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OF THE CITY OF PORTLAND, TENNESSEE

AND THE PORTLAND PLANNING REGION

ADOPTED ON THIRD (3rd) AND FINAL READING

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PORTLAND, TENNESSEE

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

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LIST OF AMENDMENTS

DATE	ORDINANCE NO.	AMENDMENTS
February 3, 1992	435	Article VI, Subsection 6-102.4, RS-40, RS-20 and RS-15, Single Family Districts, Deleted and Replaced with New Text
March 4, 1996	508	Article VII, Commercial District Regulations, Removed and Replaced in its Entirety
March 28, 1996	Minutes-BOZA	Article VI, Chapter 3, Amended, 3 Items in R-10 Zoning, Table 6-301A, Setbacks, Collector Streets, 45 feet to 40 feet; Minor Streets, 40 feet to 30 feet; and Rear, 3 feet to 30 feet
September 3, 1996	515	Article VII, Commercial District Regulations, Deleted and Replaced in its Entirety.
September 16, 1997	545	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
		Article XIII, Subsection 13-508.1, Deleted, Special Conditions for Feedlots and Stockyards; Replaced with, Special Conditions for Egg Production Houses, Feedlots and Stockyards
October 6, 1997	549	Article III, Chapter 2, Definition of Terms, Added, Adult Oriented Business; Specified Anatomical Areas; Specified Sexual Activity
		Article III, Chapter 3, Section 3-302, Added, (F), Activity Type – Adult Oriented Business
		Article III, Chapter 3, Added new, Section 3-310, Activity Type – Adult Oriented Business
		Article VIII, Chapter 1, Subsection 8-102.3, IS, Special Industrial Districts, Amended by Inclusion of a New Use Classification, Adult Oriented Business; Sentence is Added to End of this Paragraph
		Article VIII, Chapter 2, Table 8-201A, Adding under, Section II, Commercial Activities, L, Adult Oriented Businesses
October 6, 1997	549	Article VIII, Chapter 4, Supplemental Provisions, Added, Section 8-402, Special Provisions Applicable to Adult Oriented Businesses
January 5, 1998	559	Article III, Chapter 3, Added, Subsection 3-306.9, Old Subsection 3-306.9, Renumbered to 3-306.10; Old Subsection 3-306.10, Renumbered to 3-306.11
		Article XIII, Chapter 5, Added, Subsection 13-506.8, Special Conditions for Special Institutional Care Facilities
		Article VIII, Chapter 2, Amended, Table 8-201A, Subpart III, Community Facility Activities

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; 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

May 1, 2006	02-31	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-E, 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
June 21, 2007	07-25	Article XIII, Subsection 13-202.202, Site Development
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
November 20, 2018	18-02	To Amend the Sexually Oriented Business Provisions
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	19-04	Article XIII Administration and Enforcement, Chapter 3 Board of Zoning Appeals Sections 13-301, 13-302, 13-303, 13-304, 13-308, 13-309, and 13-313 to restructure the Board of Zoning Appeals.
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
March 4, 2019	19-11	Article X to add Article X: Historic Zoning and establish the Historic Preservation Commission
March 18, 2019	19-10	Article IV, Chapter 1 Accessory Off-Street Parking and Loading Requirements, Section 4-109.5 Special Provisions for Handicapped Parking to Repeal and Replace with Regulations Compliant with the 2010 ADA Standards for Accessible Design
March 18, 2019	19-18	Article XIII Administration and Enforcement, Chapter 1 General Provisions, Section 13-101, 13-102, 13-103 and 13-104 to specify

		the duties of the Zoning Administrator and name the City Planner as the Zoning Administrator
April 1, 2019	19-22	Article VII Commercial District Regulations, Chapter 3 Height, Bulk, Lot Size, and Open Space Requirements Applicable to Commercial and Community Facility Activities, Section 7-306 Height, Density, Lot Size, and Open Space Requirements Applicable to Residential Activities Permitted and Table 7-201A to allow second story residential in the Central Business District
April 1, 2019	19-23	Table 4-207-C and Article IV Supplementary District Regulations, Chapter 2 Sign Regulations, Section 4-215 Interstate Sign District to amend the sign setback
April 1, 2019	19-24	Article XIII Administration and Enforcement, Chapter 2 Building Permits and Certification of Occupancy to amend Section 13-202.301 Time Limit on Plot Plans and Site Development Plans
May 6, 2019	19-34	Article VI: Supplementary District Regulations to Add Chapter 3. Access Management Standards
May 6, 2019	19-35	Article XIII Administration and Enforcement, Chapter 2. Building Permits and Certificates of Occupancy, 13-203 Certificate of Use and Occupancy to add Section 13-204 Site Surety Required and 13-203.302 Surety Required for Temporary Use and Occupancy Permit to add requirements for a surety
June 17, 2019	19-42	Add Article XI: Airport Overlay District
June 17, 2019	19-43	Article VI: Provisions Governing Residential Districts, Chapter 4. Supplemental Provisions, Sections 6-401.1, 6-401.2, and 6-401.303 to Amend and Remove sections requiring a preliminary Site development plans with a rezoning
July 1, 2019	19-49	Article VI: Provisions Governing Residential Districts: Chapter 3. Height, Density, Lot Size, and Open Space Requirements; 6-305 Yard Regulations; Subsection 6-305.607 to replace a contextual setback for infill projects
July 1, 2019	19-50	Article XIV: Administration and Enforcement, Chapter 2. Building Permits and Certificates of Occupancy, 14-202 Issuance of Building Permit, 14-202.2 Development Plan Required, 14-202.202 Site Development Plan Required for all other Residential Activities, Commercial and Industrial activities to define a minor site development plan, site development plan amendment, and add a site development plan approval block
July 1, 2019	19-51	Article IV Supplementary District Regulations to add Chapter 4. Development Standards, Subsection 4-401 Traffic Impact Analysis to set requirements for a Traffic Impact Analysis
August 5, 2019	19-57	Article X Historic zoning to repeal and replace Section 10-103.1 Membership and appointment to include additional commission members and add ex officious
August 5, 2019	19-58	Article IV Supplementary District Regulations to add Chapter 5. Landscaping, Screening, and Buffering

