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Floodprone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

"Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high-water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.
"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on the City of Portland, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
   a. By the approved Tennessee program as determined by the Secretary of the Interior or
   b. Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design
requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see "Base Flood".

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

“Reasonably Safe from Flooding” means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Special Flood Hazard Area” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" the Tennessee Department of Environment and Conservation, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.
The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
ARTICLE III. GENERAL PROVISIONS

SECTION A. APPLICATION
This Ordinance shall apply to all areas within the incorporated area of the City of Portland, Tennessee.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD
The Areas of Special Flood Hazard identified on the City of Portland, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated April 17, 2012 and Flood Insurance Rate Map (FIRM), Community 470187, Panel Numbers 47165C0025G, 47165C0050G, 47165C0127G, 47165C0130G, 47165C0131G, 47165C0132G, 47165C0133G, 47165C0134G, 47165C0150G and 47165C0175G, dated April 17, 2012, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

SECTION C. REQUIREMENT FOR DEVELOPMENT PERMIT
A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

SECTION D. COMPLIANCE
No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS
This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION
In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY
The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Portland, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION
Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication, therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
Nothing herein contained shall prevent the City of Portland, Tennessee from taking such other lawful actions to prevent or remedy any violation.
ARTICLE IV. ADMINISTRATION

SECTION A. DESIGNATION OF ORDINANCE ADMINISTRATOR
The Director of Development Services (or his designee) is hereby appointed as the Administrator to implement the provisions of this Ordinance.

SECTION B. PERMIT PROCEDURES
Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage
   a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.

   b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.

   c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.

   d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage
   Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

   Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall
provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM’s through the Letter of Map Revision process.

5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.

7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.

8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.

9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Portland, Tennessee FIRM meet the requirements of this Ordinance.

11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.
ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS
In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

9. Any alteration, repair, reconstruction or improvements to a building that follows the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

SECTION B. SPECIFIC STANDARDS

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

In AE Zones where, Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”.

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures.”

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures.”

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures.”

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of
buoyancy. A Tennessee registered professional engineer, or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

3. Enclosures
All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
   1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
   2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
   3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles
a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
   1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
   2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).

c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A, and B.

d. All manufactured homes must be securely anchored to an adequately anchored foundation.
system to resist flotation, collapse, and lateral movement.

c. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
   1) Be on the site for fewer than 180 consecutive days;

   2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway
      use if it is licensed, on its wheels or jacking system, attached to the site only by quick
      disconnect type utilities and security devices, and has no permanently attached structures
      or additions), or;

   3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals
   a. Subdivisions and other proposed new developments, including manufactured home parks,
      shall be reviewed to determine whether such proposals will be reasonably safe from flooding.
   b. All subdivision and other proposed new development proposals shall be consistent with the
      need to minimize flood damage.
   c. All subdivision and other proposed new development proposals shall have public utilities
      and facilities such as sewer, gas, electrical and water systems located and constructed to
      minimize or eliminate flood damage.
   d. All subdivision and other proposed new development proposals shall have adequate
      drainage provided to reduce exposure to flood hazards.
   e. In all approximate A Zones require that all new subdivision proposals and other proposed
      developments (including proposals for manufactured home parks and subdivisions) greater
      than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood
      Elevation data (See Article V, Section E).

SECTION C. STANDARDS FOR SPECIAL FLOOD HAZARD AREAS WITH
ESTABLISHED BASE FLOOD ELEVATIONS AND WITH FLOODWAYS
DESIGNATED
Located within the Special Flood Hazard Areas established in Article III, Section B, are areas
designated as floodways. A floodway may be an extremely hazardous area due to the velocity of
floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in
order to allow for the discharge of the base flood without increased flood heights and velocities.
Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial
   improvements or other development within the regulatory floodway. Development may be
   permitted however, provided it is demonstrated through hydrologic and hydraulic analyses
   performed in accordance with standard engineering practices that the cumulative effect of the
   proposed encroachments or new development shall not result in any increase in the water
   surface elevation of the Base Flood Elevation, velocities, or floodway widths during the
   occurrence of a base flood discharge at any point within the community. A Tennessee
   registered professional engineer must provide supporting technical data, using the same
   methodologies as in the effective Flood Insurance Study for the City of Portland, Tennessee,
   and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A, and B.

SECTION D. STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD ZONES AE WITH ESTABLISHED BASE FLOOD ELEVATIONS BUT WITHOUT FLOODWAYS DESIGNATED

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction, and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A, and B.

SECTION E. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND FLOODWAYS (A ZONES)

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided, and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.

2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.

3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet...
(20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Portland, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

SECTION F. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO AND AH ZONES)
Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM’s, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.

2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer, or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

SECTION G. STANDARDS FOR AREAS PROTECTED BY FLOOD PROTECTION SYSTEM (A-99 ZONES)
Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of
the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

SECTION H. STANDARDS FOR UNMAPPED STREAMS
Located within the City of Portland, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.

2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.
ARTICLE VI. VARIANCE PROCEDURES

SECTION A. MUNICIPAL BOARD OF ZONING APPEALS

1) Authority
The City of Portland, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2) Procedure
Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.

3) Appeals: How Taken
An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of $150.00 dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than 30 days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4) Powers
The Municipal Board of Zoning Appeals shall have the following powers:

a. Administrative Review
To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

b. Variance Procedures
In the case of a request for a variance, the following shall apply:
1) The City of Portland, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary deviation from
the requirements of this Ordinance to preserve the historic character and
design of the structure.

3) In passing upon such applications, the Municipal Board of Zoning Appeals
shall consider all technical evaluations, all relevant factors, all standards
specified in other sections of this Ordinance, and:
   a) The danger that materials may be swept onto other property to the injury
      of others;
   b) The danger to life and property due to flooding or erosion;
   c) The susceptibility of the proposed facility and its contents to flood damage;
   d) The importance of the services provided by the proposed facility to the
      community;
   e) The necessity of the facility to a waterfront location, in the case of a
      functionally dependent use;
   f) The availability of alternative locations, not subject to flooding or erosion
      damage, for the proposed use;
   g) The relationship of the proposed use to the comprehensive plan and
      floodplain management program for that area;
   h) The safety of access to the property in times of flood for ordinary and
      emergency vehicles;
   i) The expected heights, velocity, duration, rate of rise and sediment
      transport of the flood waters and the effects of wave action, if applicable,
      expected at the site;
   j) The costs of providing governmental services during and after flood
      conditions including maintenance and repair of public utilities and facilities
      such as sewer, gas, electrical, water systems, and streets and bridges.

5) Upon consideration of the factors listed above, and the purposes of this
Ordinance, the Municipal Board of Zoning Appeals may attach such
conditions to the granting of variances, as it deems necessary to effectuate the
purposes of this Ordinance.

6) Variances shall not be issued within any designated floodway if any increase in
flood levels during the base flood discharge would result.

SECTION B. CONDITIONS FOR VARIANCES

1. Variances shall be issued upon a determination that the variance is the minimum relief
necessary, considering the flood hazard and the factors listed in Article VI, Section A.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as $25 for $100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.

4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.
ARTICLE VII. LEGAL STATUS PROVISIONS

SECTION A. CONFLICT WITH OTHER ORDINANCES
In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Portland, Tennessee, the most restrictive shall in all cases apply.

SECTION B. SEVERABILITY
If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.
ARTICLE X: HOLDING IN RESERVE FOR
ARTICLE XI: PLANNED UNIT DEVELOPMENT DISTRICTS

CHAPTER 1. GENERAL PROVISIONS

11-101 INTENT AND PURPOSE
The purposes of these planned unit development district regulations are as follows:

(A) To promote flexibility in design and permit planned diversification in the location of structures;

(B) To promote the efficient use of land in order to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities;

(C) To preserve to the greatest extent possible the existing landscape features and amenities and to utilize such features in a harmonious fashion;

(D) To encourage the total planning of tracts of land consistent with pertinent long-range plans.

11-102 CONSISTENCY WITH THE GENERAL PLAN AND AREA DEVELOPMENT PLANS
No planned unit development shall be approved unless all plans for development are found to be consistent with the then current issue of the General Plan for Portland and any adopted special development plan for the area in which the development is proposed. The Planning Commission shall make a formal, written finding regarding the consistency of any proposed planned unit development, said report to include findings that the development:

(A) Will be consistent with the currently effective General Plan as well as any special development plan for the area; and

(B) Is likely to be compatible with development permitted under the general development provisions of the zoning ordinance; and

(C) Will not significantly interfere with the use and enjoyment of other land in the vicinity.

11-103 PROVISIONS MAY BE MADE MANDATORY
In the event that the adopted development plan for an area in which any development is proposed so recommends, the City Council shall require that all petitions for reclassifications of land within the area shall be formulated and administered in accordance with this article, including any amendments thereto. As appropriate for their respective areas, adopted development plans shall also contain recommendations which may differ from or supplement the provisions of this article respecting new or modified planned unit development districts; design standards for signage, setbacks, parking, and other matters, to be made applicable either area-wide or within particular planned unit development districts, or both; density credit or bonus systems linked to setback and open space, requirements; or any other matter affecting public health, safety or welfare. The City Council shall not entertain proposals for the reclassification of land within such areas until it has formally acted upon these recommendations.
11-104 MASTER PLAN OF PLANNED UNIT DEVELOPMENT
No application for PUD zoning shall be considered unless a master plan of the development meeting requirements set forth in Subsection 11-203.2 is submitted therewith.

11-105 RELATION OF PUD REGULATIONS TO GENERAL ZONING, SUBDIVISION, OR OTHER REGULATIONS; VARIATIONS ON EQUAL SATISFACTION OF PUBLIC PURPOSES
The planned unit development regulations that follow shall apply generally to the initiation and regulation of all planned unit development districts. Where there are conflicts between the special PUD regulations herein and general zoning, subdivision, or other regulations or requirements, these regulations shall apply in PUD Districts unless the City Council shall find, in the particular case, that provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements.

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable PUD or general regulations, but the City Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Council may make specific modification of the regulations in the particular case, provided that where floor area and similar ratios (other than off-street parking) have been established by these regulations, the Council shall not act in a particular case to modify such ratios.

Except as indicated above, notwithstanding procedures and requirements generally in effect, procedures, and requirements set forth herein and in guides and standards officially adopted as part of regulations for particular classes of PUD Districts shall apply in PUD Districts, to any amendments creating such districts, and to issuance of all required permits therein.

11-106 COMBINATION OF SEPARATE TYPES OF PLANNED UNIT DEVELOPMENT
The Planning Commission and the City Council may consider separate types of planned unit developments (such as residential and commercial PUD) within a consolidated master plan as a single administrative procedure provided the total tract is under the unified control of landholder and land area is sufficient to comply with the separate area requirements combined. This provision in no way alters any requirements in this article.

11-107 STAGING OF DEVELOPMENT
The Planning Commission may elect to permit the staging of development, in which case, the following provisions shall apply.

(A) In a residential planned unit development, the ratio of gross floor area of commercial activity to residential activity in the plan as initially approved or amended shall not be exceeded at any given stage of construction.

(B) Each stage shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed with subsequent stages will not have an adverse impact on the planned unit development or its surroundings.

(C) The commencement of actual construction of any stage of the planned unit development shall
be governed by the provisions of Section 11-206.

(D) In the instance of a combined planned unit development involving residential as well as commercial or industrial uses, the Planning Commission may permit the commercial and industrial uses to be constructed first, but only if it finds—and records its finding on the final development plan—that the nonresidential uses are consistent with current development plan seven if nonresidential construction takes place.

**11-108 DEVELOPMENTAL CONTROLS AND DIVISION OF LAND**

No tract of land may receive final approval as a planned unit development unless such tract is under the unified control of a landholder as defined by this ordinance. Unless otherwise provided as a condition of approval a planned unit development, the landholder of an approved planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and shall use and maintain it in strict conformance with the adopted final master development plan.

A report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area shall be submitted along with any application for approval of a preliminary development plan. The report shall state agreement of all present property owners and/or their successors in title:

(A) To proceed with the proposed development according to the regulations in effect when the map amendment creating the PUD District becomes effective, with such modifications as are set by City Council in the course of such action; and

(B) To provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the City Council in the course of such action; and

(C) To bind further successors in title to any commitments under (A) and (B), above.

**11-109 COMMON OPEN SPACE**

Any common open space established by an adopted final master development for a planned unit development shall be subject to the following:

11-109.1 Quality, Use, and Improvement of Common Open Space

(a) Common open space must be for amenity, site protection or recreational purposes. The uses authorized for common open space must be appropriate to the scale and character of the planned unit development considering its size, density, expected population, topography and other factors.

(b) No common open space may be put to any use not specified in the approved final development plan unless such plan has been amended under the provisions of Subsection 11-211.2. No matter how authorized, no change may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use so permitted are expressly reserved.

(c) Common open space may, subject to approval by the Planning Commission and City Council consist of either improved or unimproved land. In this regard, the approving
agency may determine that all or part of stream areas, bodies of water and slopes in excess of fifteen (15) percent may be included in common open space. In making this determination, the approving agency shall be guided by the extent of these areas in relation to the planned unit development and the degree to which these areas contribute to the quality, livability, and amenity of the planned unit.

11-109.2 Conveyance of Common Open Space
All land shown on the final development plans as common open space must be conveyed under one of the following options:

(a) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.

(b) It may be conveyed to trustees provided in an indenture establishing an association, funded trust, or similar organization meeting the requirements of Subsection 11-109.3, for the maintenance of the planned development. The common open space must be conveyed to the trustee’s subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses specified on the final development plan, and which provide for maintenance of the common open space in a manner which assures its continuing use for its intended purposes.

11-109.3 Requirement for Maintenance Organization
In any instance where common open space is to be conveyed to an organization other than a public agency, the Planning Commission and City Council shall require that the landholder provide for and establish an organization for the ownership and maintenance of any common open space, and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the city and the said dedication to be approved by the Planning Commission. However, the conditions of any transfer shall conform to the adopted final development plan.

11-109.4 Mandatory Provisions Governing Organization and Operation of Maintenance Association
In any instance where common open space is to be deeded to a maintenance organization, the landholder shall file a declaration of covenants and restrictions that will govern the association. This document is to be submitted with the application for final approval of the planned unit development plan. The provisions shall include but not be limited to, the following:

(a) The maintenance organization must be established and operational before any property is sold.

(b) Membership must be mandatory for each owner and must run with the land so that any successive purchaser will automatically become a member.

(c) The restrictions covering the use, etc., of the open space must be permanent, not just for a period of years.

(d) The association(s) must be responsible for liability insurance, local taxes and the maintenance of all facilities and lands deeded to it.
(e) Property owners must pay their prorate share of the cost assessed by the maintenance association; said assessment by the association can become a lien on the owner's property for failure to pay.

(f) The association must be able to adjust the assessment of fees to meet changing needs.

11-109.5 Failure of Maintenance Organization
In the event that the organization established to own and maintain common open space, or any successor organization shall at any time after the establishment of the planned unit development fail to maintain the common open space in reasonable order and condition in accordance with the adopted final development plan, the Zoning Administrator may serve written notice upon such organization and/or the owners or residents of the planned unit development and hold a public hearing. After thirty (30) days when deficiencies of maintenance are not corrected, the Zoning Administrator shall call upon any public or private agency to maintain the common open space for a period of one (1) year. When the Zoning Administrator determines that the original organization is not prepared for the maintenance of common open space, the agency appointed under the provisions of this section may continue maintenance for yearly periods. The cost of such maintenance shall be assessed proportionately against the properties within the planned unit development that have a right of enjoyment of the common open space, and shall become a lien on said properties.

11-109.6 Assurance Involving the Provision of Common Open
The Planning Commission shall require adequate assurance, in a form and manner which it approves, that the common open space shown in the final development plan will be provided and developed. The following methods of assurance are illustrative of the types of assurances required. They may be used singly, in combination or in conjunction with other similar methods:

(a) The City may accept a bond, corporate surety, or other acceptable financial guarantee in an amount sufficient to purchase the common open space shown in the final development plan or alternative acreage which is equivalent in size and character.

(b) The title to the land shown as common open space may be put in escrow. The escrow agreement to provide that the land is to be held in escrow until the Planning Commission has certified to the escrow agent that the planned development has been completed, at which time the common open space is to be conveyed as provided in Subsection 11-109.2, of this article. The escrow agreement may provide for the release of common open space by the escrow agent in stages, in such instance, the Planning Commission is to certify the completion of each stage of the planned unit development to the escrow agent and the escrow agreement must provide that the open space may be conveyed in stages. In this event, the open space which is conveyed is to be of the same proportions to the open space provided on the final development plan as the dwelling units that have been built are to the total number of dwelling units which are allowable by the final development plan.

(c) In conjunction with paragraph (a) of this section, if any planned development which includes common open space is held by the landholder on option, the landholder shall assign to the City the right to exercise the option to acquire the common open space.
(d) In general, the construction and provision of all common open spaces and public and recreational facilities which are shown on the final development plan must proceed at no slower rate than the construction of dwelling units. From time to time, the Planning Commission shall compare the actual development with the development schedule. If the Commission finds that the rate of construction of dwelling units or commercial or industrial structures is substantially greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, then the Planning Commission may either cease to approve additional final plats and/or instruct the Zoning Administrator to discontinue issuance of building permits.

11-110 DEDICATION OF PUBLIC FACILITIES
The Planning Commission and the City Council may, as a condition of approval and adoption, in accordance with the final development plan, require that suitable areas for streets, public rights-of-way, schools, parks, and other public areas be set aside, improved and/or dedicated for public use.

11-111 WAIVER OF BOARD OF APPEALS ACTION
No action of the Board of Appeals shall be required in the approval of a planned unit development including those activities which would otherwise require conditional use permits under other articles of this ordinance. Such activities shall generally comply with the applicable criteria stipulated for such activities in Article XIII, Chapter 5, of this ordinance as determined by the Planning Commission and the City Council. In any instance where such use does not fully comply with such criteria, such deviation may be approved as part of the overall development plan.
CHAPTER 2. ADMINISTRATIVE PROCEDURE GOVERNING PLANNED UNIT DEVELOPMENTS

11-201 PURPOSE AND INTENT
The purpose of these provisions is to prescribe a procedure for the review, approval and continued administration of all planned unit developments provided for by this article.

11-202 PREAPPLICATION CONFERENCE
Prior to filing an application for approval of a planned unit development the applicant shall confer with the Zoning Administrator to determine whether the applicant is proceeding under the proper section of this ordinance, to consider the desirability or necessity of amending the master plan or petition, to clarify the issues and to discuss any other matter as may aid in the disposition of the project.