September 3, 2019	19-68	Repeal and Replace the Design Standards for the City of Portland
September 3, 2019	19-69	Article III: Construction of Language and Definitions, Chapter 2. Definition of Terms, Article VII: Commercial District Regulations, Chapter 2. Uses and Structure, and Article XIV: Administration and Enforcement, Chapter 5. Conditional Use Permits to add Definitions and Pay-Day Loan Agency, Title Loan Establishments, Check-Cashing Facility, or Pawnshops as a Conditional Use
October 7, 2019	19-81	Article IV: Supplementary District Regulations, Chapter 1 Accessory off-street Parking and Loading Requirements to add 4-111 Surfacing of Parking, Loading, and Storage Areas
October 7, 2019	19-82	Article IV: Supplementary District Regulations, Chapter 4. Development Standards to add to 4-403 Standards for Telecommunication Towers and Antennas
Janauary 6, 2020	19-96	Article XV: MIXED USE DISTRICTS
Janauary 6, 2020	19-97	Article VII: Commercial District Regulations to Amend The Ops – Office/Professional Services District Allow Dwelling, One-Family And Two-Family Detached To The Allowed Uses And Add Special Provision And Lot Size Requirements For The Ops District
August 17, 2020	20-34	Article IV: Supplementary District Regulations, Chapter 2. Sign Regulations to Add Section 4-216 Electronic Messaging Centers and Modify Definitions As Necessary
September 14, 2020	20-36	Article V: Provisions Governing Residential Districts to Add Chapter 5. Residential Redevelopment Overlay

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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 XIII, 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 XIII, 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 XIII.

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
Michael Donoho, Secretary of Planning Commission

Allan Linson
Allan Linson, Chairman

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
Michael Donoho, Secretary of Planning Commission

Allan Linson
Allan Linson, Chairman

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

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 XIV, 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.

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.

CHECK-CASHING FACILITY: A person or business, in whole or in part, that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This shall include any establishment required to be licensed under the "Check Cashing Act of 1997" as described in Title 45, Chapter 18 of the Tennessee Code Annotated and amendments thereof.

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, ACCESSORY DWELLING UNIT: A separate dwelling unit and structure, but not a mobile home, that is subordinate to and located on the same lot as the primary Dwelling, Single-family structure.

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 MOBILE HOME: A detached one-family dwelling with all the following characteristics:

(A) Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

(B) Constructed as a single self-contained unit and mounted on a single chassis transportable after fabrication on its own wheels or detachable wheels.

(C) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connections to utilities and the like.

(D) Exceeds forty (40) feet in length and eight (8) feet in width.

Mobile home dwellings do not include camping trailers, commercial mobile structures, motor homes, recreational vehicles, travel trailers, truck campers or similar units designed to provide temporary living quarters.

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 containing not more than one (1) dwelling unit, attached at a side to not more than one (1) other building containing not more than one (1) dwelling unit by a party wall without openings with each building having a separate lot with dimensions meeting regulations for the district.

DWELLING, SINGLE-FAMILY DETACHED: A building containing one (1) dwelling unit located on an individual lot. This shall include multi-sectional manufactured homes, provided that such homes shall be less than 5 years old at the time of being placed on its permanent location, an enclosed foundation, and base foundation landscaping. Such foundation shall not include exposed concrete block.

DWELLING, TOWNHOME: A building containing three or more dwelling units with each dwelling unit being on an individual lot with each dwelling unit being separated from the other units by a party wall. Townhomes shall require a site development plan for all buildings and subject to the design requirements of a multi-family structure. Townhomes are also known as rowhomes.

DWELLING, TWO-FAMILY DETACHED: A detached residential building containing two dwelling units, designed for occupancy by not more than two families, also known as a duplex.

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.

GROSS FLOOR AREA: is the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

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 XIV, Chapter 5, Subsection 14-508.5, 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 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:

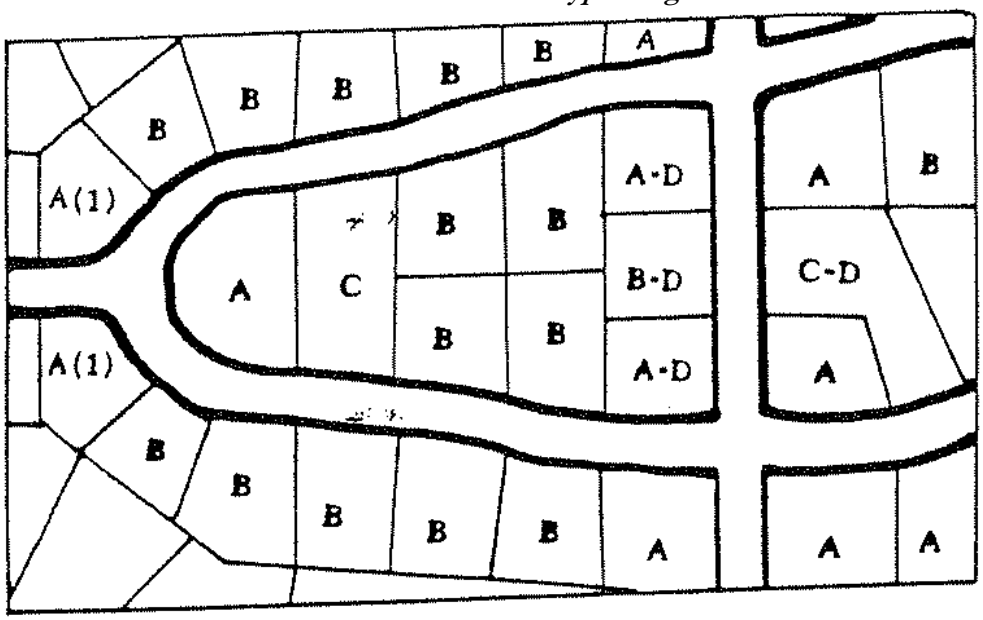
MIXED BUILDING: A building containing residential activities with commercial and/or community facility activities for the purpose of determining bulk regulations.

MIXED-USE BUILDING: means a building that contains at least one floor is partially devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

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 market 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.

PAWNSHOP: A person or business that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property. This shall include any establishment required to be licensed under the "Tennessee Pawnbrokers Act of 1988" as described in Title 45, Chapter 6, Part 2 of the Tennessee Code Annotated and amendments thereof.

PAY-DAY LOAN AGENCY: A person or business, in whole or in part, providing loans to individuals in exchange for personal checks as collateral. This shall include any establishment required to be licensed under the "Deferred Presentment Services Act" as described in Title 45, Chapter 17 of the Tennessee Code Annotated and amendments thereof.