11-203 PRELIMINARY APPROVAL OF THE PROPOSED PLANNED UNIT DEVELOPMENT

11-203.1 Application for Preliminary Approval
Application for preliminary approval shall be made by the landholder of the affected property or his authorized agent to the Zoning Administrator in accordance with such written general rules regarding general procedure, form of application, and required information as the Planning Commission may determine, provided they are not inconsistent herewith. The application for preliminary approval shall be accompanied by a preliminary master development plan meeting the requirements of Subsection 11-203.2.

11-203.2 Preliminary Master Development Plan of a Planned Unit Development
The preliminary master development plan for the proposed planned unit development shall be a general concept plan which shall include:

(a) Sufficient information to disclose:

(1) The location and size of the area involved.

(2) Transportation routes including streets, driveways, sidewalks, and pedestrian ways, and off-street parking and loading areas.

(3) Location and approximate dimensions of structures including approximate height, bulk and the utilization of structures including activities and the number of living units.

(4) Estimated population density and extent of activities to be allocated to parts of the project.

(5) Reservations for public uses including schools, parks, and other open spaces.

(6) Other major landscaping features, and

(7) The general means of the disposition of sanitary wastes and storm water.
(b) A tabulation of the land area to be devoted to various uses and activities and overall densities.

c) The nature of the landholder's interest in the land proposed to be developed and a written statement of concurrence from all parties having a beneficial interest in the affected property.

d) The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings, and structures including proposed easements for public utilities.

e) A stage development schedule, setting forth when the landholder intends to commence construction and a completion period.

(f) When it is proposed that the final master development plan will be submitted in stages, a schedule of submission thereof.

If the application is deemed incomplete by the Zoning Administrator, a written request shall be made within ten (10) days after the original submittal, for further information. In such case, the application shall be held in abeyance until deemed complete for final review. No plan shall be formally presented for Planning Commission action until such plan is found complete and ready for review.

11-203.3 Review by Other Departments of City Government
Other departments of the City as appropriate, shall review the plan proposed for the planned unit development.

11-203.4 Planning Commission Action on Preliminary Application for Planned Unit Development
Within forty-five (45) days after initial submission to the Planning Commission, the Commission shall act on the preliminary application by any one of the following:

(a) Unconditional preliminary approval.

(b) Conditional preliminary approval, in which the Planning Commission expressly denotes modifications, which must be a part of the preliminary approval.

(c) Disapproval.

11-203.401 Conditional Preliminary Approval - Land-Holder's Response
When the Planning Commission's action is conditional preliminary approval, the Commission shall transmit in writing the conditions or modifications which must be complied with in order that the proposed planned unit development receive preliminary approval. Within sixty (60) days of the transmittal of the required modifications, the landholder may make a written response concurring with the required modifications, in which case the planned unit development is deemed to have preliminary Planning Commission approval, at the date of receipt by the Planning
Commission of said written concurrence. When the landholder makes a negative reply within sixty (60) days of the date of conditional preliminary approval the planned unit development shall be deemed disapproved unless such time limit is extended by a specific action of the Planning Commission upon a written request of the landholder.

11-203.402 Action by City Council
After review and recommendation by the Planning Commission, the applicant may proceed to the City Council with the proposal. Upon receipt of the Planning Commission's report and recommendations, the council shall consider such report and recommendations and otherwise proceed in the manner established in Article XIII, for consideration of an amendment to the zoning ordinance. The City Council may approve or disapprove the proposal; or in an instance where the Planning Commission has recommended approval subject to conditions or recommendations for alterations, the Council may establish, eliminate or modify such conditions in its action. In any instance where the City Council may act to eliminate or modify conditions recommended by the Planning Commission for approval of the preliminary plan the Council shall provide specific guidance as to:

1. Overall design of the plan,
2. Any modifications required, and
3. Any additional information which may be required by the Planning Commission in order for it to determine substantial compliance between the preliminary and final development plan.

Upon action by the City Council approving the preliminary master development plan, the applicant may proceed to prepare and present to the Planning Commission a final master development plan for the proposed development. Only upon approval of a final master development plan shall the action preliminary approving the change in zoning become final. In any instance where a final master development plan may be presented in portions or stages, the zoning shall only become effective at the time of final approval of each individual stage or segment.

11-204 FINAL APPROVAL OF THE PROPOSED PLANNED UNIT DEVELOPMENT
The approval by the City Council of the preliminary development plan of the planned unit development shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval by the Planning Commission of the planned unit development shall be subject to procedures and requirements of this section.

11-204.1 Application for Final Approval
Following the preliminary approval of a planned unit development by the City Council, the landholder may make application to the Planning Commission for approval of a final master development plan. The application shall include all aspects of the preliminary application, the proposed final master development plan, other required drawings, specifications, covenants, easements, conditions and forms of bond as required herein. Copies of legal documents required by the Commission for dedication or reservation of group or common open space
and/or for the creation of a nonprofit association shall also be submitted. When appropriate, this application shall contain the stage development schedule.

In the event the applicant fails to apply for final approval within two (2) years from the date of preliminary approval by the City Council or in the event the Planning Commission finds that conditions in support of the granting of preliminary approval have so changed as to raise reasonable question regarding the landholder's ability to pursue the plan, the Planning Commission may recommend revocation of the zoning approval for the plan. Should the Planning Commission recommend withdrawal of approval of the plan, a report of this action shall be sent immediately to the City Council along with a recommendation that action be taken to remove the planned unit development district from the zoning map.

11-204.2 Final Approval of Stages
The application for final approval and the final approval by the Planning Commission may be limited to each stage as appropriate in a large planned unit development, in compliance with the Section 11-107.

11-204.3 Final Master Development Plan of a Planned Unit Development
The application for final approval shall be sufficiently detailed to indicate the ultimate operation and appearance of the development or portion thereof, and shall include, but not limited to the following:

(a) Final development plan drawings at a scale no smaller than one (1) inch to two hundred (200) feet indicating:

   (1) The anticipated finished topography of the area involved (contours at vertical intervals as specified by the city engineer but not to exceed five (5) feet).

   (2) A circulation diagram indicating the proposed movement of vehicles, goods, and pedestrians within the planned unit development and to and from existing thoroughfares. This shall specifically include: Width of proposed streets; a plan of any sidewalks or proposed pedestrian ways; and any special engineering features and traffic regulation devices needed to facilitate or insure the safety of the circulation pattern.

   (3) An off-street parking and loading plan indicating ground coverage of parking areas.

   (4) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, and other public or semi-public open space uses including any improvements which are to be deeded as part of any common use area.

   (5) Information regarding the physical characteristics of the surrounding area and developments within three hundred (300) feet of the proposed planned unit development.

   (6) A plot plan for each building site and common open area, showing the approximate location of all buildings, structures, and improvements and indicating the open spaces around buildings and structures.
(7) A plan for proposed utilities including sewers, both sanitary and storm, gas lines, water lines, fire hydrants and electric lines showing proposed connections to existing utility systems.

(b) A plan showing the use, height, bulk, and location of all buildings and other structures. Any drawings used to meet this requirement need not be the result of final architectural decisions and need not be in detail.

(c) A generalized land use map and a tabulation of land area to be devoted to various uses and activities.

(d) A tabulation of proposed densities to be allocated to various parts of the area to be developed.

(e) A plan which indicates the location, function, and ownership of all open spaces, excepting those open spaces included in fee simple lots.

(f) Final drafts of all proposed covenants and grants of easement (particularly those pertaining to common open space).

If the application is deemed incomplete by the Zoning Administrator, a written request shall be made within ten (10) days after the original submittal, for further information. In such case, the application shall be held in abeyance until deemed complete for final review. No plan shall be formally presented for Planning Commission action until such plan is certified by the Zoning Administrator as being complete and ready for review.

11-204.4 Action on Final Plan
In reviewing a final plan, the function of the reviewing agencies is twofold. First, the plan must be found to be in substantial compliance with the previously approved preliminary development plan. Secondly, all new information must be reviewed to determine its quality and compliance with all substantive requirements of this ordinance.

11-204.401 Review Procedure

(1) Application for final approval shall be made to the Planning Commission.

(2) The completed final plan must be submitted to the Zoning Administrator ten (10) days prior to the meeting of the Commission at which the plan is to be presented. Ten (10) copies of the plan and related documents will be required.

(3) Within thirty (30) days subsequent to the formal presentation of the final plan to the Planning Commission it shall be the duty of the Zoning Administrator to present data and findings of the various departments and agencies of the government concerning the proposed plan to the Planning Commission.

(4) In the course of its consideration and prior to any final approval the Planning Commission shall give notice and provide each of the following an opportunity
to be heard:

i. Any person who is on record as having appeared at the formal public hearing on the preliminary development plan, or

ii. Any other person who has indicated to the Planning Commission in writing that he wished to be notified.

(5) The Planning Commission may approve the final plan if it finds:

i. That the final plan meets the provisions for substantial compliance with the preliminary plan set forth in Section 22-205; and

ii. That the plan complies with all other standards for review which were not considered when the preliminary plan was approved.

11-204.402 Approval with Modification
Should the Planning Commission require any modification in the final development plan or any portion thereof including covenants, etc.; such modifications shall be agreed to by the applicant in writing prior to formal acceptance and filing of the final development plan.

The Planning Commission shall transmit in writing the conditions or modifications which must be complied with in order that the proposed planned unit development receive final approval. Within sixty (60) days of the transmittal of the required modifications, the landholder may make a written response concurring with the required modifications, in which case the planned unit development is deemed to have final Planning Commission approval at the date of the receipt by the Planning Commission of said written concurrence. Where the landholder makes a negative reply or no response is received within sixty (60) days of the date of conditional final approval, the planned unit development shall be deemed disapproved unless such time limit is extended by specific action of the Planning Commission. All such conditions or requirements for modification as may be required hereinunder shall be expressly for the purpose of:

(1) Causing the final development plan to meet the test of substantial compliance with the approved preliminary plan, or

(2) Meeting some specific requirement of this ordinance:

11-204.403 Filing of an Approved Final Development
Upon formal action by the Planning Commission approving a final development plan, or in the instance of conditional final approval, upon acceptance of the modifications as set forth in Subsection ii-204.402, said plan and all maps; covenants, and other portions thereof, shall be filed with:

(1) The City Council;

(2) The City Recorder; and
(3) The Zoning Administrator.

11-204.404 Disapproval
If the Planning Commission finds that the final plan does not meet the test for substantial compliance set forth in Section 11-205, or does not comply with other standards of review, it shall disapprove the plan. In the event of disapproval, a written report shall be prepared by the Planning Commission and sent to the City Council and the applicant. This report shall detail the grounds on which the plan was denied to specifically include ways in which the final plan violated the substantial compliance provisions or other standards of review.

In the event that the Planning Commission disapproves any final development plan, such action shall be reviewed by the City Council. The Council shall consider the report submitted by the Planning Commission and such other information as it may require in order to determine whether such development in its view meets the test of substantial compliance and complies with other standards of review herein established. Should the City Council uphold the Planning Commission its action, it shall notify the landholder that the action approving the reclassification of such property as is contained in the final development plan shall not become final. Should the Council determine that the plan does meet the test of substantial compliance and other requirements for approval, it shall notify both the landholder and the Planning Commission of its decision and the action of the Council approving the zoning shall thereby become final.

11-205 DETERMINATION OF SUBSTANTIAL COMPLIANCE
The final development plan shall be deemed in substantial compliance with the preliminary development plan provided modifications by the applicant do not involve changes which in aggregate:
(A) Violate any provisions of this article;

(B) Vary the lot area requirement as submitted in the preliminary plan by more than ten percent;

(C) Involve any increase in the number of dwelling units approved for the site in the preliminary development plan;

(D) Involve a reduction of more than three (3) percent of the area shown on the preliminary development plan as reserved for common open space and/or usable open space;

(E) Increase the floor area proposed in the preliminary development plan for nonresidential uses by more than five (5) percent;

(F) Increase the total ground area covered by buildings by more than two (2) percent; or

(G) Alter the mix of dwelling unit types by more than three (3) percent in any one category or type of dwelling unit.

11-206 FAILURE TO BEGIN PLANNED UNIT DEVELOPMENT
If no "actual construction" has begun in the planned unit development within three (3) years from the date of approval of the final development plan, said approval shall be lapse and be of no further effect.
The Planning Commission, upon showing of good cause by the landholder, may extend for periods of twelve (12) months, the time for beginning construction. However, at least annually the Planning Commission shall review the status of any planned unit development on which construction has not begun in order to determine that the project has not been abandoned.

11-207 ENFORCEMENT OF THE DEVELOPMENT SCHEDULE
Unless specifically approved as part of the overall development plan, the construction and provision of all common open spaces and public and recreational facilities which are shown on the final development plan must proceed at no slower rate than the construction of dwelling units. From time to time the Planning Commission shall compare the actual development accomplished with the approved development schedule. If the Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, then the Planning Commission may take either or both of the following actions:

(A) Cease to approve any additional final plats;

(B) Instruct the Zoning Administrator to discontinue issuance of building permits.

In any instance where the above actions are taken the Planning Commission shall gain assurance that the relationship between the construction of dwellings or other structures of a commercial or industrial nature and the provision of common open spaces and public recreational facilities is brought into adequate balance prior to the continuance of construction.

11-208 BUILDING PERMITS AND USE AND OCCUPANCY PERMITS
Building permits and use and occupancy permits may be issued for uses, buildings and other structures in planned unit developments in accordance with this article.

11-208.1 Building Permits
A building permit may be issued for structures, building, activities, or uses as a part of a finally adopted planned unit development only in strict compliance with the final development plan of the particular planned unit development as finally adopted including the conditions of approval and only after the administrative procedure outlined in this section has been strictly adhered to. No building permit shall be issued for the area included in a preliminary planned unit development until the final development plan has been adopted.

11-208.2 Use and Occupancy Permit
A use and occupancy permit may be issued only when the Zoning Administrator determines that the structure, building, activity, or use as part of a planned unit development conforms with the particular adopted final development plan, including the conditions of its approval, or approves a modification under the provisions of Section 11-209.

11-209 MODIFICATIONS IN AN APPROVED FINAL DEVELOPMENT PLAN DURING THE PERIOD OF INITIAL CONSTRUCTION
During the period of actual development or construction of any planned unit development, (or when developed in stages of any portion of the total development) the provisions of this section shall apply to all proposed modifications. Any proposed modification which is not permitted under these provisions may be approved only as an amendment to the adopted final development plan.
11-209.1 Minor Modifications Permitted During Construction
The Planning Commission may approve minor modifications in the location, siting, and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the final development plan was approved so long as no modification violates the basic policy and concept or bulk and open space requirements for the planned unit development as approved in the final development plan. The total of such modifications approved by the Planning Commission shall never in aggregate result in:
   (a) Any increase in the residential activity;
   
   (b) An increase of more than three (3) percent in the floor area proposed for nonresidential use of a commercial or industrial nature;
   
   (c) An increase of more than three (3) percent in the total ground area covered by buildings; or
   
   (d) A reduction of more than two (2) percent in the area set aside for open space.*

Minor Modifications in the location of streets and underground utilities may be approved under this section.

NOTE: *No Modification approved, hereinunder, shall result in any reduction of required buffer areas or other specific open spaces required by this ordinance.

11-209.2 Subjects not Included for Modification
The proposed addition of any use not approved in the final development plan, as well as any increases in the number of dwelling units, permitted, building height, decreases in the parking requirements, and vision clearance area are not subjecting for adjustments by the Planning Commission. Any proposed modifications of any of the above may be made only as amendments to the adopted final development plan.

11-209.3 Minimum Adjustments Only
Any modification must be held to the minimum necessary. Each of the following conditions must be found to apply to the particular circumstances prior to the granting of the adjustment.
   
   (a) Practical Difficulties or Unnecessary Hardship: That strict application of the provisions of this ordinance would result in practically difficulties or unnecessary hardships.
   
   (b) Extraordinary Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings or uses referred to in the application, which circumstances or conditions do not apply generally to other land, buildings or uses in the same district.
   
   (c) Not Detrimental: That granting the application will not be detrimental, to the public welfare or injurious to property or improvements in the neighborhood of the premises.
   
   (d) Health or Safety not Adversely Affected: That granting the application under the
circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.

(c) **Maintains Intent of Ordinance and the Development Plan:** That such adjustment is within the intent and purpose of the ordinance and will not adversely affect the community objectives of the comprehensive plan.

### 11-210 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION

#### 11-210.1 Issuance of Certificate of Completion

Upon completion of a planned unit development, or when developed in stages, of any portion of said development, the Planning Commission shall issue a certificate certifying this fact, and the Zoning Administrator shall note the issuance of the certificate on the recorded final development plan.

#### 11-210.2 Changes in the Use of Land or Bulk of Structures Within a Planned Development After Completion

After the certificate of completion has been issued, the use of land and the construction, modification, or alteration of any buildings or structures within the planned development will be governed by the approved final development plan rather than by any other provisions of this ordinance. No changes may be made in the approved final development plan except upon application to the appropriate agency under the procedures below:

(a) Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning Commission if the extensions, alterations or modifications are consistent with the purposes and intent of the recorded final development plan.

(b) Any uses not authorized by the approved final development plan, but allowable in the planned development district within which the planned development is located as a permitted use or as a conditional use, may be added to the recorded final development plan under the procedures provided by Section 11-111, for the approval of conditional uses.

(c) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved as set forth below.

(d) Changes in the use of common open space may be authorized by an amendment to the final development plan provided that no amendment approved hereunder may act to abrogate or annul any covenant which provides for the use, operation, or continuance of the common open space.

(e) All other changes in the final development plan must be made by the City Council under the procedures authorized by this ordinance for amendment of the zoning map. No changes may be made in the final development plan unless such changes
(f) are required for the continued successful functioning of the planned development or unless such are required by changes in conditions that have occurred since the final plan was adopted or by changes in the development policy of the community.

(g) No changes in the final development plan which are approved under this section are to be considered as a waiver of the covenants limiting the use of land, buildings, structures, and improvements within the area of the planned development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

11-210.3 Resubdivision of a Planned Unit Development After Completion
A planned unit development may be subdivided and resubdivided for purpose of sale or lease after the certificate of completion has been issued under the procedures set forth below:

(a) If the subdivision or resubdivision of planned development will create a new plot line, the applicant shall make application to the Planning Commission for the approval of a subdivision or resubdivision. The Planning Commission may approve the subdivision or resubdivision if each section of the subdivided or resubdivided planned development meets the provisions of this article governing density, provisions of this article governing density, common open space, and dimensional requirements.

(b) All sections of a subdivided or resubdivided planned development are to be controlled by the final development plan rather than by the provisions of the zoning ordinance that otherwise would be applicable. The provisions of Subsection 11-210.2, governing changes in the final development plan, will apply.

(c) The owners or lessees of a subdivided or resubdivided planned development may jointly make application for a conditional use or for an amendment to the adopted final development plan.
CHAPTER 3. RESIDENTIAL PLANNED UNIT DEVELOPMENT

11-301 PURPOSE AND INTENT OF RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICTS
These districts are designed to accomplish the following:

(A) To encourage variety, flexibility, and innovation in land development and land-use for basically residential areas which is consistent with the overall goals and objectives of the general plan.

(B) To encourage a mixture of housing types.

(C) To provide a harmonious blending with the surrounding development, minimizing such negative influences as land use conflicts, heavy traffic congestion and excessive demands on existing or proposed public facilities.

(D) To provide for increased safety, amenity, and livability through improved design. (E) To provide open space.

(E) To provide for the best use of the site consistent with the goals of protecting and enhancing the natural environment.

11-302 GENERAL STANDARDS GOVERNING PROJECT APPROVAL
In addition to recording the findings required by Section 11-102, the Planning Commission and City Council shall consider the proposed planned unit development from the point of view of the standards and purposes of the regulations governing the residential planned unit development so as to achieve a maximum of coordination between the proposed development and the surrounding uses; the conservation of woodland and the protection of water courses from erosion and siltation; and a maximum of safety, convenience and amenity for the residents of the development. To these ends the reviewing agencies shall consider the location of buildings, parking areas and other features such as streams and trees; the efficiency, adequacy, and location of green areas provided; the adequacy, location, and screening of parking areas; the adequacy of public services and facilities; and such other matters as such agencies may find to have a material bearing upon the stated standards and objectives of these regulations.

11-303 ACTIVITIES PERMITTED WITHIN A RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT
The following activities, as described in the use classifications appearing in Article I, chapter 3, may be permitted as a part of a planned unit development plan in accordance with the procedure set forth in Chapter 2, of this article.

11-303.1 Principal Permitted Uses and Structures
All dwelling and rooming unit types are permitted except mobile homes which are permitted only in mobile home parks in accordance with the provisions of Article VI, Section 6-405.

11-303.2 Accessory Uses
Any accessory use permitted within any residential district may be permitted within a residential planned unit development to the extent that such activities are approved within an
overall development plan.

11-303.3 Conditional Uses
Any provisions of Section 11-111, shall apply to the process of considering conditional uses for location within residential planned unit development districts. The uses listed below may be approved as conditional uses within residential planned unit development districts:

(a) Administrative Services

(b) Community Assembly

(c) Educational Facilities

(d) Cultural and Recreational Services

(e) Essential Public Transport, Communication and Utility Services

(f) Extensive Impact Facilities

(g) Health Care Facilities

(h) Intermediate Impact Facilities

(i) Special Personal and Group Care Facilities

(j) Religious Facilities

11-303.4 Temporary Uses
The temporary uses and structures specified in Subsection 13-203.3, as permissible within residential districts may be permitted within residential planned unit developments for the limited periods specified for each such use or activity.

11-303.5 Prohibited Uses
Any use, other than a temporary use, not approved within an overall development plan or subsequent amendment thereto.

11-304 Minimum Size of Residential Planned Unit Development Districts
No residential planned unit development may contain less than the minimum area as stipulated herein unless the Planning Commission and City Council find that a tract containing less than this minimum is suitable as a planned unit development by virtue of its historical character, unique scenic qualities, ecological or topographic features. Whenever a residential planned unit development is proposed to be located within two (2) or more zoning districts with different required minimum areas, the largest required minimum area shall control.
<table>
<thead>
<tr>
<th>Base Zoning District</th>
<th>Minimum Gross Area for Formation of Residential Planned Unit Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-40</td>
<td>10 acres</td>
</tr>
<tr>
<td>RS-20</td>
<td>7 acres</td>
</tr>
<tr>
<td>R-15, RS-15</td>
<td>4 acres</td>
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<tr>
<td>R-10</td>
<td>3 acres</td>
</tr>
<tr>
<td>R-7.5</td>
<td>2 acres</td>
</tr>
<tr>
<td>RM-1</td>
<td>1 acre</td>
</tr>
</tbody>
</table>

11-305 DENSITY PERMITTED
The density permitted within a planned unit development is to be derived from that permitted within the base zoning district which the residential PUD District is to overlay. The maximum number of dwelling units permitted shall be calculated as follows:
(A) From the gross area proposed for development as a residential planned unit development shall be subtracted:

1. All land to be utilized as public street right-of-way.
2. Any portion of the site lying within a floodway.

(B) The remaining net development area is then divided by the "minimum development area per dwelling unit" which appears on Table 6-301A.

Any fractions of .5 or greater shall be rounded to the next whole number.

(C) In any instance of a site located within two (2) or more zoning districts, the density permitted within each district shall be separately calculated for the portion of the site lying within each district. No transfer of density may be permitted among base zoning districts.

11-306 OPEN SPACE REQUIREMENTS
Within any development under the provisions of this section, open space shall be provided which is adequate to:
(A) Buffer both internal and external activities from objectionable or conflicting characteristics associated with such uses.

(B) Assure adequate space, light, and air along with visual and acoustical privacy.

(C) Assure protection as required by Section 11-307, of surrounding uses from possible negative effects resulting from a greater density or intensity of use which may be permitted within any planned unit development district.

(D) Assure adequate protection from fire and adequate spacing of buildings as required by Section 11-308.
11-306.1 Ownership of Open Space
Any open space located within a residential planned unit development shall be under the direct and continuing control of:
(a) An individual, or
(b) A maintenance association created to hold and maintain such property.

11-306.2 Use of Open Space
All open space shown on a development plan of any residential planned unit development shall be indicated as to its intended use. In this regard such property shall be designated as:
(a) Shared general public use area.
(b) Shared limited use area.
(c) Private use area.

11-306.3 Size and Location of Private and Shared Limited Use Areas
Private or shared limited use areas shall generally be provided as required herein for all dwellings located within any residential planned unit development. Such areas shall be designed so as to assure privacy and control of access by and for the exclusive use of the intended residents. In any instance where an alternative to this provision is recommended the Planning Commission shall make a specific finding (and enter its finding into its recommendation to the City Council) that an equal or greater measure of controlled use outdoor living area is to be provided.

11-306.301 One to Four Family Dwellings – Including All Attached Dwellings
Each dwelling unit shall on its own lot have one (1) yard containing not less than seven hundred-fifty (750) square feet. This yard shall be reasonably secluded from view from streets and from neighboring property and shall not be used for off-street parking or for accessory buildings.

11-306.302 Multi-Family Dwellings
Each multi-family complex shall be provided with private or shared limited use area of at least five hundred (500) square feet in area per dwelling unit. Such open area may provide for a variety of activities but must be for the sole use and enjoyment of the residents of that building or complex only.

11-307 SPECIAL YARD AND HEIGHT REQUIREMENTS ALONG PERIMETERS ADJOINING CERTAIN DISTRICTS
Where a residential planned unit development adjoins an R-40, RS-20, R-15, RS-15, R-10, or R-7.5 District without intervening open space at least one hundred-twenty (120) feet in width serving as a separation between buildable areas, the following provisions shall apply.

11-307.1 Yards, Fences, Walls or Vegetative Screening at Edges of Residential Planned Unit Development
Yards, fences, walls or vegetative screening shall be provided at edges of the residential
planned unit development where needed to protect adjoining residents from undesirable views, lighting, noise, or other off-site influences. In particular, off-street parking areas, service areas for loading and unloading other than passenger vehicles, and areas for storage and collection of refuse and garbage shall be screened.

11-307.2 Height Limitations at Edges of Residential Planned Unit Developments
In general, the height provisions applicable to all base districts which the residential planned unit development overlays shall apply to all buildings and structures located therein. However, along any district boundary where the adjoining district permits less height than the residential planned unit development no building within the residential planned unit development shall project through imaginary planes starting at the maximum height permitted in the adjoining district and leaning inward from district boundaries at an angle representing an increase of one-half (1/2) foot in height for each foot of horizontal distance perpendicular to the boundary.

11-308 SPACING OF BUILDING OR PORTIONS OF BUILDING CONTAINING DWELLING UNITS
All one- and two-family detached and semi-detached dwellings located within the internal portion of the planned unit development site shall be spaced so that the separation of buildings is equal to or greater than the yard requirements established for the base zoning district within which such development is located. For all buildings containing attached or multi-family dwellings, the minimum distance between any two (2) buildings shall be as set forth in Article VI, Section 6-306.

11-309 LOT COVERAGE
In general, the site coverage provisions established for the base zoning district within which the residential planned unit development is located shall apply. In an effort to promote maximum design flexibility such provisions shall not, however, apply to individual building lots but to the entire site taken in aggregate. In no instance shall the aggregate site coverage by all dwellings exceed the coverage provisions established for the base district in which the residential planned unit development is located. In the event a project lies within two (2) or more zoning districts, the coverage ratio applicable to each zoning district shall apply to those dwellings located within it. No transfer of bulk is permitted among zoning districts.

11-310 SETBACK REQUIREMENTS
For all buildings located within the internal portion of the site, setbacks are to be established consistent with the provisions of Section 11-308. To the maximum feasible extent, any building located along the periphery of the site shall be set back so as to ensure that lots located along a street with a more conventional lot pattern are compatible with the established pattern.

11-311 PEDESTRIAN CIRCULATION
The pedestrian circulation system and its related walkways shall be isolated as completely as possible from the street system in order to provide separation of pedestrian and vehicular movements. This may include, where deemed necessary by the Planning Commission or City Council, pedestrian underpasses and overpasses in the vicinity of schools, playgrounds, local shopping areas and other neighborhood uses which generate a considerable amount of pedestrian traffic.
11-312  HEIGHT RESTRICTIONS
In general, the height restrictions applicable within the base zoning district(s) underlying any planned unit development shall apply to all uses permitted within the PUD District. However, in the Planning Commission or City Council may act to restrict height in any instance where visual privacy of adjoining property may be threatened as a result of height variation along the periphery of the PUD District. All structures exceeding thirty-five (35) feet in height are subject to specific approval by the City Fire Department. Along the periphery of the site the provisions of Subsection 11-307.2, shall apply.

11-313  ACCESS REQUIREMENTS
Every dwelling unit shall meet the provisions for access set forth in Article VI, Section 6-307.

11-314  REQUIRED ACCESSORY OFF-STREET PARKING IN RESIDENTIAL PLANNED UNIT DEVELOPMENT
The required accessory off-street parking space and off-street loading requirements contained in Article IV, Chapter 1, shall apply as applicable. In a residential planned unit development or portion thereof, which is especially designed for the use and occupancy of persons of sixty (6) years of age or older or families with one (1) spouse of that age a minimum of one (1) off-street parking space for two (2) dwelling units shall be required.

11-315  SIGN REGULATIONS IN RESIDENTIAL PLANNED UNIT DEVELOPMENT
The sign provisions applicable to uses within the base zoning district shall apply to such uses within any residential planned unit development.
CHAPTER 4. COMMERCIAL PLANNED UNIT DEVELOPMENT

11-401 INTENT
These districts are designed to accomplish the following:

(A) To encourage the clustering of commercial activities within areas specifically designed to accommodate the activities and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas;

(B) To provide for the orderly development of commercial activities so that any adverse impact on surrounding uses and on the general flow of traffic can be ameliorated;

(C) To encourage an orderly and systematic development design providing the rational placement of activities, parking and auto circulation, pedestrian circulation, ingress and egress, loading, landscaping, and buffer strips; and

(D) To encourage commercial development which is consistent with the Long-Range General Plan for Portland.

This chapter shall only be used for commercial planned unit developments upon a determination by the Planning Commission that the proposed development is in harmony with the purpose and intent as stipulated in this section and warrants the findings required by Section 11-102.

11-402 TYPES AND PURPOSES OF COMMERCIAL PLANNED UNIT DEVELOPMENTS
This section indicates the various types of commercial planned unit developments along with the intended general function of each.

11-402.1 Convenience Retail/Service
This commercial planned unit development type is intended to provide a means of introducing convenience retail and service activities within residential neighborhoods. It is intended that where such districts are permitted, they shall be strictly limited in the scope of goods and services offered to those of a convenience nature only. Moreover, it is intended that such centers shall remain small in size and that the overall bulk and appearance of buildings, as well as open space and landscaping requirements, shall assure continuing compatibility with surrounding residential property.

11-402.2 Commercial Enterprise-General
This commercial planned unit development is intended as a mechanism for encouraging the coordinated development of relatively large tracts into employment centers focused upon business and office related activities. In addition, certain retail and service functions are permitted which are intended to support the overall focus as a center for business and that developments of this type shall not become principally oriented toward retailing or personal, (as opposed to business) services.

11-402.3 General Retail Sales and Service
This commercial planned unit development is intended to provide overall guidance for development of large-scale retail service complexes such as shopping centers. It is intended that developments approved under this provision shall be so located in relation to major streets and surrounding land uses as to assure adequate traffic carrying capacity and a high level of compatibility with, and
protection for, surrounding activities.

11-403 LOCATION AND REQUIRED AREA OF COMMERCIAL PLANNED UNIT DEVELOPMENT

11-403.1 Review of Adopted Long-Range General Plan Required
In no event shall the location, composition, and extent of a proposed commercial planned unit development be approved unless such proposed development is consistent with the actions and policies regarding land development adopted by the Planning Commission.

11-403.2 Market Analysis for Commercial Planned Unit Development
The Planning Commission may require a market analysis for any proposed commercial planned unit development. The market analysis will be utilized, among other things, to determine the impact of the proposed development on the long-range development of the commercial land use in the Portland area, to determine the timing of any proposed development, to limit the extent of Planned Unit Development- Convenience Districts, serving a particular residential area; to ascertain the effects of a proposed development upon lands used or zoned for commercial purposes; to form a basis for evaluating the estimated effects on traffic, and other purposes which assist in an understanding of the public interest pertinent in the evaluation of a proposed development. The market analysis, if required, shall be provided by the landholder and the landholder shall provide any other economic data or analysis as may be reasonably requested by the Planning Commission or City Council.

11-403.3 Minimum Required Site
The minimum site required for the various types of commercial planned unit developments shall be as shown below:

<table>
<thead>
<tr>
<th>COMMERCIAL PUD TYPE</th>
<th>MINIMUM REQUIRED SITE IN SQUARE FEET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convenience Retail/Service</td>
<td>20,000</td>
</tr>
<tr>
<td>General Retail Sales and Service</td>
<td>40,000</td>
</tr>
<tr>
<td>Commercial Enterprise-General</td>
<td>40,000</td>
</tr>
</tbody>
</table>

11-404 ACTIVITIES PERMITTED WITHIN A COMMERCIAL PLANNED UNIT DEVELOPMENT
The provisions of this section shall apply to all uses and activities permitted within any commercial planned unit development.

11-404.1 Principal Permitted Uses and Structures

(a) General
In general, the uses and activities as described in Article I, Chapter 3, may be permitted within the commercial planned unit development type indicated in Table 11-404.1A. Provided, however, that such uses may be further restricted as provided in Subpart (b), below.

(b) Findings of Appropriateness
Due to the unique ability of the planned unit development process to tailor individual developments so as to achieve balanced and reasonable use of the land while maintaining an assured measure of protection for surrounding owners, it is necessary that limited discretion be afforded the Planning Commission and City Council in the process of selecting uses within particular developments. In this regard, it is necessary that the uses permitted within a particular development not detract from the overall intent of each type district as established in Section 11-402. To this end, the selection of uses permitted within each individual commercial planned unit development will be guided by:

(1) The use provisions established for the district in Table 11-404.1A;

(2) The appropriateness of each use given the intended function of each type commercial planned unit development, and

(3) The unique nature of the property surrounding each development;

(4) Consistency with any adopted area development plan which may be applicable to the proposed site.

This process may result in limitations, restrictions or the prohibition of particular uses permitted within a base zoning district from a commercial planned unit development which overlays that district.

**11-402.2 Accessory Uses**
Any accessory use permitted within any commercial planned unit development to the extent that such activities:

(a) Meet the general definition for accessory activities, and

(b) Are found to be appropriate under the provisions of Subsection 11-404.1, (b).

**11-404.3 Conditional Uses**
The provisions of Section 11-111 and Subsection 11-404.1, (b), shall apply to the process of considering conditional uses for location within commercial planned unit development districts.

**11-404.4 Temporary Uses**
The temporary uses and structures specified in Article XIII, Subsection 13-203.3, as permissible within commercial districts may be permitted within commercial planned unit developments for the limited time periods specified for each such use or activity.