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.

SEXUALLY ORIENTED BUSINESS: A Sexually Oriented Business includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or other adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, when such is held, conducted, operated or maintained for a profit, direct or indirect.

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.

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.)
TITLE LOAN ESTABLISHMENTS: A person or business, in whole or in part, in the business or loaning money that requires borrower to offer their vehicle title as collateral. This shall include any establishment required to be licensed under the "Tennessee Title Pledge Act" as described in Title 45, Chapter 15 of the Tennessee Code Annotated and amendments thereof.

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

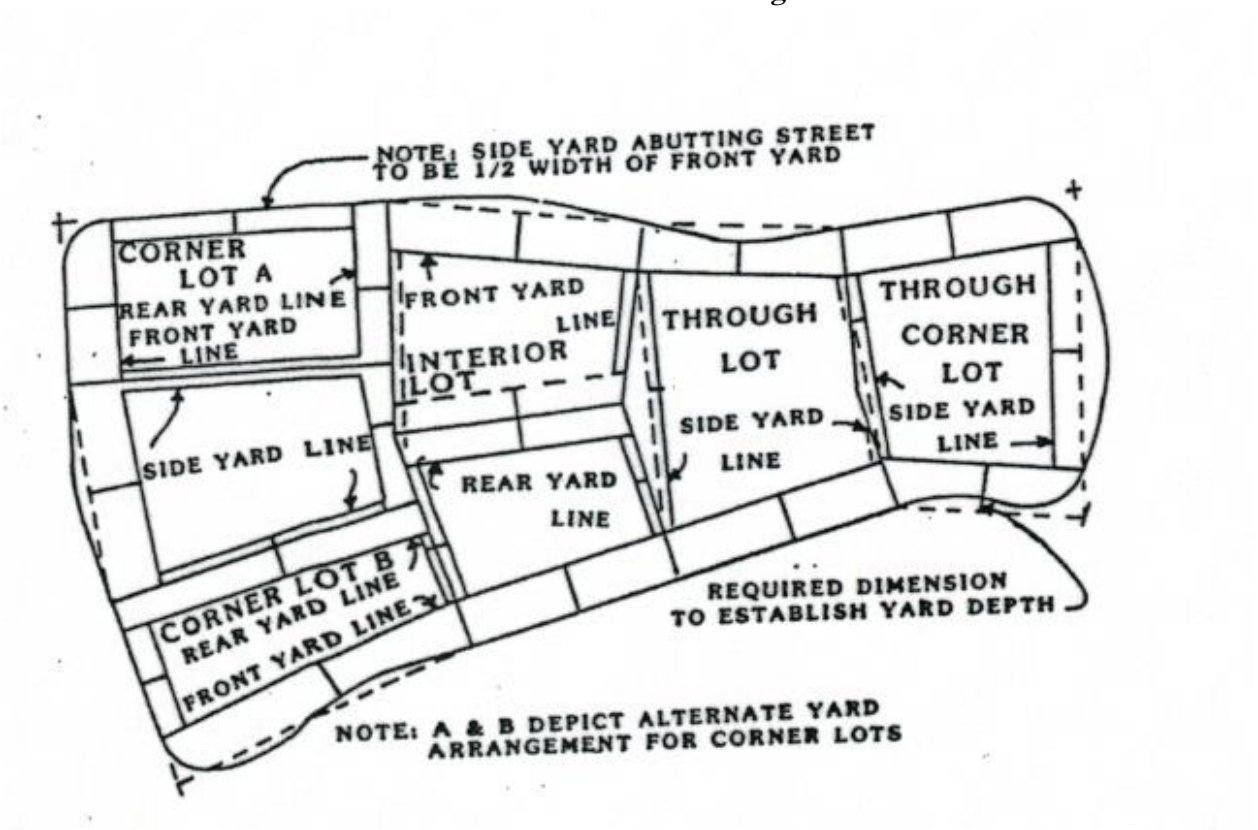
USE AND OCCUPANCY PERMIT: A written permit which is required before occupying or commencing to use any building or any zone lot.

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 requited 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 – Sexually Oriented Business

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 Devise
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 Listing:
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
Commercial Sports Arenas and Playing Fields
Drag Strips
Race Tracks (Automobile, Motorcycle, Dog and Horse)

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

NOTE: **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 12-612.

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 – SEXUALLY ORIENETED BUSINESS

(A) Intent and Limitations

This grouping includes but is not limited to establishments whose principal activity is to provide adult entertainment or sexually oriented material to the general public.

(B) Use Listing: (These terms are defined in Sec. 8-402)

Adult Arcade
Adult Bookstore
Adult Novelty Store
Adult Video Store
Adult Cabaret
Adult Motion Picture Theater
Adult Theater
Massage Parlor
Nude Model Studio

Sauna
Sexual Encounter Center

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:

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

b. Athletic Associations	
c. Libraries	
d. Museums	
e. Planetariums and Aquariums	
f. All other uses	(See Note-l)
5. Essential Public Transport, Communications and Utility Services	
All uses	(See Note-l)
6. Extensive Impact Facilities	
All uses	(See Note-l)
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-l)
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-l)
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.

ACTIVITY TYPES	GROSS FLOOR AREA (Square Feet)
1. Animal Care & Veterinarian Services	300
2. Automotive & other Vehicular, Craft and Related Equipment Sales, Rental and Delivery	500
3. Automotive Repair and Cleaning	200
4. Automotive Servicing	200
5. Building Materials and Farm Equipment Sales	1,000
6. Business and Communications Service	400
7. Construction Sales and Services	500
8. Convenience Retail Sales and Services	150
9. Financial, Consulting and Administrative Services	400
10. Food and Beverage Service - General	150
11. Food Service - Limited	100
12. General Equipment Maintenance and Repair Services	500
13. General Personal Service:	300
Undertaking	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.
14. General Retail Trade	400

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)	400
b. Motion Picture Theaters	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.
c. Theaters (Legitimate)	
d. Bowling Alleys and Billiard Parlors	(For (d) through (i), See Note-l)
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	
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.