**11-404.5 Prohibited Uses**
Any use, other than a temporary use, not approved within an overall development plan or subsequent amendment thereto.
TABLE 11-404.1A: PERMITTED AND CONDITIONAL USES AND STRUCTURES ALLOWABLE WITHIN COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICTS

<table>
<thead>
<tr>
<th>COMMUNITY FACILITY ACTIVITIES</th>
<th>CRS</th>
<th>GRS</th>
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<tbody>
<tr>
<td>A. Administrative Services</td>
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<td>B. Community Assembly</td>
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<td>C. Educational Facilities</td>
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<td>D. Cultural and Recreational Services</td>
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<td>E. Essential Public Transport, Communication and Utility Services</td>
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<td>F. Extensive Impact Facilities</td>
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<td>G. Health Care Facilities</td>
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<td>H. Intermediate Impact Facilities</td>
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<tr>
<td>I. Special Personal and Group Care Facilities</td>
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<td>J. Religious Facilities</td>
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<thead>
<tr>
<th>COMMERCIAL ACTIVITIES</th>
<th>CRS</th>
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<tbody>
<tr>
<td>A. Animal Care and Veterinary Services</td>
<td>P</td>
<td>P</td>
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<tr>
<td>B. Automotive Parking</td>
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<tr>
<td>C. Automotive Repair and Cleaning</td>
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<td>D. Automotive and Other Vehicular, Craft and Related Equipment Sales, Rental and Delivery</td>
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<tr>
<td>E. Automotive Servicing</td>
<td>P</td>
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<tr>
<td>F. Business and Communications Services</td>
<td>P</td>
<td>P</td>
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<tr>
<td>G. Construction Sales and Services</td>
<td>X</td>
<td>X</td>
<td>P</td>
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<tr>
<td>H. Convenience Retail Sales and Services</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>I. Financial, Consulting and Administrative Services</td>
<td>P</td>
<td>P</td>
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<tr>
<td>J. Food and Beverage Services – General</td>
<td>P</td>
<td>P</td>
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<tr>
<td>K. Food Services - Limited</td>
<td>X</td>
<td>P</td>
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<tr>
<td>L. General Personal Services</td>
<td>P</td>
<td>P</td>
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<tr>
<td>M. General Equipment and Repair Services</td>
<td>X</td>
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<tr>
<td>N. General Retail Trade</td>
<td>X</td>
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<td>O. Group Assembly – Limited</td>
<td>X</td>
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<tr>
<td>P. Group Assembly - Extensive</td>
<td>X</td>
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<td>Q. Professional Services - Medical</td>
<td>P</td>
<td>P</td>
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<td>R. Professional Services - Other</td>
<td>P</td>
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<tr>
<td>S. Scrap Operations</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>T. Transient Habitation</td>
<td>X</td>
<td>P</td>
<td>P</td>
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<tr>
<td>U. Undertaking Services</td>
<td>X</td>
<td>P</td>
<td>P</td>
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<tr>
<td>V. Warehousing, Goods Transport and Storage</td>
<td>X</td>
<td>X</td>
<td>P</td>
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<tr>
<td>W. Wholesale Sales and Business Supply</td>
<td>X</td>
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| MANUFACTURING ACTIVITIES                                                                      |     |     |     |
| A. Manufacturing - Limited                                                                    |     |     |     |

| KEY TO INTERPRETING USE CLASSIFICATIONS                                                       |     |     |     |
| P = Use Permitted Subject to Provisions of Subsection 11-404.2.                                |     |     |     |
| X = Use Not permitted Within the District.                                                     |     |     |     |
11-405 **BULK, BUILDING HEIGHT, AND BUILDING SPACING REQUIREMENTS APPLICABLE TO COMMERCIAL PLANNED UNIT DEVELOPMENTS**

Within commercial planned unit developments, the bulk and building height requirements set forth herein shall apply.

11-405.1 **Building Height**

The height of buildings permitted within commercial planned unit developments shall be controlled as provided herein.

11-405.101 **Basic Requirements**

No portion of any building or other structure may, except as provided in Subsection 11-405.102, exceed thirty-five (35) feet in height. Provided, however, that along district boundaries the provisions of Subsection 11-407.2, shall apply to all commercial PUD's.

11-405.102 **General Exception to Height Regulations**

The exceptions to height requirements set forth in Subsection 7-304.2, shall apply within all commercial planned unit development districts.

11-405.2 **Building Spacing**

All buildings located within any commercial planned unit development shall be located such that the minimum space between such shall be the greater of:

(a) That required by minimum yard standards established in this chapter, or

(b) That required by the minimum spacing standards of Section 6-306.

11-406 **OPEN SPACE REQUIREMENTS**

The following open space requirements shall be applied to the various types of commercial planned unit developments.

11-406.1 **Provisions Applicable to Convenience Retail/Service Planned Unit Developments**

11-406.101 **Minimum Yard Requirements**

A front yard twenty (20) feet in depth shall be provided, and where the lot adjoins a street on more than one side, a twenty (20) feet in depth shall be provided adjacent to all streets. Side yards shall be fifteen (15) feet in width adjacent to residential lots, but where the side of the lot is adjacent to a lot on which another commercial establishment is located, or is being constructed, or is definitely to be constructed, side yard(s) need not be provided if the structures involved are to have a common or party wall, or are to have no space between their walls. If there is to be space between the walls of adjacent structures such space shall be at least five (5) feet in width. Rear yards shall be twenty-five (25) feet in depth.

11-406.102 **Landscaping Requirements; Buffering; Control of Appearance**

As minimum requirements except for drives and walkways, any yard adjacent to a street shall be landscaped and maintained in a manner appropriate to a residential neighborhood for a distance of ten (10) feet from the lot line adjacent to the street,
except for portions which adjoin lots in residential use, which shall be so landscaped and maintained for the full width or depth of the required yards within twenty-five (25) feet of adjoining lot lines. Side yards adjacent to lots in residential use shall be similarly landscaped and maintained for their full required minimum width. No such required landscaped area shall be used for off-street parking or loading. No landscaping adjacent to a street shall be of a nature which impairs visibility of or from approaching traffic or creates potential hazards for pedestrians.

Where the site plan indicates potential adverse effects of parking or other characteristics of a use on the lot on which the convenience facilities are to be located, a wall, fence, or appropriate vegetative screening shall be required to be erected and maintained in such manner as to eliminate such effects or reduce them to an acceptable level. If there is to be parking on the premises after dark, such buffering shall at a minimum prevent lights from automobiles parked or maneuvering incidental to parking from shining across adjacent residential property below a height of five (5) feet at the residential windows.

11-406.103 Building Setback
Along all portions of the boundary of any convenience retail/service commercial planned unit development district which adjoins other portions of a combined planned unit development or any commercial or industrial district, the building setback shall be established during the process of review and approval required by this article. However, in any instance where this district may abut property zoned for residential use and not included within the planned unit development district of which the commercial use is part; all buildings shall be set back as follows:

(1) Where the property is zoned, but not currently utilized, for residential purposes; a distance equal to the setback established for the residential district.

(2) Where the property is currently utilized for residential purposes; a distance equal to the present setback of properties located within two hundred (200) feet from the nearest point on the subject property. Provided, however, that in no instance shall this distance exceed twice the minimum setback established for the OCL, Office/Commercial Service Limited District.

11-406.2 Provisions Applicable to all Other Commercial Planned Unit Development Districts
Except as required by Section 11-407, (along district boundaries) and Subsection 11-405.3, applying to building spacing, open space within all commercial planned unit development districts other than convenience retail/service districts shall be established during the process of plan review and approval.

11-407 SPECIAL YARD AND HEIGHT REQUIREMENTS ALONG PERIMETERS ADJOINING CERTAIN DISTRICTS
Where a commercial planned unit development adjoins an R-40, RS-20, R-15, RS-15, R-10, or R-7.5, without intervening open space at least one hundred-twenty (120) feet in width serving as a separation between buildable areas, the following provisions shall apply.
11-407.1 Yards, Fences, Walls or Vegetative Screening at Edges of Residential Planned Unit Development
Yards, fences, walls or vegetative screening shall be provided at edges of the commercial planned unit development where needed to protect adjoining residents from undesirable views, lighting, noise, or other off-site influences. In particular, off-street parking areas, service areas for loading and unloading other than passenger vehicles, and areas for storage and collection of refuse and garbage shall be screened.

11-407.2 Height Limitations at Edges of Residential Planned Unit Developments
Along any district boundary where a commercial planned unit development district adjoins a residential district and such property is not included within a commercial planned unit development no building within the commercial planned unit development shall project through imaginary planes starting at the maximum height permitted in the adjoining district and leaning inward from district boundaries at an angle representing an increase of one-half (1/2) foot in height for each foot of horizontal distance perpendicular to the boundary.

11-408 PROVISIONS GOVERNING OFF-STREET PARKING AND LOADING

11-408.1 Approval of Vehicular Circulation Plan
Portions of the plan relating to location and design of ingress and egress, traffic control, arrangement of off-street parking and loading facilities, and internal circulation shall be referred to the city engineer for study, and no commercial planned unit engineer for study and no commercial planned unit development shall be approved by the Planning Commission without consideration of the recommendations of the city engineer. Additional conditions and safeguards on such matters may be included by the Planning Commission or City Council.

11-408.2 General Provisions
The number of parking and loading spaces provided, the design of parking areas and the surfacing of those areas shall be in accordance with the provisions of Article IV, Chapter 1. Where practicable, off-street parking facilities for groups of establishments may be combined, but the total number of spaces required in such combination shall equal the sum of the numbers required for each of the individual establishments or uses. Spaces for the patrons or employees of individual establishments need not be marked as to uses in such a way that it can be determined at any time that individual responsibility for provision of space has been met and maintained.

11-408.3 Landscaping Within Parking Areas
Landscaping shall be provided within parking areas located within commercial planned unit developments in the amount and manner required by Article IV, Subsection 4-109.9.

11-408.4 Lighting of Parking Areas
Parking areas and pedestrian ways on the premises shall be lighted to an intensity of at least 0.5-foot candle. No such lighting shall be directed in a manner which illuminates adjoining residential premises, and no source of incandescent or mercury vapor illumination shall be directly visible from any residential property.
11-408.5 **Vehicular Access Locations**
Vehicular access locations shall be provided so that vehicles entering or departing a commercial planned unit development site shall do so only at such locations.

Elsewhere along the property lines of said commercial planned unit development, a physical separation between the said site and public rights-of-way shall be provided. A vehicular access location shall consist of such entrance and exit driveway openings designed and located so as to minimize hazardous vehicular turning movements and traffic congestion. No vehicular access location serving a commercial planned unit development site shall be within one hundred (100) feet of the intersection of street right-of-way lines, bounding, in part, the same commercial planned unit development site.

11-409 **PERMITTED SIGNS**
The sign provisions applicable to uses within the base zoning district shall apply to such uses within any commercial planned unit development district.
CHAPTER 5. INDUSTRIAL PLANNED UNIT DEVELOPMENT

11-501 INTENT
These districts are designed to accomplish the following:

(A) To provide sufficient opportunity and flexibility for manufacturing activities to take place at feasible locations without an adverse impact upon surrounding nonmanufacturing areas.

(B) To permit a broad group of manufacturing activities under controlled conditions.

(C) To encourage the application of sound planning and design principles in the orderly development of manufacturing activities.

(D) To provide for the integration of manufacturing activities into large scale developments which incorporate residential and commercial as well as industrial activities.

(E) To maximize manufacturing potentialities within the community without adversely affecting its living environment.

This chapter shall only be used for industrial planned unit developments upon a determination that the proposed development is in harmony with the purpose and intent as stipulated in this section and warrants the findings required by Section 11-102.

11-502 LOCATION AND SITE OF INDUSTRIAL PLANNED UNIT DEVELOPMENT
The location and required area of industrial planned unit development districts shall be as follows:

11-502.1 Location
An industrial planned unit development may be developed independently or as part of a combined planned unit development as set forth in Section 11-106 provided:

(a) The location, composition, and extent of any proposed industrial planned unit development is consistent with the adopted long-range general plan.

(b) The site of the proposed development possesses manufacturing locational attributes such as proximity and immediate access to major thoroughfares, rail service, adequate utilities, and fire protection.

(c) The proposed development of the site will not have an adverse impact on the surrounding area, such as the generation of high volumes of traffic or truck traffic through future or existing residential areas.

11-502.2 Minimum Required Area
The required minimum area within an industrial planned unit development district shall be as follows:

(a) For an industrial planned unit development located within or contiguous to an existing industrial district three (3) acres.
(b) For an industrial planned unit development located within any area which is not within or contiguous to an existing industrial district ten (10) acres.

11-503 USES AND STRUCTURES

The provisions of this section shall apply to all uses and activities permitted within any industrial planned unit development.

11-503.1 Principal Permitted Uses and Structures

(a) General
In general, the following uses and activities as described in Article I, Chapter 3, may be permitted within an industrial planned unit development. Provided, however, that such uses may be further restricted as provided in Subpart (b), of this section.

(b) Findings of Appropriateness
Due to the unique ability of the planned unit development process to tailor individual developments so as to achieve balanced and reasonable use of the land while maintaining an assured measure of protection for surrounding owners, it is necessary that limited discretion be afforded the Planning Commission and City Council in the process of selecting uses appropriate within particular developments. In this regard, it is necessary that the uses permitted within a particular development not detract from the overall intent of each industrial development. To this end, the selection of uses permitted within each individual industrial planned unit development will be guided by:

(1) The use provisions established for the district in Subpart (c), of this section;

(2) The appropriateness of each use given the intended function of each type commercial planned unit development;

(3) The unique nature of the property surrounding each development; and

(4) Consistency with an adopted area development plan which may be applicable to the proposed site.

This process may result in limitations, restrictions or the prohibition of particular uses permitted within a base zoning district from an industrial planned unit development which overlays that district.

(c) Subject to the processes set out in Subsection (a), above, the following uses and activities may be permitted within an industrial planned unit development district.

(1) Community Facility Activities
   i. Administrative Services

   ii. Essential Public Transport, Communication and Utility

   iii. Extensive Impact Facilities
(2) Commercial Activities
   i. Animal Care and Veterinarian Services
   ii. Automotive Parking
   iii. Automotive Repair and Cleaning
   iv. Automotive and Other Vehicular, Craft and
   v. Related Equipment Sales Rental and Delivery
   vi. Automotive Servicing
   vii. Business and Communications Service
   viii. Construction Sales and Services
   ix. Convenience Retail Sales and Services
   x. Food and Beverage Service-General
   xi. Food Service-Limited
   xii. General Equipment and Repair Services
   xiii. Professional Services-Other
   xiv. Transient Operations
   xv. Warehousing, Goods Transport, and Storage
   xvi. Wholesale Sales and Business Supply

(3) Manufacturing Activities
   i. Manufacturing-Limited
   ii. Manufacturing-Intermediate

11-503.2 Permitted Accessory Uses and Structures

(a) Signs complying with the regulations established in Article IV, Chapter 2.

(b) Incidental services, such as food and beverage dispensing and sales facilities, to serve employees and guests of an occupant of the district when conducted as an integral part of a principal use and having no exterior display or advertising.

(c) Accessory facilities and buildings customarily incidental and appurtenant to a permitted
use provided that such accessory facilities and buildings are not otherwise prohibited.

(d) Accessory off-street parking and loading areas as required in Article IV, Chapter 1.

11-503.3 Conditional Uses
The provisions of Section 11-111 and Subsection 11-503.1, (b), shall apply to the process of considering conditional uses for location within industrial planned unit development districts. The uses listed below may be approved as conditional uses within industrial planned unit development districts:

(a) Community Assembly
(b) Educational Facilities
(c) Cultural and Recreational Services
(d) Health Care Facilities
(e) Intermediate Impact Facilities
(f) Religious Facilities

11-503.4 Temporary Uses
The temporary uses and structures specified in Subsection 13-203.3, a permissible within industrial districts may be permitted within industrial planned unit developments for the limited time periods indicated for each such use or activity.

11-503.5 Prohibited Uses
Any uses or structures not of a nature specifically permitted herein.

11-504 BULK REGULATIONS FOR INDUSTRIAL PLANNED UNIT DEVELOPMENT
The following building, site and yard requirements shall be applied in industrial planned unit development.

11-504.1 Building Height Limitation
The maximum height of buildings or structures within an industrial planned unit development shall be sixty-five (65) feet. *

NOTE: *Any building exceeding thirty-five (35) feet in height shall be approved by the fire department prior to the issuance of a building permit. The fire department may stipulate special fire protection measures as condition of approval of any such structure. In such instance, the stipulations made by the fire department shall be required.

11-504.2 Minimum Building Site Area Requirements
No industrial establishment may be located on a site within any industrial planned unit development district unless the site contains the following minimum area:

(a) For an industrial planned unit development located within or contiguous to an existing industrial district one (1) acre.

(b) For an industrial planned unit development located within any area which is not
contiguous to an existing industrial district two (2) acres.

11-504.3 Minimum Open Space, Setback and Boundary Requirements
Within an industrial planned unit development district, the following open space, setback and boundary requirements shall apply.

11-504.301 Open Space Requirements
The ratio of all open space to floor area shall not be less than the following minimums:
(1) For an industrial planned unit development located or contiguous to an existing industrial zone three-tenths (3/10) square foot of open space per square foot of gross floor area.

(2) For an industrial planned unit development not within or contiguous to an existing industrial district one-half (1/2) square foot open space per square foot of gross floor area.

11-504.302 Boundary Setback and Building Spacing Requirements
Along all portions of the boundary of any parcel located within any industrial planned unit development district, the building setbacks shall generally be established during the process of review and approval required by this article. Provided, however, that the minimum building spacing provisions of Article VI, Section 6-306, shall be met and that in any instance where such site may adjoin either a residential planned unit development or any base zoning district classified as residential the provisions of Section 11-505, shall apply.

11-505 SPECIAL YARD AND HEIGHT REQUIREMENTS ALONG PERIMETERS ADJOINING RESIDENTIAL DISTRICTS
Where an industrial planned unit development district adjoins either a residential planned unit development district or any base residential district without intervening open space at least two hundred (200) feet in width serving as a separation between buildable areas, the following provisions shall apply.

11-505.1 Yards, Fences, Walls or Vegetative Screening at Edges of Residential Planned Unit Development
Yards, fences, walls or vegetative screening shall be provided at edges of the industrial planned unit development where needed to protect adjoining residents from undesirable views, lighting, noise, or other off-site influences. In particular, off-street parking areas, service areas for loading and unloading other than passenger vehicles, and areas for storage and collection of refuse and garbage shall be screened.

11-505.2 Height Limitations at Edges of Residential Planned Unit Developments
Along any district boundary where an industrial planned unit development district adjoins a residential district, no building within industrial planned unit development shall project through imaginary planes starting at the maximum height permitted in the adjoining district and leaning inward from district boundaries at an angle representing an increase of one-half (1/2) foot in height for each foot of horizontal distance perpendicular to the boundary.
11-506 STREET LAYOUT, REQUIRED OFF-STREET PARKING AND LOADING
Within industrial planned unit developments, the following principles of street layout and minimum standards for required off-street parking and loading shall be applicable.

11-506.1 Street Layout
In order to encourage the sound development of major thoroughfares and to reduce the intrusion of industrial traffic into nonmanufacturing areas, the following principles shall be followed.

(a) The vehicular access to an industrial planned unit development shall be principally from an arterial or collector street as shown on the adopted Major Street Plan for Portland, Tennessee.

(b) Each building or group of buildings and their parking and service areas in an industrial planned unit development shall be physically separated from any major street, identified as above, by a curb, planting strip or other suitable barrier against unchanneled vehicular access, except for access ways as permitted by Paragraph (c), below.

(c) Access ways to an industrial planned unit development shall be designed so as to minimize traffic conflicts. In no event shall an access point be closer than one hundred (100) feet from any intersection of street right-of-way lines.

(d) All industrial planned unit developments shall be designed so as to reduce to an absolute minimum the flow of traffic moving to and from industrial areas through residential areas.

11-507 REQUIRED ACCESSORY OFF-STREET PARKING AND LOADING AREAS
Accessory parking and loading areas shall be provided in accordance with the provisions set forth in Article IV, Chapter 1, except as provided in Subsection 11-507.1, below. The design, lighting provisions, etc., contained in Article IV, Chapter 1, are fully applicable to all industrial planned unit developments.

11-507.1 Off-Site Parking in Industrial Planned Unit Developments
Off-site parking spaces accessory to any permitted use in an industrial planned unit development may be located on a zone lot other than the same zone lot as such use to which the spaces are accessory, provided that:

(a) Such spaces are located within the area encompassed by the industrial planned unit development.

(b) There is no way to arrange such spaces on the same zone lot as such use;

(c) Such spaces are located to draw an absolute minimum of vehicular traffic to through streets having predominantly residential frontage;

(d) Such spaces are located no further than six hundred (600) feet from the nearest boundary of the zone lot to which they are accessory;
(e) Such spaces are in the same ownership as the use to which they are accessory, or necessary instruments are executed to ensure the required number of spaces will remain available throughout the life of such use; and

(f) Such spaces conform to all applicable regulations of the industrial planned unit development of which they are a part.

11-508 PERMITTED SIGNS
The sign provisions applicable to uses within the base zoning district shall apply to such uses within any industrial planned unit development.
ARTICLE XII: PROVISIONS GOVERNING NONCONFORMING USES AND NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

CHAPTER 1. STATEMENT OF PURPOSE
The districts established in this ordinance are designed to guide the future use of land in the Portland Planning Region by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this article are therefore established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict any expansion of such uses beyond the site which the use occupied upon the effective date of this ordinance.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this article are established in order to permit the continued use of such buildings or other structures but to limit the creation of additional or more extensive noncompliance.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.
CHAPTER 2. PROVISIONS GOVERNING NONCONFORMING USES

12-201 APPLICABILITY
The provisions of this chapter are applicable to all uses which are not permitted within the districts in which they are located. Additionally, buildings and other structures located within the floodplain are considered within the regulation of nonconforming uses.

12-202 CONSTRUCTION OR USE PERMIT APPROVED PRIOR TO ORDINANCE ADOPTION
Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) month period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a certificate or permit then such certificate or permit shall automatically lapse, and the provisions of this ordinance shall apply.

12-203 CONDITIONAL USE - STATUS AND ALTERATION
Whenever the zoning ordinance in effect at the time of adoption of this zoning ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district such authorization may be continued subject to the time of approval of said variance, exception, or conditional use, including any time period established for the continuation of such use. However, any change of use, alteration or expansion is subject to the provisions of this article.

12-204 REPAIRS AND ALTERATIONS
Nothing in this article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

12-205 ZONE LOT CONTAINING NONCONFORMING USE
A zone lot containing a nonconforming use shall not be reduced in area except to comply with Section 12-204.

12-206 CONTINUATION OF NONCONFORMING USE
Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use (see Section 12-207) is undertaken.
12-207 CHANGE OF NONCONFORMING USE

12-207.1 General Provisions
For the purpose of this ordinance, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

12-207.2 Land with Incidental Improvements
In all districts, a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon, is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

12-207.3 Nonconforming to Conforming Use
Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

12-208 EXPANSION OF NONCONFORMING USES

12-208.1 General Provisions
Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions as set forth below.

12-208.2 Land with Incidental Improvements
In all districts, a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

12-208.3 Adequate Space for Expansion
No expansion of any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance.

12-208.4 Expansion Limited
Any expansion of a nonconforming use permitted under the provisions of this section shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land.
12-209 DAMAGE OR DESTRUCTION

12-209.1 General Provisions
Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve any actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set forth below.

12-209.2 Change in Use Prohibited
No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use (as regulated in Section 12-207) to other than a permitted use.

12-209.3 Land with Incidental Improvements
In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined by this ordinance) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall thereafter be used only for a conforming use.

12-209.4 Infringement upon Open Space Restricted
No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this ordinance.

12-209.5 Reconstruction of Flood Damaged Property
The provisions of Section 12-211, shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within floodplain districts.

12-210 DISCONTINUANCE (Amended by Ordinance No. 12-39, October 15, 2012)
Pursuant to 13-7-208 of the Tennessee Code, when a nonconforming commercial, industrial, or other business use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of thirty (30) months, then the land or building or other structure shall thereafter be used only for a conforming use. Intent to resume active operations shall not affect the foregoing provision.

12-211 SPECIAL PROVISIONS GOVERNING NONCONFORMING BUILDINGS WITHIN FLOODPLAIN DISTRICTS

12-211.1 General Provisions
In all districts or portions thereof, which extend into the floodplain districts as established by Article IX, any building or other structure or use which is not permitted by the floodplain district provisions shall become nonconforming upon the effective date of this ordinance, or subsequent amendment as applicable.
12-211.2 **Enlargement of Buildings Within the Floodplain**
A building or other structure which is nonconforming by reason of location within the floodplain shall not be enlarged or expanded but may be altered, or repaired as set forth in Section 12-204, or as may be expressly authorized by the Board of Zoning Appeals in order to incorporate floodproofing measures provided that such alteration will not increase the level of the 100-year flood or extend the normal life of such nonconforming building or structure.

12-211.3 **Special Provisions Governing Reconstruction of Buildings or Structures Located Within the Floodway Portion of General Floodplain (GFP) Districts**
Within any designated floodway portion of a GFP District, any building or structure in existence prior to the effective date of this ordinance that is hereafter destroyed or substantially damaged by any means may be reconstructed and used as before only if the following requirements are met.
(a) The reconstruction does not exceed the volume and external dimensions of the original structure or does not offer any greater obstruction to the flow of floodwaters than did the original structure.
(b) Nonresidential structures may be reconstructed only if the lowest floor (including basement) elevation is at least one (1) foot above the level of the 100-year flood or the structure is floodproofed (in accordance with the requirements of Section 9-306, to a height of at least one (1) foot above the level of the 100-year flood.
(c) Residential structures may be reconstructed only if the lowest floor (including basement) of the structure is elevated to a point at least one (1) foot above the level of the 100-year flood.
(d) That no reconstruction or alteration permitted hereinunder shall result in any increase in the level of the 100-year flood.

12-212 **NONCONFORMING SIGNS**
Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may remain in place until they are removed by the owners.

12-212.1 **General**
(a) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
(b) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
(c) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all provisions of this article, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the
cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds fifty (50) percent of replacement cost.

(d) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(e) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any twelve (12) month period, fifty (50) percent of the replacement cost.

(f) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within ninety (90) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(g) If a nonconforming billboard remains blank for a continuous period of three hundred-sixty (360) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:

1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or

2. The advertising message it displays becomes illegible in whole or substantial part; or

3. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed for over one (1) year.

12-212.2 Time Limit for Conformity
Nonconforming signs shall be required to conform to the provisions of the ordinance on or before the following dates.

(a) All flashing signs including portable signs using flashing or rotating lights, the owner, lessee of such sign or any person in control of its use and maintenance shall have the flashing portion or flashing devices of such flashing lights turned off and the use of such flashing and rotating lights, cease within fifteen (15) days after the adoption of this ordinance. Time, date and temperature portions of signs shall be excluded from this provision.

(b) All portable signs shall be brought into compliance with this ordinance within six (6) months following adoption of this ordinance, by the owner, lessees of such sign or any person in control of its use and maintenance.
(c) All off-premises signs that do not conform to the provisions of this ordinance shall be removed within ten (10) years after the adoption and effective date of this ordinance.

(d) On-premises signs that do not conform with the provisions of this ordinance shall be removed and use thereof, cease on or before ten (10) years after the adoption and effective date of this ordinance.

(e) All other signs which do not comply with the provisions of this ordinance shall be removed and the use thereof cease, within seven (7) days after the adoption and the effective date of this ordinance.
CHAPTER 3. NONCOMPLYING LOTS, BUILDINGS AND OTHER STRUCTURES

12-301 GENERAL PROVISIONS
The provisions of this chapter shall control lots, buildings and other structures which comply with the use provisions of this ordinance but do not meet the area, open space or any other provisions applicable to the districts in which they are located.

12-302 LOTS OF RECORD
In residential districts, a one-family residence may be built upon a tract of land:
(A) Which has less than the prescribed minimum lot area; and

(B) Which contains a minimum lot area of five thousand (5,000) square feet or no less than fifty (50) percent of the minimum required base lot area for the district in which it is located, whichever is greater.

12-303 NONCOMPLYING BUILDINGS AND OTHER STRUCTURES

12-303.1 Continuation of Use
The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this chapter.

12-303.2 Repairs and Alterations
Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Sections 12-303.3 thru 12-303.5.

12-303.3 Enlargements or Conversions
A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of a building or other structure or parcel of any portion thereof.

12-303.4 Residential Buildings Noncomplying as to Lot Area
If a building does not comply with the applicable district regulations on lot area per dwelling unit (lot area of zone lot being smaller than required for the number of dwelling units on such zone lot) such building may be converted (and, in mixed buildings, the residential use may be extended, except when in the floodplain district), provided that the deficiency in the required lot area is not thereby increased (for example, a noncomplying building on a zone lot of three thousand-five hundred (3,500) square feet which before conversion required a lot area of five thousand (5,000) square feet and was, therefore, deficient by one thousand- five hundred (1,500) square feet, can be converted into any combination of dwelling units requiring a lot area of no more than five thousand (5,000) square feet.

12-303.5 Damage or Destruction of Noncomplying Uses
A noncomplying building which is damaged or destroyed may be reconstructed, provided that the reconstruction will not either create a new noncompliance or increase the degree of noncompliance of a building or structure or parcel or portion thereof.

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12-303.6 Regulations Applying to Noncomplying Signs
In the districts where off-premises signs may be located under the provisions of this ordinance, any advertising sign which is noncomplying by reason of location, excessive display surface area, or any other feature, shall be terminated or made to comply with the appropriate district regulations within ten (10) years, from the date of the passage of this ordinance or subsequent amendment.

In commercial and industrial districts, any on-premises business sign which is noncomplying by reason of location, excessive display surface area, or any other feature, shall be terminated or made to comply with the appropriate district regulations within ten (10) years, from the date of the passage of this Title or subsequent amendment.
ARTICLE XIII: ADMINISTRATION AND ENFORCEMENT

CHAPTER 1. GENERAL PROVISIONS

13-101 ORGANIZATION AND PURPOSE
The administration of this ordinance is hereby vested in two (2) offices of the government of the City of Portland as follows:
(A) The Building Inspector, and his or her duly appointed assistants.
(B) The Board of Zoning Appeals.

It is the purpose of this article to set out the authority of each of these two offices and then describe the procedures and substantive standards with respect to the following administrative functions:
(A) Issuance of Permits
(B) Issuance of Use and Occupancy Permits
(C) Performance Standards
(D) Variances
(E) Conditional Use Permits
(F) Amendments

13-102 APPOINTMENT AND DUTIES OF THE BUILDING INSPECTOR

13-102.1 Appointment of the Building Inspector
There is hereby created the office of building inspector. The building inspector shall be executive head of the office and shall be appointed by the Mayor with approval of the Board of Aldermen. The Mayor may appoint from time to time such assistant building inspectors as may be authorized by the Board of Mayor and Aldermen.

13-102.2 Duties of the Office of Building Inspector
The building inspector shall enforce this ordinance and in addition thereto and in furtherance of said authority he shall:
(1) Issue all zoning permits, and make and maintain records thereof;
(2) Issue all use and occupancy permits, and make and maintain all records thereof;
(3) Conduct inspections of buildings, structures, and use of land to determine compliance with the provisions of this ordinance;
(4) Maintain permanent and current records of this ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variations, appeals, and applications, therefore;
(5) Provide information to the public on all matters relating to this ordinance;

(6) Receive, file and forward to all necessary agencies all applications for conditional uses, and for amendments to this ordinance;

(7) Receive, file and forward to the board of zoning appeals all applications for variances or other matters, on which the board is required to pass under the provisions of this ordinance;

(8) Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make reports of his recommendations to the planning commission at least annually.

13-102.3 Powers of the Building Inspector Regarding the Issuance of Permits

The building inspector shall have the power to grant building permits and use and occupancy permits, and make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the building inspector to approve any plan or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this ordinance.

Under no circumstances is the building inspector permitted to make changes in this ordinance nor to vary its terms and provisions in carrying out his duties.

The building inspector shall not refuse to issue a permit when conditions imposed by this ordinance are complied with by the applicant despite the violations of contracts such as covenants or private agreements which may occur upon the granting of said permit.

13-103 DEVELOPMENT STANDARDS FOR TELECOMMUNICATION ANTENNAS AND TOWERS (Added by Ordinance 06-11, May 1, 2006)

13-103.1 Purpose and Goal

The purpose of this section is to establish general guidelines for the sitting of communication towers and antennas. The goals are to:

A. Encourage the location of towers in nonresidential areas and to minimize the total number of towers throughout the community, by requiring that all towers no expressly permitted, shall be considered a Conditional Use under Article XIII, Chapter 3, of the Combined Zoning Ordinance City of Portland, Tennessee, and the Portland Planning Region.

B. Encourage strongly, the joint use of new and existing tower sites.

C. Encourage users of the towers and antennas to locate them to the extent possible, in areas where the adverse impact on the community is minimal.

D. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

E. To enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively and efficiently.
13-103.2 Definitions

**Alternative Tower Structure** - man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antennas** - any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

**FAA** - Federal Aviation Administration

**FCC** - Federal Communications Commission

**Governing Authority** - Governing authority of the City.

**Height** - when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Tower** - any structure that is designated and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

13.103.3 Exemptions

A. **District Height Limitations** - the requirements set forth herein shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

B. **Public Property** - antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of these provisions, provided a license or lease authorizing such antennas from the governing authority has been approved.

C. **Amateur Radio Stations** - Amateur Radio Stations (Hams) licensed under FCC Regulations shall be exempt from the general requirements of the Standards for Telecommunication Antennas and Towers of this resolution. However, Amateur Radio Stations shall adhere to the following regulations:

(1) No tower shall be placed within any required front, side, or rear setback area.

(2) Towers shall be placed behind the rear building line of the principal structure of the lot.

(3) All towers shall be properly grounded as per National Electric Code 810, Section C.
(4) Amateur towers greater than fifty (50) feet in height are subject to the following additional provisions: At no time shall the fall radius of the tower include any habitable structure not owned by the amateur. The applicant shall provide documentation of ownership, lease, or permanent easement rights for the entire fall radius of the tower. The tower shall be equipped with guards or other devices to prevent it from being climbed without authorization of the amateur. The applicant shall submit documentation to the Portland Planning and Codes Department sufficient to show that all provisions of this section have been met.

(5) Amateur towers located at a site other than the primary residence of a licensed Ham operator shall meet the requirements for setbacks, fencing, screening, and parking/access as detailed under the General Guidelines that follow in Subpart D. However, amateur towers without ground mounted equipment or buildings need only meet the requirements for access parking and be designed so that they are not accessible to unauthorized climbing.

(6) Temporary towers may be erected for a maximum of 48 hours for special events or emergencies upon approval by the Planning and Codes Department.

13.103.4 General Guidelines
All transmitter stations, including towers and operating equipment, shall adhere to the following standards that may be modified by the Board of Zoning Appeals:

A. **Design Requirements** - All towers with a height of one hundred-fifty (150) feet or more shall be constructed in accordance with Electronics Industries Association ("EIA") standard 222F-1997, or most current EIA standard utilizing a wind rating of eighty miles per hour (80 MPH), plus ice loading for Portland, Tennessee. Each application for a building permit shall be accompanied by a certification by a professional licensed engineer in the State of Tennessee and competent of such design.

B. **Setback Requirement** - There shall be sufficient area of land to prevent the tower from injuring the public and to reduce the visual impact of the tower. All towers shall have a minimum setback of the radius of the height of the tower, which shall be setback said distance from all adjoining properties and all public fight-of-ways.

C. **Fencing** - The immediate tower site in either fee simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.

D. **Screening** - There shall be provided, no matter the zoning classification of the lot, a continuous, solid screening, and it shall be such plant materials as will provide a reasonable year-round evergreen screening. Screening herein shall not be less than six (6) feet in height at the time of planting and shall be permanently maintained by the leaseholder or owner of the subject property.

E. **Tower Illumination** - Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three-
hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

F. **Parking and Access** - The access drive to the site shall be passable, being adequate for use by automobile and small truck. The access drive shall be improved by paving or using gravel to prevent off-site problems. There shall be two (2) improved parking spaces on-site.

G. **Location and Co-Location** - Every effort shall be made to collocate on existing towers or facilities. If the existing facilities are unsuitable (either technologically or topographically), or no facilities exist, the tower shall be made available to others for co-location. The tower shall be designed to allow, at a minimum, for least two (2) additional co-locators.

### 13-103.5 Application Requirements
An application to develop a Transmission and Communications Tower shall include at a minimum the following:

A. Information concerning any application for a “Determination of No Hazard” from the Federal Aviation Administration, if applicable, as well as all required Federal Communications Commission Permit information.

B. A site plan showing the location of the proposed tower, its height, the fall radius of the tower, the location of ground mounted buildings and equipment, vehicle access, and the details of the required fencing and screening and shall be approved by the Planning Commission.

C. Documentation that the entire setback radius of the tower is owned or has a recorded permanent easement.

D. Documentation that the access way to the tower is owned or has a recorded permanent easement.

E. The names, addresses, and telephone numbers of all owners of other Communications/Transmission Towers or Support Structures within a one-quarter (1/4) mile radius of the proposed new tower site, including city-owned property.

F. An affidavit attesting to the fact that the project applicant made diligent but unsuccessful, efforts to install or collocate the project applicant's telecommunications facilities on towers or useable antenna support structures owned by the city or other persons within a one-quarter (1/4) mile radius of the proposed tower site.

G. Written technical evidence from an engineer(s) that the proposed tower or telecommunications facility cannot be installed or collocated on any other tower or antenna support structure within a one-quarter (1/4) mile radius of the proposed tower site. Evidence must show one (1) or more of the following reasons:

1. The equipment would exceed the structural capacity & the existing approved tower and facilities.
(2) The planned equipment would cause frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

(3) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively.

(4) Other reasons make it impractical to place the proposed equipment by the applicant on existing towers or facilities.

13-103.6 Pre-Existing Towers and Antennas
Any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance. Any such towers or antennas shall be referred to in this ordinance as "pre-existing towers" or "pre-existing antennas". Any antennas to be added to an existing tower will have to comply with any and all regulations set forth in this ordinance. Likewise, towers that are dismantled, or removed shall be reconstructed so as to comply with the provisions of this ordinance.
CHAPTER 2. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

13-201 BUILDING PERMIT REQUIRED
It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued a building permit for such work.

13-202 ISSUANCE OF BUILDING PERMIT
In accordance with Section 13-7-110, of the Tennessee Code Annotated, it shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, to use a building or structure or to change the use of a building until the building inspector has issued for such work a building permit containing a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this ordinance.