ACTIVITY TYPES	REQUIREMENTS
1. Plant Nursery	Five (5) spaces plus one (1) additional space for each five (5) acres devoted to such use.
2. Stockyards	(See Note-l)
3. Veterinary Services	(See Note-l)
4. Forest Nurseries	(See Note-l)
5. Mining and Quarrying Activities	(See Note-l)

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

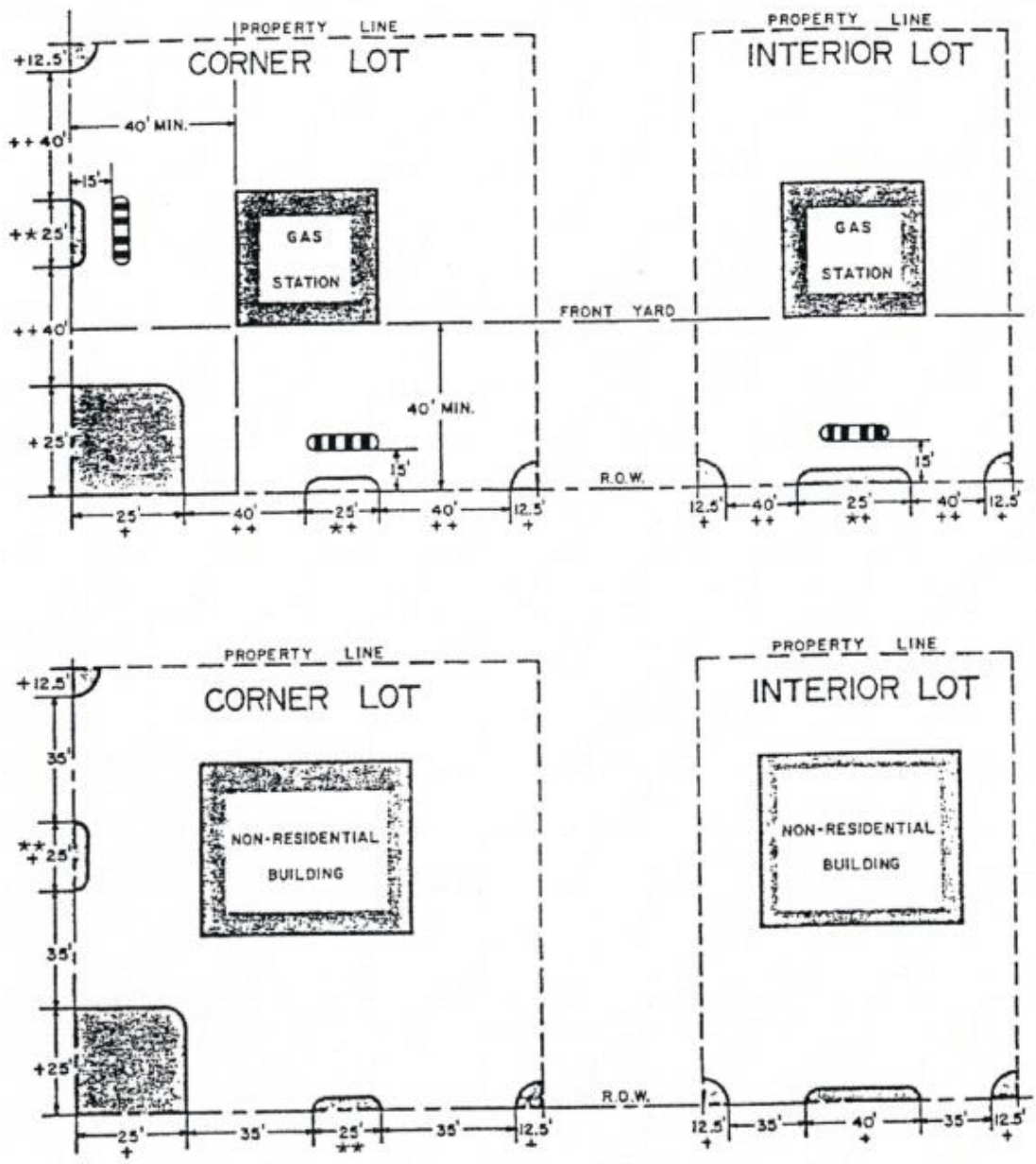
Any application for a building permit, or for a use and occupancy permit where no building permit is necessary, that requires five (5) or more accessory off-street parking spaces to be provided on a zone lot, shall be accompanied by a site plan drawn to scale and fully dimensioned. Said plan shall show 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 14-202.202, 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



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.

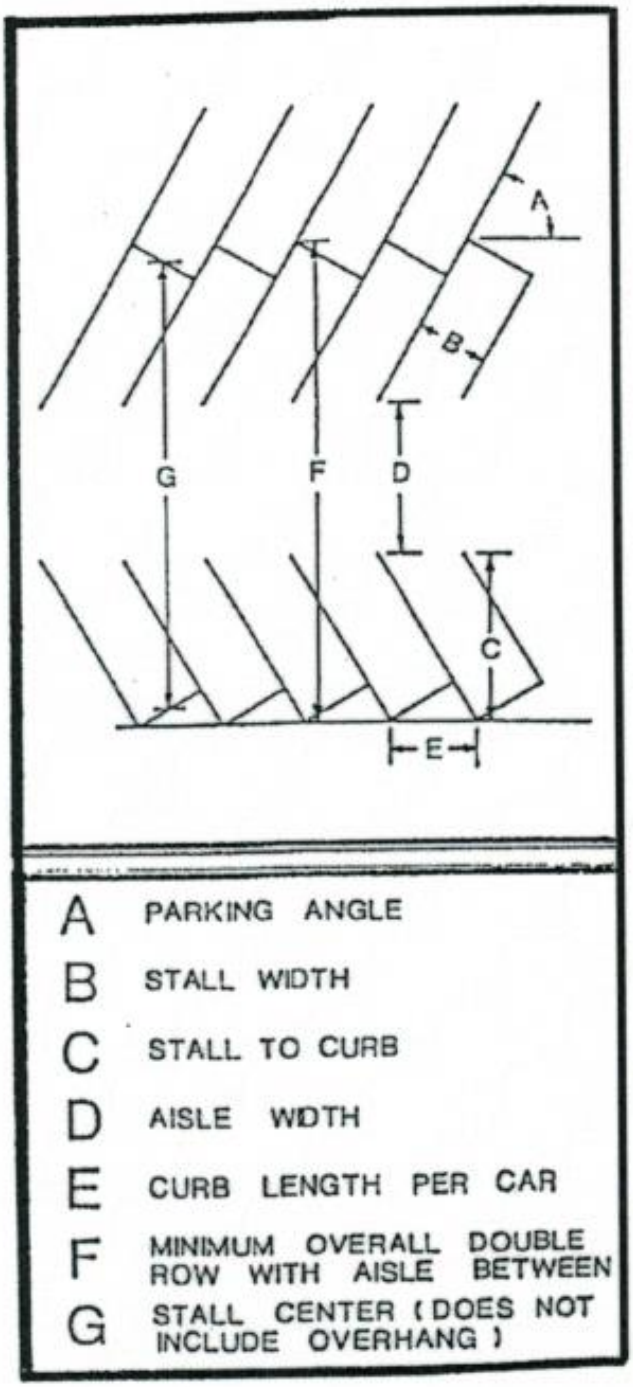
(f) Drainage. All driveways shall be constructed with proper drain pipes sized for the amount of water each should carry. Such pipes may be of concrete or metal, and headwalls and endwalls shall be constructed.