It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them to be in conformity with this resolution. To this end, the building permit for excavation, construction, moving or alteration shall be accompanied by development plans as required below. Such plans shall be sufficient in detail to enable the building inspector to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this ordinance.

13-202.1 Application for Building Permit
Applications for building permits will be accepted only from persons having legal authority to act in accordance with the permit. By way of illustration, in general, this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees or contract vendees).

13-202.101 Building Inspector May Require Proof of Authority
The building inspector may require an applicant to submit evidence of his authority to submit the application for a building permit whenever there appears to be a reasonable basis for questioning this authority.

13-202.102 Applications to be Complete
All applications for building permits must be complete before the building inspector is required to consider the application. Subject to Subsection 13-202.103, an application is complete when it contains all the information that is necessary for the building inspector to decide whether or not the development if completed as proposed, will comply with all the requirements of this ordinance.

13-202.103 Content of Plans
The presumption established in this ordinance is that the information set forth in
Subsection 13-202.2, is necessary to satisfy the requirements of this section.

However, it is recognized that each development is unique, and therefore, the building inspector may allow less information or require more information to be submitted according to the needs of the particular case.

**13-202.104 Forms to Be Developed**
The building inspector shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the building inspector to determine compliance with this ordinance, such as applications for building permits to construct single-family or two-family houses, or applications for sign permits, the building inspector shall develop standard forms that will expedite the submission of the necessary plans and other required information.

**13-202.2 Development Plans Required**
The development plans indicated in Subsections 13-202.201 and 13-202.202 (below) are required for the uses indicated.

**13-202.201 Sketch Plan Required for One- and Two-Family Detached and Semi-Detached Dwellings**
The sketch plan for any one- and two-family detached or semi-detached dwellings (including mobile homes located on individual lots) shall indicate:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot.
3. The existing and intended use of the lot and of all such buildings or other structures upon it, including the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.
5. Location of areas subject to flooding. (See Subsection 13-202.203.)
6. Where subsurface sewage disposal is anticipated, certification from the Department of Health and Environment approving the lot for such use.

**13-202.202 Site Development Plan Required for all other Residential Activities, Commercial and Industrial Activities**
The purpose of this provision is to prevent undesirable and inadequate site development. A site development plan containing the information indicated herein is required for all commercial, industrial, community facilities, and residential activities.
(excepting one and two family detached and semi-detached dwellings and development classified as a minor site). The annual Planning Commission schedule lists dates of meetings and submittal dates. Five (5) full size sets of plans (folded) will be required for technical review submittal. Eight (8) full size and eight (8) half size sets of plans (folded) will be required for final submittal, one (1) PDF and one (1) full size set of “as-built” plans and one (1) DWG file “as-built” at project completion prior to bond release. In the event changes are made to the submittal by the Planning Commission four (4) full size revised sets of plans (folded) and one (1) PDF will be required prior to the issuance of the building permit.

A preapplication conference with City staff shall be required prior to any submittal for review. At the preconference meeting, applicants will be advised of the details required for the review procedures. It is the responsibility of the applicant to become familiar with the regulations, policies, and procedures of the city. At the meeting, the applicant shall designate one (1) contact person to work with City Staff for the duration of the project.

Depending on the scope of the project, City Staff may approve development plans for new structures up to 4,999 square feet and less than (1) one acre. All structures 5,000 square feet and above or (1) acre or more shall be reviewed by the Planning Commission in accordance with the provisions below.

Plan shall be prepared and stamped by surveyor, engineer, architect, or landscape architect according to particular types of development. The site development plan shall indicate the following:

1. The name and address of the development.
2. The name and address of the owner and applicant.
3. The name, address, and contact information of design professional(s).
4. The actual shape, location, and dimensions of the lot (acreage and square footage).
5. Date, scale, north point and any revisions dates.
6. Location map drawn, which shall include streets, and corporate limit lines within a one-half (1/2) mile radius of site.
7. Civil district, county map and parcel info, and lot number.
8. Existing zoning of the property and abutting property.
9. Names and addresses of the abutting property owners.
10. Notation about relation to current flood maps.
11. Notation about maximum building height.
12. The shape, location, and dimensions of all buildings, structures existing and proposed with uses of buildings and structures noted.

13. Label all building setbacks.

14. Location of all accessory off-street parking areas to include a plan showing design and layout of such parking facilities. Dimensions shall be shown.

15. Statement that plans meets all applicable handicap rules and regulations.

16. Existing and proposed topographical features at two (2) foot intervals with reference datum mean-sea-level. For areas proposed not to be disturbed, contours may be at larger intervals. Contours shall extend onto abutting properties to determine drainage patterns.

17. Location and dimensions of all right-of-way, and streets.

18. Location, size, and availability of servicing utilities, including existing overhead utilities and fire department connections to sprinkler systems.

19. Existing and proposed means of surface drainage, (retention/detention) with supporting drainage calculations prepared and stamped by an engineer. The surface drainage shall be designed and constructed in accordance with the City of Portland Regulations.

20. Exterior building elevations for all primary and accessory buildings, including exterior building material information.

21. Location and details about all signage and lighting proposed to be attached to buildings.

22. Location, type, size, and details of proposed freestanding signs, including monument, pole signs, and on-site directional signs.

23. Location of all vehicular and pedestrian access into and within site. Including, but not limited to, drives, streets, sidewalks, traffic calming, radius, and widths, etc.

24. Location, design, and dimensions of all parking areas, lighting, loading zones, fire lanes, and landscape breaks.

25. Locations and screening methods for handling garbage.

26. Location of all open space and proposed site amenities.

27. Location of all walls, fences, and indication of their height and construction materials.
28. Location of existing vegetation including all trees over four (4) inch in caliper and all trees over one (1) inch in caliper and six (6) feet in height in all public right-of-way. Masses of existing trees shall indicate significant perimeter trees surveyed and average caliper size noted on plat.

29. Location and types of all erosion control and tree protection methods.

30. Landscape details in compliance with City requirements.

31. Location of all environmentally or historically sensitive areas, including but not limited to, slopes exceeding fifteen (15) percent, streams, historic structures, wetlands, trees, masses and strands, cave, rock outcrops, cemeteries, areas subject to flooding, etc.

32. Location of all finished floor elevations for all structures.

33. Location of all proposed outdoor merchandise/storage areas and screening details.

34. Location and methods for temporary construction entrances.

35. Provide detail sheet for items, including, but not limited to: headwalls, detention structures, pavement, curb and sidewalk thickness, etc.

36. Location of all driveways and entrances.

37. Location of all accessory off-street loading berths.

38. Location of open space.

39. Proposed ground coverage, floor area, and building heights.

**Minor Site Plans**

City Staff may approve and determine specific site improvement requirements for minor site plan submittals. The following items are considered as minor sites:

1. Existing sites with each Change of Occupancy/Use.

2. Building additions up to 5,000 square feet that meet the minimum zone lot requirements/lot coverage.

3. New accessory buildings or uses which do not change use of property and do not exceed 5,000 square feet that meet the minimum zone lot requirements/lot coverage.

4. Any other associated items determined by staff to be minor.
Minor sites require site plan submittals that meet the following requirements for review:

1. Scale drawing no smaller than 1” = 50’ drawn on reproducible material suitable for making additional prints.

2. The name and address of the development.

3. The name and address of the owner and applicant.


5. The actual shape, location, and dimensions of the lot.

6. Date, scale, and north point.

7. The shape, location, and dimension of all existing buildings with uses of buildings and structures noted.

8. Label building setbacks.

9. Statement that plans meets all applicable handicap rules and regulations.

10. Location and details about all signage and lighting proposed to be attached to building(s).

11. Location of all proposed outdoor merchandise/storage areas and screening details.

12. Location, type, size, and details of proposed freestanding signs, including monument, pole signs, and on-site directional signs.

13. Location of all vehicular and pedestrian access into and within site. Including, but not limited to, drives, streets, sidewalks, traffic calming, radius and widths, type of surface, etc.

14. Location, design, and dimensions of all parking areas, loading zones, fire lanes, landscape breaks.

15. Location and screening methods for handling garbage.

16. Landscape details. Applicants requesting review by staff for minor site plan approval may appeal staff requirements to the City of Portland Regional Planning Commission or Zoning Board of Appeals when required in Article XIII, of this ordinance.

Applicants requesting review by staff for minor site plan approval may appeal staff requirements to the City of Portland Regional Planning Commission or Zoning Board
of Appeals when required in Article XIII, of this ordinance.

13-202.203 Special Information Required Within Areas Subject to Flood
Within all floodplain districts, floodplain development permits are required prior to the initiation of any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. The content and procedures for these permits are set forth in Article IX, Chapter 2.

13-202.3 Time Limits upon Approvals
Due to rapidly changing conditions within the planning jurisdiction, it is necessary to establish specific time periods after the passage of which approved plans shall become null and void, thereby assuring that no new development will, due to altered conditions, etc., damage the public interest.

13-202.301 Time Limit on Plot Plans and Site Development Plans
Any plot plan or site development plan approved under the provisions of this ordinance shall become null and void one (1) year after the date of its approval unless a building permit for the project has been obtained in which case the provisions of Subsection 13-202.302, shall apply, provided, however, that in no instance shall an approved plot plan or site development plan become null and void in less than one (1) year.

13-202.302 Time Limit on Building Permit
Any building permit issued by the building inspector shall become null and void six (6) months after the date of its issuance unless "actual construction" (as defined by this ordinance) has begun and been continued in a diligent manner.

13-203 CERTIFICATE OF USE AND OCCUPANCY
No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the building inspector shall have issued a certificate of use and occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this ordinance.

13-203.1 Application for Certificate of Occupancy
Every application for a building permit shall be deemed to be an application for certificate of use and occupancy. Every application for a certificate of use and occupancy for a new use of land where no building permit is required shall be made directly to the office of the building inspector.

13-203.2 Issuance of Certificate of Occupancy
The following shall apply in the issuance of any certificate of use and occupancy:

13-203.201 Permits Not to Be Issued
No certificate of use and occupancy shall be issued for any building, structure or part thereof, or for the use of land, which is not in accordance with the provisions of this ordinance.
13-203.202 Permits for New Use of Land
No land heretofore vacant shall hereafter be changed to a use or activity of a different class or type unless a certificate of use and occupancy is first obtained for the new or different use.

13-203.203 Permits for Initial Occupancy of New Use of Land
No new buildings shall be occupied nor any use of the land commenced before a certificate of use and occupancy has been issued, therefore. Provided, however, that no certificate of use and occupancy shall be issued for any use until a final development review has been conducted and the development has been found to be in full compliance with the provisions of this ordinance.

13-203.204 Permits for Existing Buildings
Certificates of use and occupancy may be issued for existing buildings, structures of parts thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this ordinance.

13-203.3 Temporary Use and Occupancy Permits
Nothing in this ordinance shall prevent the issuance of a temporary certificate of use and occupancy; as provided herein.

In cases of natural disaster, including but not limited to; tornado, lightning, flood, or fire due to an act of nature, fees for the issuance of a building permit may be waived by the building inspector, at the sole discretion of said inspector. Any person aggrieved by the decision of the building inspector may request relief from the Board of Zoning Appeals, as prescribed in Article XIII, Chapter 3, of this Ordinance. The Board may hear and decide this appeal as prescribed by said Chapter. (Added by Ordinance 05-33, October 3, 2005)

13-203.301 Partially Completed Buildings
Temporary certificate of use and occupancy may be issued for a portion of a building or structure in process of erection or alteration, provided that such temporary permit shall not be effective for a time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this ordinance.

15-203.302 Necessary or Seasonal Uses Temporary in Nature
The provisions of this section are necessary to govern the operation of certain seasonal and other temporary uses. Application for a temporary certificate of use and occupancy permit shall be made to the building inspector. The application shall contain information as to the nature of the proposed use, the anticipated period of operation, the number and location of parking spaces and sanitary facilities. No permit issued hereunder shall be for a time period in excess of that stipulated below for the individual activity indicated.

(1) Circus or Carnival: May be permitted in the following districts:
Commercial Districts - CBD, GCS, and ISD

Industrial Districts - IR and IG

Such permit may be issued for a period of no longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided.

(2) **Christmas Tree Sale:** May be permitted in any district. Such permit may be issued for a period not longer than thirty (30) days.

(3) **Religious Tent Meetings:** May be permitted in any district. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

(4) **Special Civic Events Including Festivals, Bazaars, etc.:** May be permitted in any district. Such permit may be issued for a period not longer than fifteen (15) days. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

(5) **Temporary Construction Offices:** In any district, a temporary use permit may be issued for contractor's temporary office, and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions for a particular use. Such use shall be removed immediately upon expiration of the temporary use permit, or completion of the project.

(6) **Temporary Dwelling Unit in Cases of Special Hardship:** In any residential district, a temporary use permit may be issued to place a mobile home temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomena. The purpose of such temporary placement shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not present a hazard to the safety, health, or welfare of the community. An applicant for a temporary use permit as provided under this subsection must produce a written statement from the appropriate regulatory authority approving the water supply and sewage disposal systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed for up to six (6) months at a time for all permits not exceeding twenty-one (21) months.
CHAPTER 3. BOARD OF ZONING APPEALS

13-301 TERMINATION OF EXISTING BOARDS
The functioning of the existing Boards of Zoning Appeals created by the Zoning Ordinance of the City of Portland (Ordinance 387) dated, December 19, 1989, shall terminate upon appointment of the Board of Zoning Appeals as authorized under this ordinance and as provided for by Sections 13-7-205 and 13-7-304, Tennessee Code Annotated.

13-302 CREATION OF THE BOARD OF ZONING APPEALS - MEMBERSHIP AND APPOINTMENT
Two (2) Boards of Zoning Appeals are hereby established which are referred to in this ordinance, jointly and severally, as the "Board" or "Board of Appeals." The Municipal Board of Appeals which shall have jurisdiction within the corporate limits of the city shall consist of five (5) members, all of whom shall be bona fide residents of the City at the time of their appointment and who shall continue to reside within the city as long as they serve. The Regional Board of Appeals which shall have jurisdiction within the Planning Region and outside of the corporate limits shall consist of three (3) members, all of whom shall live within the planning region but outside the city corporate limits.

All members of such boards shall be appointed by the Mayor of the city and confirmed by majority vote of the Board of Aldermen.

All members of the Boards of Zoning Appeals shall be paid fifty dollars ($50.00) for each regularly called meeting of the board that the member attends. No elected official may be compensated for serving on the Boards of Zoning Appeals or attending meeting of the same.

13-303 TERM OF OFFICE OF BOARD MEMBERS, REMOVAL, AND VACANCIES
The members of the Municipal Board of Zoning Appeals shall serve for five (5) year terms or until their respective successors are appointed and qualified, except that the Board first appointed shall serve respectively for the following terms: One for one year, one for two years, one for three years, one for four years, and one for five years.

The members of the Regional Board of Zoning Appeals shall serve for three (3) year terms or until their respective successors are appointed and qualified, except that the Board first appointed shall serve respectively for the following terms: One for one year, one for two years, and one for three years.

Any member who, voluntarily or involuntarily, is absent for three (3) consecutive special and/or regular meetings shall forfeit said position as a member of the Board and be automatically terminated. All members of the Board may be removed from membership on the Board for just causes. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision. Vacancies of said Board shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

13-304 POWERS OF THE BOARD
The Board is hereby vested with the powers to:

(A) Hear and decide appeals from any order, requirement, decision, or determination made by the
Zoning Administrator in carrying out the enforcement of this ordinance, whereby it is alleged in writing that the Zoning Administrator is in error or has acted in an arbitrary manner.

(B) Hear and act upon application for variances in accordance with Chapter 4, of this article.

(C) Hear and act upon applications for conditional use permits in the manner and subject to the standards set out in Chapter 5, of this article.

(D) Hear and decide all matters referred to it on which it is required to act under this ordinance or by statute.

(E) Interpret the boundaries of the flood hazard districts on appeal from a decision of the Zoning Administrator.

(F) Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

(G) Interpret the Zoning Maps in cases of dispute.

13-305 ELECTION OF OFFICERS
The Board shall elect from its members its own chairman and vice-chairman, who shall serve for one (1) year and may upon election serve succeeding terms. The City of Portland shall provide necessary secretarial services.

13-306 CONFLICT OF INTEREST
Any member of the Board who shall have a direct or an indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

13-307 MEETINGS OF THE BOARD
Regular meetings shall be held at such time and place as established by the Board. Special meetings may be held at the call of the chairman or at the request of two (2) members, provided that notice of the special meeting is given to every member at least twenty-four (24) hours before the time set, except that the announcement of a special session at any meeting at which a quorum is present shall be sufficient notice of such meeting.

13-308 RULES AND PROCEEDINGS OF THE BOARD
The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

(A) The presence of three (3) members of the Municipal Board of Zoning Appeals shall constitute a quorum, and the concurring vote of a majority of the members of the Board present shall be necessary to deny or grant any application before the Board. The presence of two (2) members of the Regional Board of Zoning Appeals shall constitute a quorum, and the concurring vote of at least two (2) members of Board shall be necessary to deny or grant any
application before the Board.

(B) No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Portland at least ten (10) days before the hearing of an appeal. No appeal shall be considered and heard by the Board less than fifteen (15) days after filing such appeal. If new information is uncovered regarding an action of the Board that could not have been reasonably presented in public hearing before the Board, the Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.

(C) The Board may call upon any other office or agency of the city government for information in the performance of its duties, and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required.

(D) All hearing sessions shall be open to the public.

(E) The Regional Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board, and such opinion shall be made part of the record of such public hearing.

(F) Any officer, agency or department of the City or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by State law.

(G) In any decision made by the Board on a variance the Board shall:
   (1) Indicate the specific section of this ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety, and general welfare."

   (2) In cases pertaining to hardship, specifically identify the hardship warranting such action by the Board.

(H) Any decision made by the Board on a conditional use permit shall indicate the specific section of this ordinance under which the permit is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety, and general welfare," and shall state clearly the specific conditions imposed in granting such permit.

(I) Each application or appeal shall be numbered serially and filed in proper form with the required date, and shall be placed upon the calendar of the Board by the secretary. The calendar numbers shall begin anew on January 1, each year, shall be hyphenated with the year in which the appeal is filed. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order by the Board, upon good cause being shown.

(J) An appeal shall be taken within thirty (30) days from the date of refusal by the Zoning Administrator or certificate of zoning compliance.