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

A	B	C	D	E	F	G
0°	9.0' 9.5' 10.0'	9.0' 9.5' 10.0'	12.0' 12.0' 12.0'	23.0' 23.0' 23.0'	30.0' 31.0' 32.0'	- - - - - - - - -
20°	9.0' 9.5' 10.0'	15.0' 15.5' 15.9'	11.0' 11.0' 11.0"	26.3' 27.8' 29.2'	41.0' 42.0' 42.8'	32.5' 33.1' 33.4'
30°	9.0' 9.5' 10.0'	17.3' 17.8' 18.2'	11.0' 11.0' 11.0'	18.0' 19.0' 20.0'	45.6' 46.6' 47.4'	37.8' 38.4' 38.7'
40°	9.0' 9.5' 10.0'	19.1' 19.5' 19.9'	12.0' 12.0' 12.0'	14.0' 14.8' 15.6'	50.2' 51.0' 51.8'	43.3' 43.7' 44.1'
45°	9.0' 9.5' 10.0'	19.8' 20.1' 20.5'	13.0' 13.0' 13.0'	12.7' 13.4' 14.1'	52.6' 53.2' 54.0'	46.2' 46.5' 46.9'
50°	9.0' 9.5' 10.0'	20.4' 20.7' 21.0'	12.0' 12.0' 12.0'	11.7' 12.4' 13.1'	52.8' 53.4' 54.0'	47.0' 47.3' 47.6'
60°	9.0' 9.5' 10.0'	21.0' 21.2' 21.5'	18.0' 18.0' 18.0'	10.4' 11.0' 11.5'	60.0' 60.4' 61.0'	55.5' 55.6' 56.0'
70°	9.0' 9.5' 10.0'	21.0' 21.2' 21.2'	19.0' 18.5' 18.0'	9.6' 10.1' 10.6'	61.0' 60.9' 60.4'	57.9' 57.7' 57.0'
80°	9.0' 9.5' 10.0'	20.3' 20.4' 20.5'	24.0' 24 0' 24.0'	9.1' 9.6' 10.2'	64.3' 64.4' 65.0'	62.7' 62.7' 63.3'
90°	9.0' 9.5' 10.0'	19.0' 19.0' 19.0'	24.0' 24.0' 24.0'	9.0' 9.5' 10.0"	62.0' 62.0' 62.0'	- - - - - - - - -



4-109.5 <u>SPECIAL PROVISIONS FOR ACCESSIBLE PARKING</u>

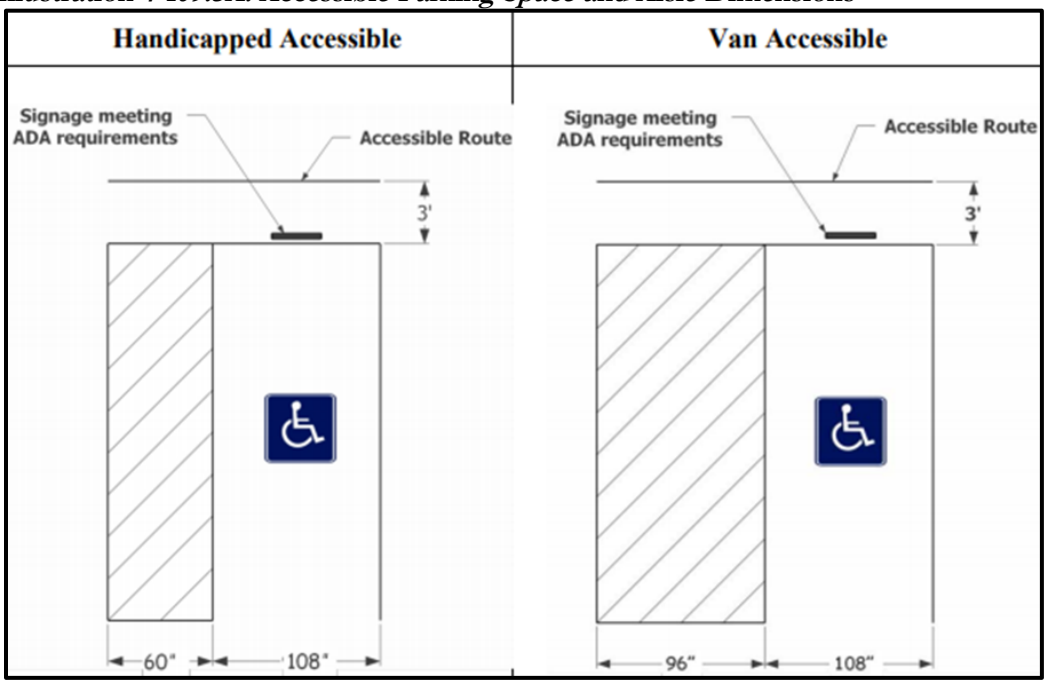
Off-street parking facilities shall provide parking spaces specifically designed, located, signed and reserved for vehicles licensed for use by the disabled by providing accessible permitted spaces according to these regulations.

4-109.501 <u>Number of Spaces Required</u>
Accessible spaces shall be provided as required by the following table.

Total Parking Spaces	Accessible Parking Spaces	Van Accessible	Accessible
up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	2	5
301 to 400	8	2	6
401 to 500	9	2	7
501 to 1,000	2% of Total	a	a
over 1,000	20 plus 1 for each 100 over 1,000	a	a
Note: a) One (1) van accessible spaces shall be provide for every six (6) accessible spaces			

4-109.502 <u>Dimensions of Spaces</u>
Accessible parking spaces shall be sized according to the Illustration 4-109.5A.

Illustration 4-109.5A: Accessible Parking Space and Aisle Dimensions



4-109.503 Location of Spaces

Accessible parking spaces shall be located on the shortest accessible route of travel to an accessible entrance. An accessible route shall be provided from the accessible parking to the accessible entrance. The route shall be a minimum of three (3) feet wide, have stable, slip resistant surface, and have a slope no greater than 1:12. The route shall be protected by wheelstops when necessary.

4-109.504 Access Aisles

Access aisles shall adjoin an accessible route. Two parking spaces shall be permitted to share a common access aisle. Accessible routes must connect parking spaces to accessible entrances. In parking facilities where the accessible route must cross vehicular traffic lanes, marked crossings enhance pedestrian safety. Where possible, it is preferable that the accessible route not pass behind parked vehicles.

Van accessible aisles shall be 96 inches wide minimum and accessible aisles shall be 60 inches wide minimum. Access aisles shall extend the full length of the parking spaces they serve. Access aisles shall be marked so as to discourage parking in them.

Access aisles shall not overlap the vehicular way. Access aisles shall be permitted to be placed on either side of the parking space except for angled van parking spaces which shall have access aisles located on the passenger side of the parking spaces.

The running slope of parking spaces and access aisle shall not be steeper than 1:20. The cross slope of parking spaces and access aisle shall not be steeper than 1:48. Access aisles shall be at the same level as the parking spaces they serve. Changes in level are not permitted.

4-109.505 Signage

Parking space identification signs shall include the International Symbol of Accessibility. Signs identifying van parking spaces shall contain the designation "van accessible."

4-109.6 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.

4-109.7 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.

4-109.8 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.

4-109.9 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.

4-109.10 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:

TYPE OF USE	FOR FLOOR AREA (In square feet)	BERTHS
(a) Residential Multi-Family	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
(b) Community Facilities		
1. Community Assembly	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
2. Educational Facilities	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
3. Cultural and Recreational Services	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
4. Health Care	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
5. Special Personal and Group Care Facilities	Less than 20,000	None
	20,000 to 100,000	1
	100,001 to 300,000	2
	Each additional 300,000 or fraction of one-half or more thereof	1
(c) Commercial		
1. Convenience Retail Sales and Service	Less than 10,000	None
	10,000 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3

		60,001 to 100,000	4
		Each additional 150,000 or fraction of one-half or more thereof	1
2.	Transient Habitation	Less than 20,000	None
		20,000 to 100,000	1
		100,001 to 300,000	2
		Each additional 300,000 or fraction of one-half or more thereof	1
3.	Food and Beverage Services – General	Less than 10,000	None
		10,000 to 25,000	1
		25,001 to 40,000	2
		40,001 to 60,000	3
		60,001 to 100,000	4
		Each additional 80,000 or fraction of one-half or more thereof	1
4.	Professional Services – Medical	Less than 20,000	None
		20,000 to 100,000	1
		100,001 to 300,000	2
		Each additional 300,000 or fraction of one-half or more thereof	1
5.	General Personal Services; Financial, Consulting and Administrative; or Professional Services – Other	Less than 20,000	None
		20,000 to 100,000	1
		100,001 to 300,000	2
		Each additional 300,000 or fraction of one-half or more thereof	1
6.	Business and Communication Service, or Sales and Construction Services	Less than 10,000	None
		10,000 to 25,000	1
		25,001 to 40,000	2
		40,001 to 60,000	3
		Each additional 150,000 or fraction of one-half or more thereof	1
7.	Wholesale Sales	Less than 10,000	None
		10,000 to 25,000	1
		25,001 to 40,000	2
		40,001 to 60,000	3
		60,001 to 100,000	4
		Each additional 80,000 or fraction of one-half or more thereof	1
8.	Automotive Repair and Cleaning; Food Service – Limited;	Less than 10,000	None
		10,000 to 25,000	1
		25,001 to 40,000	2

Automotive Servicing	40,001 to 60,000	3
	60,001 to 100,000	4
	Each additional 80,000 or fraction of one-half or more thereof	1
9. General Retail Trade; Group Assembly – Limited; Group Assembly – Extensive; General Equipment and Repair Services	Less than 10,000	None
	10,000 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each additional 150,000 or fraction of one-half or more thereof	1
10. Animal Care and Veterinarian Services; Undertaking Services	Less than 10,000	None
	10,000 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each additional 80,000 or fraction of one-half or more thereof	1
11. Warehousing, Transportation and Storage	Less than 2,000	None
	2,001 to 10,000	1
	10,001 to 25,000	2
	25,001 to 40,000	3
	40,001 to 60,000	4
	60,001 to 100,000	5
	Each additional 80,000 or fraction of one-half or more thereof	1
12. Automotive and Other Vehicular, Craft, and Related Equipment Sales Rental and Delivery	Less than 10,000	None
	10,000 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each additional 80,000 or fraction of one-half or more thereof	1

(d) <u>Manufacturing</u>

1. All Manufacturing Activities	Less than 5,000	None
	5,001 to 20,000	1
	20,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each additional 80,000 or fraction of one-half or more thereof	1

4-110.3 <u>ACCESSORY OFF-STREET LOADING BERTHS UNDER CONDITIONAL USE REQUIREMENTS</u>

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 <u>SPECIAL PROVISIONS FOR MULTIPLE USES LOCATED ON A SINGLE ZONE LOT</u>

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 <u>SIZE OF REQUIRED BERTHS</u>

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.

4-111 <u>SURFACING OF PARKING, LOADING, AND STORAGE AREAS</u>

4-111.1 PARKING LOTS

All required off-street parking areas as well as access drives shall be paved with asphalt, concrete, or brick, so as to be durable and dustless. Each parking space shall be physically delineated on the surface of the parking area.

4-111.2 LOADING AREAS

All off-street loading areas as well as access drives shall be paved with asphalt, concrete, or brick, so as to be durable and dustless. Each loading space shall be physically delineated on the surface of the parking area.

4-111.3 STORAGE AREAS

4-111.301 In Commercial Districts

All exterior storage areas shall be surfaced with an asphalt, concrete, or brick surface. The exterior storage area shall not be located any closer to a right of way than the front of the principle structure. In the case of a corner lot, any closer to the right of way than the side of the principal structure.. Automobile, watercraft, farm implement dealers, and the like may store vehicles being marketed for sale between the building and public right-of-way.