(K) No appeal to the Board shall be considered by the Board until presented on the appropriate form provided by the Board.
(L) At the public hearing of the case before the Board, the Appellant shall appear on his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first, and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

(M) Every person before the rostrum shall abide by the order and direction of the chairman. Discourtesy or disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the chairman deems proper.

13-309 STAY OF PROCEEDINGS
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of competent jurisdiction on application, on notice to the Zoning Administrator, and on due cause shown.

13-310 LIABILITY OF BOARD MEMBERS, ZONING ADMINISTRATOR, AND EMPLOYEES
Any Board Member, Building Inspector, or other employee charged with the enforcement of this ordinance, acting for the City of Portland in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the City of any damage that may accrue to persons or property at the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, Building Inspector, or employee charged with the enforcement of any provision of this ordinance shall be defended by legal representatives furnished by the City until the final termination of such proceedings.

13-311 RIGHT OF ENTRY UPON LAND
The Board, its members, and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this ordinance.

13-312 REHEARINGS

(A) No rehearing of the decision by the Board shall be had except:
   (1) On motion to reconsider the vote.
   (2) On a written request for a hearing.

(B) If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by resolution in each case, stipulate.

(C) No request to grant a rehearing will be entertained unless new evidence is submitted which could not reasonably be presented at the previous hearing. If the request for a rehearing is
granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

(D) No rehearing for a variance shall be granted an applicant found by a court of competent jurisdiction to be in willful violation of the express provisions of a prior variance granted under the authority of this article.
CHAPTER 4. ZONING VARIANCES
The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this chapter.

13-401 APPLICATION FOR VARIANCES, NOTICE OF HEARING, FEE
A written application for a variance shall be filed with the Board by the property owner or his designated agent on forms provided by the Board, and the application shall contain information and exhibits as may be required under Subsection 13-202.2. No more than sixty (60) days after the filing of the application, a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the applicant. Notice of hearing shall be in accordance with Section 13-308, (C) and 13-402. A fee payable to the City shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

13-402 NOTICE TO AFFECTED PROPERTY OWNERS
It shall be the general rule of the Board that reasonable efforts shall be made to contact and notify interested parties, who in the opinion of the Board, may be affected by any matter brought before the board. In all cases, all owners of record of adjoining property, including those separated by a public way from the premises in question shall be notified.

13-403 STANDARDS FOR VARIANCES
The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

(A) That by reason of exceptional narrowsness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of such property.

(B) That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.

(C) That the variance will not authorize activities in a zone district other than those permitted by this ordinance.

(D) That financial returns only shall not be considered as a basis for granting a variance.

(E) That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning district wherein such property is located or of the general provisions of this zoning ordinance.

(F) That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.

(G) That the alleged difficulty or hardship has not been knowingly and intentionally created by any
person having an interest in the property after the effective date of this ordinance.

13-404 NONCONFORMITY DOES NOT CONSTITUTE GROUNDS FOR GRANTING OF A VARIANCE
No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

13-405 PROHIBITION OF USE VARIANCES
Under no circumstances shall the Board of Appeals grant a variance to allow a “USE” not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

13-406 CONDITIONS AND RESTRICTIONS BY THE BOARD
The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 13-403, to reduce or minimize the injurious effect by such variation upon surrounding property and better carry out the general intent of this ordinance. The Board may establish expiration dates as a condition or as a part of any variances.

13-407 BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS; REVERSING DECISION OF ADMINISTRATIVE OFFICIAL
In exercising the powers granted to it the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such orders, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Building Inspector from whom the appeal is taken.

The concurring vote of a majority of the entire membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance a majority of those present and voting is required.

13-408 VARIANCE APPEALS
Any person including any agency of the city government aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final and subject to review only for illegality or want of jurisdiction.

13-409 SPECIAL PROVISIONS GOVERNING THE CONSIDERATION OF VARIANCES FROM THE PROVISIONS OF ARTICLE IX, FLOODPLAIN DISTRICTS
The following requirements are additional to those set forth in other sections of this ordinance and apply to the granting of variance from the provisions of Article IX, Floodplain Districts.

13-409.1 Findings by the Board
Upon the submission of a written application to the Board, a variance may be granted permitting the erection of structures with a lowest floor elevation, including basement, lower
than regulatory flood elevation if all of the following are met:
(a) Good and sufficient cause exists for the granting of the variance.
(b) Failure to grant the variance would result in exceptional hardship to the applicant.
(c) The issuance of the variance would not result in increased flood heights, additional threats to public safety or extra-ordinary public expense.
(d) The variance allowed is the minimum necessary to afford relief.
(e) The variance would not have the effect of nullifying the intent and purpose of the ordinance.
(f) All applications for variances shall be heard by the Board after reference to such committees and administrative officials as may be established for purposes of investigation and recommendation.
(g) Prior to the granting of a variance, the Board must find that justification exists in accordance with the terms of this ordinance. These findings, together with the grant of a variance, shall be reduced to writing and made a part of municipal records. All variances shall pertain to the particular parcel of land and apply only to the proposed structure set forth in the variance application.
(h) Such variance shall be freely transferable with the land and shall not be personal to the applicant.
(i) Unless otherwise provided therein, a variance shall be valid for a period of one (1) year after the date of its issuance. If construction has not commenced pursuant thereto within such time, said variance shall become void. Lapse of a variance by the passage of time shall not preclude subsequent application for variance.
(j) No variance except as herein specifically permitted may be granted from the provisions of this ordinance. The variance procedures herein provided shall be the exclusive method for obtaining variances.

13-409.2 Content of Application
Each written application for a variance shall reflect the type of structure(s) for which a variance is sought, the size of such structures, the approximate location upon the parcel and the intended use thereof.

13-409.3 Restriction of Variances
Due to the extreme hazardous conditions within the floodway portion of the Floodplain District and the effect of obstructions to upstream structures, no variance shall be issued within the designated floodway portion of the GFP District which would result in any increase in flood levels during the regulatory flood discharge.

13-409.4 Notice to Applicant upon Approval of Variances
Any applicant to whom a variance is granted shall be given notice that the proposed
structure will be located in the flood prone area, but the structure will be permitted to be built with a lowest floor elevation feet below the regulatory flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced first flood elevation, and all subsequent purchasers shall be notified in writing, and same shall be set out in any deed or other writing issued to subsequent purchasers, lessees, mortgagors or vendees.
CHAPTER 5. CONDITIONAL USE PERMITS

13-501 CONDITIONAL USES
The Board of Appeals may hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code Annotated.

13-502 APPLICATION FOR CONDITIONAL USE PERMIT, NOTICE OF PUBLIC HEARING
The application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the Board on forms provided by the Board and shall contain information and exhibits as may be required under Subsection 13-202.2, or in the case of buildings or other structures or uses to be located within the floodplain districts, as may be required by Article IX, and Section 13-505, of this article. Not more than sixty (60) days after filing such application, a hearing shall be held on the application, unless otherwise withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with Section 13-308, (B). A fee may be charged to partially defray cost of review and processing for each application for a conditional use permit, except that the fee shall be waived for any government agency.

13-503 REQUIREMENTS FOR CONDITIONAL USE PERMIT
General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The Board may impose such other conditions and restrictions upon the premises benefitted by a conditional use permit as may be necessary to comply with the provisions set out in Sections 13-504 thru 13-508.4, in order to reduce or minimize the injurious effect of such conditional use upon and ensure compatibility with surrounding properties. The Board may establish dates for the expiration of any conditional use permit as a condition of approval.

13-504 GENERAL REQUIREMENTS
A conditional use permit may be granted provided the Board finds that the request:
   (A) Is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.

   (B) Will not adversely affect other property in the area in which it is located.

   (C) Is within the provision of "Conditional Uses" as set forth in this ordinance.

   (D) Conforms to all applicable provisions of this ordinance for the district in which it is to be located.

13-505 SPECIAL PROVISIONS GOVERNING CONSIDERATION OF CONDITIONAL USES WITHIN FLOODPLAIN DISTRICTS
The special provisions contained within this section shall apply to applications for approval of any conditional use located within any floodplain district.
13-501.1 Special Information Required
In addition to the requirements for conditional uses set out elsewhere in the ordinance, any application for a conditional use to be located within any floodplain district shall contain the following and any additional information requested by the Board.

(a) A map in duplicate, drawn to scale showing the curvilinear line representing the regulatory flood elevation, dimensions of the lot, existing structures and uses on the lot and adjacent lots, soil type, and natural protective barriers, if applicable, existing flood control and erosion control works, existing drainage elevations and ground contours, location and elevation of existing streets, water supply and sanitary facilities, and other pertinent information.

(b) A preliminary plan showing the approximate dimensions, elevation and nature of the proposed use, amount, area and type of proposed fill, area and nature of proposed grading or dredging, proposed alteration of natural protective barriers, if applicable, proposed flood protection or erosion control works, proposed drainage facilities, proposed roads, sewers, water and other utilities, specifications for building construction and materials included in the floodproofing.

13-505.2 Technical Review Required
The Board shall transmit one (1) copy of the application and all supporting information to the city engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, threatened erosion, the adequacy of the plans for flood and erosion protection, the adequacy of drainage facilities, and other technical matters.

13-505.3 Determination by the Board and Attachment of Conditions
The Board shall determine the specific flood or erosion hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard. Upon consideration of the factors listed herein and the purposes of this ordinance, the Board may attach such conditions to the granting of special exceptions as it deems necessary to further the purposes of this ordinance.

13-505.4 Consideration of Special Dangers Posed by Such Uses
In passing upon such applications, the Board shall consider the technical evaluation of the engineer, all relevant factors, and standards specified in other sections of this ordinance, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services provided by the proposed facility to the community;

(f) The necessity to the facility of a waterfront location, where applicable;
(g) The availability of alternative locations, not subject to flooding or erosion damage;

(h) The compatibility of the proposed use with existing development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(j) The safety of access to and from the property in times of flood for ordinary and emergency vehicles;

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;

(l) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

13-506 SPECIFIC STANDARDS FOR COMMUNITY FACILITY ACTIVITIES

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit shall be granted for the community facility activities specified in Subsection 13-506.1 through 13-506.7, only when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

13-506.1 Special Conditions for Community Assembly

(a) No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district; provided, however, that if such community assembly includes outdoor activities the minimum lot area shall be four (4) acres.

(b) All bulk regulations of the zone district shall apply.

(c) Off-street parking:

(1) For nonprofit clubs, lodges, meeting halls and recreation centers, one (1) space for each four (4) seats in an assembly area within the facility, or one (1) space for each seventy-five (75) square feet of gross floor area, whichever is greater, shall be provided.

(2) For temporary nonprofit festivals, the required number of off-street parking spaces shall be determined by the Building Inspector, considering the traffic generation of such facility, the hours of other such factors as affect the need for off-street parking.

(d) Except for temporary nonprofit festivals, fencing, screening, and landscaping shall be provided as appropriate for such facility, except that no landscaped screen shall be located closer than fifteen (15) feet of any vehicular entrance or exit to the property.

(e) The location and operation of such community assembly facility shall be in keeping
with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.

(f) All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

(g) Except for temporary nonprofit festivals, the site plan shall be approved by the Planning Commission considering the above conditions.

13-506.2 Special Conditions for Educational Facilities

The Board of Appeals may grant a conditional use permit for community educational facilities based on the following findings:

(a) Site plan review and recommendation by the Planning Commission as to the appropriate site size and site plan for the proposed school. In its review, the Planning Commission shall take into account: (1) Proposed enrollment levels; (2) physical site characteristics, such as steeply sloped areas, areas subject to flooding, or unstable soils; (3) the need for buffers, such as screening, fencing, unused open spaces, and access and traffic control, to protect surrounding land use; and (4) "optional programmatic activities" to be conducted on the site including:

(1) Indoor or outdoor interscholastic competitive sports;

(2) Outdoor intramural competitive sports;

(3) Outdoor physical education activities requiring large land areas, such as baseball, softball, football, soccer, golf, field hockey, and track and field events;

(4) Marching band;

(5) Outdoor concerts, assemblies, and theatrical performances;

(6) Vocational training facilities; and

(7) Outdoor education space such as nature study areas and experimental gardens.

The minimum site sizes established in Subpart (b), below, may be recommended whenever none of the "optional programmatic activities" are to be present on the site, no hazardous site characteristics exist, and adequate buffering can be accomplished without additional land.

(b) The reduced site size is not less than an absolute minimum based on the following table:

<table>
<thead>
<tr>
<th>Enrollment Capacity</th>
<th>Minimum Site Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-49</td>
<td>1.5 acres</td>
</tr>
<tr>
<td>50-99</td>
<td>2.0 acres</td>
</tr>
<tr>
<td>100-149</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>150 or more</td>
<td>Add ½ additional acre to 2.5 acres for each additional 50 students or fraction thereof above 149</td>
</tr>
</tbody>
</table>
The Board of Zoning Appeals may waive minimum yard requirements whenever an existing structure is proposed for conversion to a community education activity.

Provided, any school in existence at the effective date of this ordinance shall not be subject to the land area requirements of this section. Said schools shall be subject to all other code requirements including fire, electrical, plumbing, and building codes. Any school not in compliance with the land area requirements for schools which existed prior to this ordinance shall not be subject to the land area requirements of this section.

13-506.3 Special Conditions for Cultural and Recreational Services
(a) No such activity shall be permitted on a zone lot unless it contains twice the lot area requirements of the zone district.

(b) All bulk regulations of the zone district shall apply.

(c) The off-street parking requirements of this ordinance shall apply.

(d) Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area and shall not have an adverse affect on properties within the surrounding area.

(e) The site plan shall be approved by the Planning Commission taking into account the above conditions.

13-506.4 Special Conditions for Intermediate and Extensive Impact
(a) The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.

(b) The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.

(c) The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.

(d) The off-street parking requirements shall be determined by the Board of Appeals.

(e) The site plan for such facilities shall be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors related to the use and operation of such facility.

13-506.5 Special Conditions for Health Care Facilities
13-506.501 Neighborhood Primary Health Care Clinics

(1) The location, site, size, design, and operation of the proposed facility shall be compatible with the character of the surrounding area and shall not adversely affect other properties within the area.

(2) The proposed facility shall be provided with fencing, screening, and landscaping as appropriate to protect the surrounding area.

(3) The proposed facility shall provide a community function and fulfill general health needs of service area residents.

(4) The location of the proposed facility shall be such that it efficiently, conveniently and safely serves residents of the area.

(5) The proposed site shall be conveniently located in regard to major thoroughfares which allow access to hospitals, ancillary health facilities, and services likely to be needed by users of the proposed facility.

(6) All bulk regulations of the district shall be met.

(7) Accessory off-street parking areas shall be located on the proposed site and contain:
   i. One and one-half (1/2) parking spaces per examination, treatment, screening, observation, consultation, and dental room, or
   ii. In a quantity determined necessary by the Planning Commission.

(8) The application for a proposed facility shall be approved by the Middle Tennessee Health Systems Ag

(9) All public utilities and sewage disposal shall be available to the site and shall be approved by the County Department of Environment and Conservation.

(10) The location, grading, site, and architectural plans shall first be approved by the Planning Commission considering the above conditions as well as any other pertinent factors.

13-506.502 Hospitals, Centers for Observation or Rehabilitation

(1) The minimum lot area for any hospital or center for observation and rehabilitation located within any residential district shall be as required to be twice the minimum lot area for the district.

(2) The minimum side and rear yards for hospitals and centers for observation or rehabilitation shall be fifty (50) feet for one (1) or two (2) story building; increased by five (5) feet for each story above two (2).

(3) All other regulations of the zone district shall apply.
(4) There shall be provided along the entire site boundaries fencing, screening, and landscaping as appropriate to protect the surrounding residential area.

(5) The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties in the surrounding area.

(6) All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

(7) The site plan shall be approved by the Planning Commission considering the above conditions.

(8) The following activity classes and types may be permitted accessory to the health care activities provided they appropriately complement the health care activity, will not impose an adverse impact on the surrounding land use and be subject to all other provisions of the zoning district:
   i. Community Facility Activities:
      All Uses
   ii. Commercial Activities:
      Convenience Sales and Services
      Automotive Parking
      Food Service
      Professional Services - Medical

13-506.6 Special Conditions for Special Personal and Group Care Facilities

13-506.601 Family Day Care Facilities
A facility for the keeping of more than four (4) and less than thirteen (13) preteenage children, provided that:
   (1) No facility shall be permitted on a zone lot unless it contains the minimum lot area requirement of the zone district plus any additional lot area which is required by the Sumner County Health Department or the Tennessee State Department of Human Services.

   (2) All other bulk regulations of the district shall be met.

   (3) The facility shall have a place where vehicles can stop to drop off or pick up children. This drop off and pick up point shall be situated to provide an orderly traffic flow in the area of the facility and in a manner, which is consistent with safety for children using the facility.

   (4) All regulations of the State of Tennessee that pertain to the use shall be met.

   (5) Fencing, screening, and landscaping shall be provided as appropriate to protect
the surrounding area for such facility.

(6) The site plan for such a facility be approved by the planning commission, considering the above conditions as well as any other pertinent factors.

(7) All day care facilities operating in residential districts as of the date of adoption of this ordinance shall be allowed to continue operation despite noncompliance with Items 1 through 6, above, provided that these facilities complied with all regulations of the State of Tennessee as of that date and continue to comply with the same.

13-506.602 Day Care Centers
A facility for the keeping of thirteen (13) or more pre-teenage children, provided that:

(1) No facility shall be permitted on a zone lot unless it contains a minimum of twice the lot area requirements of the zone district in which the use is to be located.

(2) All other bulk regulations of the district shall be met.

(3) One accessory off-street parking space shall be provided for each five (5) children accommodated, up to a total of fifty (50) children. When more than fifty (50) children are accommodated, one accessory off-street parking spaces for each ten (10) additional children, in excess of fifty (50) shall be provided.

(4) Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick up or deliver passengers. Such facilities shall provide for driveways that do not require any backup movements by vehicles to enter or exit the zone lot.

(5) All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

(6) All regulations of the State of Tennessee that pertain to the use shall be met.

(7) The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.

(8) Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area for such facility.

(9) The site plan for such a facility be approved by the planning commission considering the above conditions, as well as any other pertinent factors.

(10) Notwithstanding the aforesaid provisions, the Board may be permitted to vary the required yards, the required open space for parking, and the minimum required screening strip for parking when the application involves a change in activities in existing structures. The plan shall provide for compensating features to offset any potentially adverse conditions that might be brought about by said
11-506.603 **Family Care and Group Care Facilities**

(1) The purpose(s) of the facility must be clearly established by the agency responsible, and the appropriate staff services must be provided to achieve the stated purpose(s). Group care facilities accommodating from seven (7) to twelve (12) individuals shall have twenty-four (24) hour staff and professional services in the behavioral sciences available. Group care facilities accommodating more than twelve (12) individuals shall have resident twenty-four (24) hour staff, and shall provide professional services in the behavioral sciences. The Planning Commission must make a written finding to the Board of Zoning Appeals regarding these requirements based on advice from such agencies as the Tennessee Department of Human Services.