4-111.302 In Industrial Districts

All exterior storage areas shall be surfaced to provide a durable, dustfree surface. All areas shall be graded and drained so as to dispose of all surface water accumulated within the area. The exterior storage area shall not be between the building and the public right-of-way.

All exterior storage areas shall have paved entrances and exits. The rest of the lot maybe gravel if rocks are prevented from getting into the public streets. All areas shall be graded and drained so as to dispose of all surface water accumulated within the area. Exterior storage areas with direct access to a public right-of-way shall have entrances and exits surfaced with asphalt or concrete for at least fifty (50) feet.

4-111.4 BOARDER BARRIER REQUIRED

All off-street parking areas shall be provided with a curb of a height sufficient to retain all cars completely within the property together with appropriate landscaping except at access driveways. All sidewalks and pedestrian ways shall be protected by wheel stops to maintain thirty-six (36) inches of access unless a greater distance is required to meet ADA (Americans with Disabilities Act) accessibility requirements.

4-111.5 OVERFLOW PARKING

Overflow parking shall include any parking required beyond the minimum parking requirements for commercial or community facility uses. When overflow parking is provided the use of pervious or semi-pervious parking area material is encouraged. Material acceptable for overflow parking, includes but not limited to grass with roll over curbs, "grasscrete", ring and grid systems used in conjunction with grass seed or sod, porous or grid pavers, or recycled materials such as glass, rubber, used asphalt, brick, block and concrete may be approved for the required vehicular surface area on a lot provided that such areas are properly maintained.

Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices and/or landscape islands.

4-111.6 <u>ALTERNATIVE MATERIALS</u>

The use of pervious or semi-pervious parking area surfacing materials, including but not limited to permeable concrete or asphalt, porous or grid pavers, or recycled materials such as glass, rubber, used asphalt, brick, block and concrete may be approved for the required vehicular surface area on a lot provided that such areas are properly maintained. When required by other portions of this ordinance, such materials shall be used in areas proximate to and in combination with on-site stormwater control devices and/or landscape islands.

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.

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 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.

DISSOLVE: A mode of message transition on an EMC accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

ELECTRONIC MESSAGE CENTER (EMC): Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes electronic changeable copy signs.

FADE: A mode of message transition on an EMC accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

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

FLASHING: an intermittent or flashing light source where the identical EMC message is constantly repeated at extremely fast intervals

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.

STATIC MESSAGE: Messages that contain static messages only, and do not have movement, or the appearance or optical illusion of movement during the static display period, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement.

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 postered panel type sign or any variation, thereof.

TRANSITION: A visual effect used on an EMC to change from one message to another.

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 Zoning Administrator 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 Zoning Administrator, a Master Signage Plan containing the following:

1. An accurate plot plan of the zone lot, at such scale as the Zoning Administrator, 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator: 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 Zoning Administrator. Prior to construction of any sign, a construction permit shall be obtained from the Zoning Administrator. Sign use permits shall be obtained from the Zoning Administrator 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 Zoning Administrator shall review it for completeness. If the Zoning Administrator finds that it is complete, the application for plan review shall then be processed. If the application is incomplete, the Zoning Administrator 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 Zoning Administrator 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.

2. Failure to Act on Plan
   Failure by the Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator. 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator.

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 Zoning Administrator, 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 Zoning Administrator that any sign is unsafe, not secure, in violation of this section, or is 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 Zoning Administrator 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 Zoning Administrator 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.

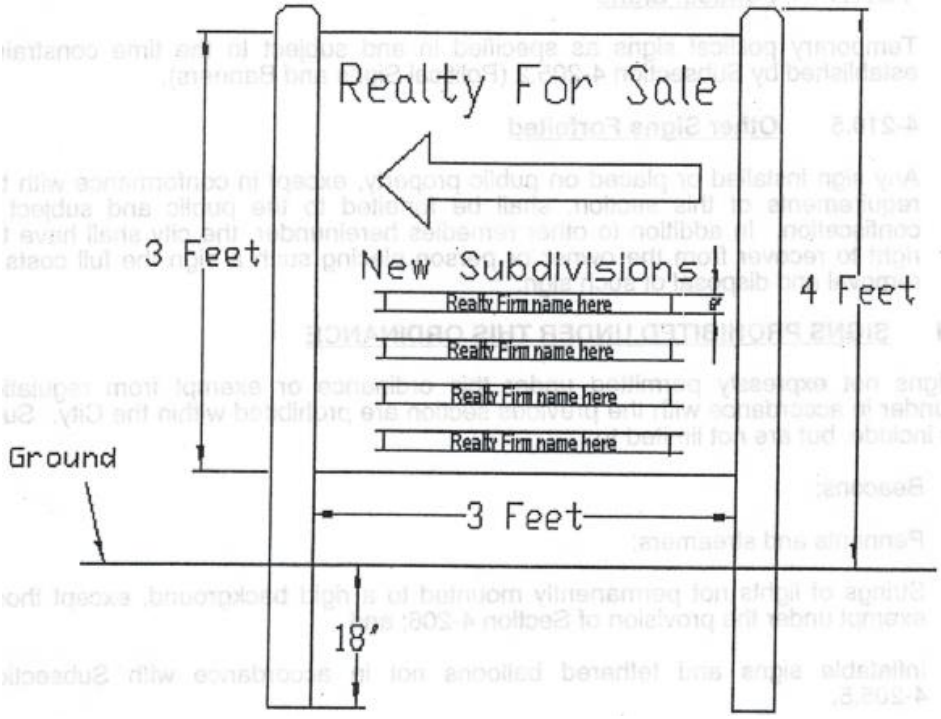
6. Freestanding residential and office subdivision identification signs as specified in Subsection 4-207.4, Subpart 1 (Freestanding Signs).

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 hereinunder, 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;

J. Signs, Off-Premises

K. Billboards

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 <u>Design of Replacement off-premises (off-site/billboard) signs</u>

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 tum 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 <u>Interstate Sign District</u>

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 have a five (5) foot setback from the property line and eight (8) foot setback from electrical lines. The setback shall be measured to nearest edge of the sign.