(2) An appropriate license must be secured for any activity regulated by any public agency, including the Tennessee Department of Human Services. Any activity lawfully regulated by any public agency may be permitted for only that time period for which a valid license is obtained. Where grades or classes of approvals are granted, only the most restrictive may be permitted.

(3) No more than one (1) of either a family care or group care community facility may be permitted on a single block having a residential zone classification or situated on any opposing block faces having a residential zone classification. Other criteria may be used to avoid a concentration of such facilities.

(4) Family care community facility may not accommodate more than one (1) individual (excluding staff) per living room.

(5) Group care community facility must contain one thousand-five hundred (1,500) square feet of net floor space for the first six (6) residents including resident staff and one hundred-fifty (150) square feet of net floor space per person above six (6) residents.

(6) Necessary utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

(7) Group care facilities accommodating from seven (7) to twelve (12) persons, and family care facilities accommodating from one (1) to six (6) persons shall meet all bulk regulations of the district for a residence.

(8) Group care facilities accommodating from thirteen (13) to fifty (50) persons shall have a minimum lot area of five (5) acres. When more than fifty (50) persons are accommodated, there shall be one (1) additional acre required for each ten (10) persons accommodated.

(9) The minimum side and rear yards for group care facilities accommodating thirteen (13) or more persons shall be fifty (50) feet for a one- or two-story
building, increased by five (5) feet for each story above two (2).

(10) One accessory off-street parking space for each three (3) individuals accommodated shall be provided, except that this requirement may be altered depending on the specific program.

(11) The site plan shall be approved by the Planning Commission considering but not limited to the following considerations: Compatibility with the surrounding area, any adverse impact of the proposed activity on the character of the area, needed fencing and screening, adequate open space and recreation space if appropriate, and all other requirements of this section.

Notwithstanding the aforesaid provisions, the board may be permitted to vary the required yards, the required open space for parking, and the minimum required screening strip for parking when the application involves a change in activities in existing structures. The plan shall provide for compensating features to offset any potentially adverse conditions that might be brought about by said variance.

13-506.604 Nursing Homes, Retirement and Rest Homes

(1) No such facility shall be permitted on a zone lot unless it contains a minimum of ten thousand (10,000) square feet, or twice the lot area requirements of the zone district, whichever is greater.

(2) All bulk regulations of the district shall be met.

(3) The requirements of the accessory off-street parking regulations of this ordinance in Article IV, Chapter 1, shall apply.

(4) All regulations of the State of Tennessee shall be met.

(5) All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

(6) The application shall first be reviewed by the County Department of Environment and Conservation, and the site plan for such a facility be approved by the Planning Commission taking into account the above conditions as well as any other pertinent factors.

(7) Notwithstanding the aforesaid provisions, the board may be permitted to vary the required yards, the required open space for parking, and the minimum required screening strip for parking when the application involves a change in activities in existing structures. The plan shall provide for compensating features to offset any potentially adverse conditions that might be brought about by said variance.
13-506.7 **Special Conditions for Religious Facilities**

1. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district except those facilities proposed in RS-40 and R-40 Districts where the minimum district lot size shall apply.

2. The location, size, and design of such facilities shall be situated so that the proposed facility shall be compatible with the development within the Surrounding area thus reducing the impact upon such area.

3. Such facilities shall be located only on major or collector streets as shown on the official major thoroughfare plan.

4. All bulk regulations of the district shall be met.

5. The off-street parking requirements of this ordinance in Article IV, Chapter 1, shall apply.

13-506.8 **Special Conditions for Special Institutional Care Facilities** (Added by Ordinance 559, January 5, 1998)

In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to all uses classified in the special care activity type:

1. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.

2. The traffic generated by such facility must be clearly established by the agency responsible, and the appropriate staff services must be provided to achieve the stated purpose(s).

3. The purpose(s) of the facility must be clearly established by the agency responsible, and the appropriate staff services must be provided to achieve the stated purpose(s).

4. The facility providing residence facilities shall have resident twenty-four (24) hour staff, and appropriate professional services shall be supplies.

5. The off-street parking requirements shall be determined by the Board of Appeals.

6. The minimum side and rear yards shall be one hundred (100) feet for a one (1) and two (2) story building, increased by ten (10) feet for each additional story.

7. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

8. No facility permitted under the provisions of this section shall be located within one thousand (1,000) feet of any church, day care center, nursery school or public park. The distance shall be measured by a straight line from the nearest corner of the building of a potential licensee to the nearest corner of the main entrance of the church, day care center, nursery school or public park, where the center line intersects with the margin of
As Amended February 4, 2019

the public road.

13-507 SPECIAL STANDARDS FOR COMMERCIAL ACTIVITIES
A conditional use permit shall not be granted for the commercial activities specified in Subsection 13-507.1, unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable districts.

13-507.1 Special Conditions for Group Assembly Activities

(a) The locations, size, and design of such facilities shall be situated so that the proposed development shall be compatible with the development within the surrounding area thus reducing the impact upon the surrounding area;

(b) The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets;

(c) The off-street parking requirements shall be based upon a recommendation from the Planning Commission; and

(d) The site plan for such facilities shall be approved by the Planning Commission considering the above conditions as well as any other pertinent factors, related to the use and operation of such facilities.

(e) When an application for a group assembly permit includes amusement parks, sports arenas, fairgrounds, racetracks, and similar recreational pursuits, the following requirements shall be observed:
   (1) The minimum site shall be twenty-five (25) acres;

   (2) The minimum setback of all structures from all public roads shall be one hundred (100) feet;

   (3) Such facility shall be situated so that no residential use is located closer than five hundred (500) feet from building entrance of the principal use at the time of approval;

   (4) Access to such facility shall be by a paved public road, and such road shall be either a major arterial or major collector. Traffic shall not be directed through residential subdivisions or on minor residential streets;

   (5) Off-street parking shall be provided at a minimum of one (1) space for each four (4) patrons or seats. For those facilities which are not utilized on a regular and frequent basis, parking may be provided on adjacent parcels of land provided further that any parcel so used is located no more than five hundred (500) feet from the lot boundary.

   (6) Any lighting provided at such facilities shall be designed so that no direct light falls on adjacent residential property;
(7) Accessory uses may be permitted in conjunction with the principal use of the property provided that such uses of the physically designed as a part of or within the principal structure. Such uses may include food sales, beverage sales, gift or souvenir shops, and similar activities;

(8) Accessory structures may be permitted which are incidental and subordinate to the principal structure. Such structures may not be located within any required setback or buffer area.

13-508 SPECIFIC STANDARDS FOR AGRICULTURAL AND EXTRACTIVE ACTIVITIES

A conditional use permit shall not be granted for the agricultural and extractive activity specified in Subsection 13-508.1 thru 13-508.4 unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

13-508.1 Special Conditions for Egg Production Houses, Feedlots and Stockyards

(Deleted and Replaced by Ordinance 545, September 16, 1997)

These provisions are adopted pursuant to Title 44, Chapter 18 “Feedlots, Dairy Farms and Egg Production Houses” of the Tennessee Code.

In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the “Egg Production House, Feedlot and Stockyard” activity type.

a. The location of such an activity shall be in an area sparsely developed during the length of time the use as an egg production house, stockyard or feedlot is anticipated.

b. No such facilities shall be permitted on a zone lot unless it contains a minimum lot area five (5) acres.

c. Any permit issued, thereunder, shall be based on a site plan or other documents submitted with an application that shall indicate the following:

   (1) Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contour intervals shall be at two (2) foot intervals.

   (2) Location of the area in which the proposed keeping of animals is to be conducted.

   (3) Location of all proposed buildings, animal pens, roadways and other facilities proposed on the site.

   (4) Proposed method of drainage of the animal pens.

   (5) Proposed fencing of the site.

d. Any egg production house, feedlot or stockyard shall be located on a site such that the closest point of any building or fenced lot, yard, corral or other area in which livestock
are confined primarily for purposes of feeding, growing, raising, or birthing prior to slaughter is set back a minimum of five hundred (500) feet from any existing residence and two hundred fifty (250) feet from any public right-of-way.

e. Any facility to be constructed shall submit a Groundwater Protection Plan with the application required, hereinafter. Such plan shall contain such information as required to obtain a National Pollution Discharge Elimination System (NPDES) permit. At a minimum such plan shall address:
   (1) Decreased water quality from erosion and runoff; and
   (2) Surface and groundwater contamination from poultry wastes.

f. A plan for disposal of waste, including manure, litter, and dead birds, shall accompany the application required, hereinafter.

g. A plan for odor control to include evidence developed from operations similar to the one being proposed shall accompany the application required, hereinafter.

13-508.2 Special Conditions for Mining and Quarrying

(a) The location of such an activity shall be in an area sparsely developed during the length of time the mining or quarrying activity is anticipated;

(b) Any permit issued hereunder shall be based on a site plan or other documents submitted with an application which shall provide for the following:
   (1) Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contour intervals shall be at two (2) foot intervals.
   (2) Location of the area in which the proposed quarrying activity is to be conducted.
   (3) Location of all proposed buildings, crusher and screening equipment, roadways, and other facilities proposed on the site.
   (4) Proposed method of drainage of the quarry area.
   (5) Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.
   (6) Methods proposed for blasting. Open blasting commonly referred to as "pop shots" shall be prohibited.
   (7) Methods proposed to control noise, vibration and other particulate matter in order to meet the performance standards as set out in this ordinance.
   (8) Finished contours of the site after the quarrying operation has been terminated. The site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding lands. All fill material shall be non-toxic, nonflammable, and noncombustible solids. All areas that are back-filled shall be
left so that adequate drainage is provided.

(c) Approval for mining and quarrying activity may also include accessory concrete batching plants, asphaltic cement mixing plants and/or rock crushing activities on the same zone lot or adjoining zone lots which may have directly opposing frontages on the same public street. If such accessory activities are included on the quarry site, the total site must meet all the special condition requirements for mining and quarrying activities; however, in conditions of multiple zone lots, the outer perimeter of the site shall be considered the lot line.

(d) Before issuing a permit, the Board shall require the owner of the quarry facility to execute a bond not less than one thousand dollars ($1,000) or more than two thousand dollars ($2,000) per acre of active quarry throughout a five (5) year period to restore the lands in the manner prescribed herein, including the removal of all structures and machinery.

(e) Any permit issued hereunder shall not be for a period exceeding five (5) years. After the expiration date of such special permit, the Board may review and grant an extension of time in the manner and procedure as prescribed for an original application, and

(f) The site plan is first approved by the Planning Commission considering the above conditions as well as any other factors related to the use and operation of such facilities.

13-508.3 Special Conditions for Commercial Storage of Explosives

(a) The location of such an activity shall be in an area likely to be sparsely developed for reason of topography, lack of existing or planned utilities, accessibility of for similar cause.

(b) Such facility shall not be located on a site having an area of less than fifty (50) acres.

(c) All regulations of the State Fire Marshal and the City Fire Department relating to the storage of explosive shall be met.

(d) Any special permit issued hereunder shall be for a period not exceeding five (5) years. After the expiration date of such special permit, the Board may review and grant an extension of time in the manner and procedure as prescribed for an original application.

(e) The site plan shall be approved by the Planning Commission considering the above conditions as well as any other factors related to the use and operation of such facilities.

13-508.4 Special Conditions for Plant Nursery Activity

The Board of Appeals shall prescribe the number of accessory off-street parking spaces that will adequately service the activity.

13-508.5 Special Conditions for Keeping of Horses (Amended by Ordinance 09-45, October 5, 2009)

1. Keeping horses within the RS-40, Residential District may be kept subject to the
following conditions:

a. Limitation of Commercial Boarding – No commercial boarding of horses shall be permitted.

b. Minimum Lot Area – That the keeping of horses shall be permitted only on lots having a minimum area of one hundred twenty thousand (120,000) square feet or more according to the number of horses being kept. Where horses are being kept, the number kept shall not exceed one horse for each forty thousand (40,000) square feet of lot area.

c. Limitation of Stables – That no stable is located or maintained on any lot having an area of less than one hundred twenty thousand (120,000) square feet.

d. Location of Private Stables on Individual Lots – An animal keeping structure or enclosure shall neither be located closer than thirty-five (35) feet from the dwelling unit on the parcel which the animal structure is located nor closer than one hundred (100) feet from the habitable rooms of a neighboring dwelling unit. A minimum space of the lesser of thirty-five (35) feet or thirty (30) percent of the width of the lot shall be maintained between an animal keeping structure and a dwelling unit or accessory living quarter. All buildings related to the care or housing of horses and to the operation of riding facilities, other than stables permitted on individual residential lots, shall be located at least one hundred (100) feet from any property line of the lot. A stable may be located on any portion of a parcel except that all portions of any such structure shall be located behind the front façade of the principal residential structure located on such lot.

e. Drainage of Lots with Stables – Grading within stalls, corrals, and stables shall be properly integrated into a master drainage plan for the development to prevent ponding of water, the propagation of insects, and the pollution of adjacent streams. Stall/corral coverings of roofs on enclosed shelters shall be sloped away from the center of the stall/corral, or rain gutters shall be installed. Drainage of lots with stables shall be graded in such a fashion to eliminate ponding from surface or roof runoff.

f. Lot of Maintenance – If horses are in a contained area, all manure shall be removed at least daily from stables, corrals, exercise pens, and workout areas so as to prevent the propagation of flies and the creation of odors. Owners of horses kept in a confined area are encouraged to use a Rabon supplement as this will reduce the propagation of flies. All grain stored on the lot shall be stored in rodent-proof containers. All exercise and training areas shall be dampened so as to prevent dust. Hay shall be covered and stored on a raised platform that is a minimum of six (6) inches above the ground.

g. Horse Enclosures – A fenced enclosure of two thousand (2,000) square feet shall be provided on each lot where a horse is kept. A stall/corral covering or enclosed area of one hundred forty-eight (148) square feet minimum per horse, with no dimension less than ten (10) feet shall be provided.
h. Riding Trails – All riding trails shall be set back ten (10) feet from the property line of the lot. All riding trails shall be fenced so as to prevent horses intruding onto private property.
CHAPTER 6. AMENDMENTS

13-601 GENERAL
The City Council may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment.

13-602 INITIATION OF AMENDMENT
Amendments may be initiated by the City Council, the Planning Commission, Building Inspector or by an application by any other interested persons.

13-603 APPLICATION FOR AMENDMENT
An application for amendment shall be filed with at least one (1) of the following:
   (A) The Planning Commission.
   (B) City Recorder.

The city recorder on receiving such application shall transmit copies thereof to the other bodies and the Planning Commission prior to any consideration of the proposed amendment by the City Council.

13-604 REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION
The Planning Commission shall review and make recommendations to the City Council on all proposed amendments to this ordinance.

13-605 GROUNDS FOR AN AMENDMENT
The Planning Commission in its review and recommendation, and the City Council in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:
   (A) The amendment agrees with the general plan for the area.
   (B) It has been determined that the legal purposes for which zoning exists are not contravened.
   (C) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.
   (D) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.
   (E) It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan, and consequently, the zoning map.

13-606 PUBLIC HEARING AND NOTICE OF HEARINGS
A public hearing shall be held on all proposed amendments to this ordinance by the City Council. Notice of such hearing shall be displayed as follows:
(A) Notice in a newspaper of general circulation within the City of Portland shall be given at least fifteen (15) days but not more than thirty (30) days prior to the public hearing. This notice shall specify the location, current, and proposed zoning classification, and it shall contain a graphic illustration of the area.

(B) At least fifteen (15) days prior to the Public Hearing before the City Council, a sign notifying the public that the affected property is subject to a zoning change or annexation shall be placed upon the property. (Deleted and Replaced by Ordinance 610, August 2, 1999)

13-607 AMENDMENTS AFFECTING ZONING MAP
Upon enactment of an amendment to the zoning map which is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

13-608 EFFECT OF DENIAL OF APPLICATION
Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases:

(A) Upon initiation by the City Council, or Planning Commission.

(B) When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made.

(C) When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

13-609 ZONING DISTRICTS AS APPLIED TO TERRITORY ADDED TO JURISDICTION OF THE CITY OF PORTLAND
Whenever new territory is added to the zoning jurisdiction of the City of Portland by any means, the Planning Commission shall recommend to the City Council appropriate zoning districting within thirty (30) days following the final approval of the annexation action. Prior to the final enactment by the City Council of an amendment to this ordinance establishing zoning districting for said territory, the area shall be temporarily unclassified, and no zoning permits shall be issued.

13-610 EXPANSION OF THE DEFINITION OF EXTENSIVE MANUFACTURING ACTIVITY TYPE
The City Council may expand the definition of extensive manufacturing activity type to include an arsenal, atomic reactor, explosives manufacture, fireworks manufacture, or radioactive waste handling only to accommodate a specific proposed use on application form the Building Inspector and subject to all other amendment provisions of the ordinance provided that the proposed use complies with the standards established herein:

(A) The proposed use is to be located in an isolated location away from concentrations of persons associated with residential, commercial, community facilities, or industrial activities, or any other type of activity.

(B) The proposed use is to be located in an area which will remain isolated, in terms of (A), above,
for at least twenty-five (25) years in the future and that this condition is reflected upon the land use element of the long-range, land use plan for the Portland Planning Region.

(C) The proposed use will not pollute or deteriorate air, surface or subterranean water or any other natural features.

(D) The proposed use will be satisfactorily served by the necessary utilities such as sewerage treatment, or waste disposal and services such as fire protection.

(E) The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentration which would endanger community safety.

(F) The proposed lot size is sufficient so that no danger occurs to the adjoining uses.
CHAPTER 7. REMEDIES AND ENFORCEMENT

13-701 COMPLAINTS REGARDING VIOLATIONS
Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Inspector. The Building Inspector shall record properly such complaint, immediately investigate, and act thereon as provided by this ordinance.

13-702 PENALTIES FOR VIOLATION
Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) shall constitute a misdemeanor and shall be punished as provided for by law. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

13-703 REMEDIES
In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended, or converted, or any building or other structure or land is or is proposed to be used in violation of this ordinance, the Building Inspector or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate the violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the Building Inspector may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or re-establishment of service be withheld therefrom until such time as the building or other structure or premises are no longer in violation of these regulations.