4-216 <u>Electronic Messaging Centers (EMC)</u>

1) Only one (1) EMC sign is permitted on a lot or parcel.
2) EMC signs must be at least one hundred fifty (150) feet from the nearest existing residence.
3) EMC signs shall not exceed thirty-six (36) square feet of electronic copy area. EMC signs shall be included in the overall sign allowances.
4) Electronic graphic display signs shall not project images or messages into the sky, or onto buildings or other objects.
5) The illumination of the sign shall not exceed 3.0 foot-candles over ambient lighting conditions, day or night. Measurements shall be as prescribed in the document "Recommended Brightness Levels on On-Premise Electronic Message Centers" published by the International Sign Association.
6) All EMCs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.
7) A malfunctioning sign shall be programmed to shut down.
8) The sign is not a nonconforming sign. Nonconforming signs are not allowed to convert to electronic/digital changeable copy, unless the sign as an element of its nonconformity already has such electronic/digital changeable copy.
9) Shall be of high-resolution quality (10mm minimum).
10) The electronic message center message shall not change more than once every seven (7) seconds. Such EMC shall contain messages without rapid movement or flashing. The transition duration between messages shall be instantaneous or may dissolve or fade with a duration of not to exceed one (1) second.
11) The electronic message center message shall only contain messages related to the on-premise use except for community, non-profit, and City of Portland events.

(AMENDED BY ORDINANCE 06-12, JUNE 5, 2006)

A KEY TO TABLE 4-207-A THROUGH 4-207-E

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

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

(AMENDED BY ORDINANCE 06-12, JUNE 5, 2006)

TABLE 4-207-A: PERMITTED SIGNS BY TYPE AND ZONING DISTRICT

Sign Type	All RS	All RSD	RM-1	R-MHP	COM. FAC., (a)	OPS & NSD	ISD	GCS	HCD	HSD	CBD	All Ind.
FREESTANDING												
Residential. (b)	P	P	P	P	N	N	N	N	N	N	P	N
Other	N	N	S	S	S	S	S	S	S	S	S	S
Incidental, (c)	P	P	P	P	P	P	P	P	P	P	P	P
Monument	S	S	S	S	S	S	S	S	S	S	S	S
BUILDING												
Banner (Commercial)(i)	N	N	N	N	N	S	S	S	S	S	S	S
Building Marker, (c)	P	P	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	S	N	S	S	S	S	S	S	S	S
Identification, (d)	P	P	P	P	P	P	P	P	P	P	P	P
Incidental, (c)	P,(e)	P,(e)	P,(e)	P,(e)	P,(e)	P	P	P	P	P	P	P
Marquee	N	N	N	N	N	S	S	S	S	S	S	S
Projecting, (f)	N	N	N	N	N	S	S	S	S	S	S	S
Residential, (b)	P	P	P	N	P	N	N	N	N	N	N	N
Roof	N	N	N	N	N	N	N	N	N	N	N	N
Roof, Integral	N	N	N	N	N	N	S	S	S	S	S	S
Suspended, (f)	N	N	N	N	N	S	S	S	N	S	S	S
Temporary, (g)	S	S	S	S	S	S	S	S	S	S	S	S
Wall	P,(b)	P,(b)	P,(b)	P,(b)	P,(b)	S	S	S	S	S	S	S
Window	N	N	N	N	N	S	S	S	S	S	S	S
MISCELLANEOUS												
Banner (noncommercial)	P	P	P	P	P	P	P	P	P	P	P	P
Flag, (h)	P	P	P	P	P	P	P	P	P	P	P	P
Portable	N	N	N	N	N	N	S	S	S	S	S	S
Trailer	N	N	N	N	N	N	N	N	N	N	N	N
Electronic Messaging Center	N	N	N	N	P,(j)	P,(j)	P,(j)	P,(j)	P,(j)	P,(j)	P,(j)	P,(j)

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 a freestanding sign or a 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 a 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.
(j)Electronic Messaging Centers shall be subject to Section 4-216.

(AMENDED BY ORDINANCE 06-12, JUNE 5, 2006)

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:

	All RS	**All RSD**	**RM-1**	**R-MHP**	**COM. FAC., (a)**	**OPS & NSD**	**ISD**	**GCS**	**HCD**	**HSD**	**CBD**	**I-R**	**I-G & I-S**
Maximum Area (in sq. ft.)	8	8	150	150	100	100	400	400	400	400	400	400	1,000
Percentage of Ground Floor Area of Principal Building	NA	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	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).

(AMENDED BY ORDINANCE 09-29, AUGUST 3, 2009)

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.

Sign Type	**All RS**	**All RSD**	**All RM**	**R-MHP**	**COM. FAC., (a)**	**OPS & NSD**	**ISD**	**GCS**	**HCD**	**CBD**	**I-R**	**I-G**	**I-S**
FREESTANDING													
Area (sq. ft.)	8	8	12	12	40	40	160	80	160	60	80	80	320
Height (ft.) (e)	5	5	5	5	6, b	6, b	18	18	18	6, b	18	18	18
Setback (ft.)	e	e	e	e	e	e	e	e	e	e	e	e	18
Number Permitted (e)													
1. Per Zone Lot	1	1	NA	NA	1	NA	NA	NA	NA	NA	NA	NA	1
2. Per Feet of Street Frontage	NA	NA	1 per 200	1 per 200	NA	1 per 100	1 per 200	1 per 100	1 per 200	1 per 200	1 per 800	1 per 200	NA
BUILDING													
Area (Maximum sq. ft.)	8	8	12	12	NA	NA	NA	NA	NA	NA	NA	NA	NA
Wall Area (Percent), (d)	NA	NA	NA	NA	NA	25	25	25	25	25	25	15	15

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.

e. Signs shall be placed on private property and not within the right-of-way of any street. A sign shall be measured to the nearest edge.

TABLE 4-207-D: NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE

			Vertical Clearance	
	Number Allowed	**Minimum Sign Area**	**From Sidewalk, Private Drive or Parking**	**From Public Street**
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				
Banner	See Subsection 4-205.3	See Subsection 4-205.3	9 Feet	12 Feet
Building Marker	1 per Building	4 Square Feet	NA	NA
Canopy	1 per Occupant	25% of Vertical Surface of Canopy	9 Feet	12 Feet
Identification	1 per Occupant	NA	NA	NA
Incidental				
Marquee	1 per Occupant	NA	9 Feet	12 Feet
Projecting	NA	NA	NA	NA
Residential	1 per Zone Lot	NA	NA	NA
Roof, Integral	2 per Principal Building	NA	NA	NA
Suspended	1 per Entrance	NA	9 Feet	NA
Temporary	See Section 4-205	NA	NA	NA
Wall	NA	NA	NA	NA
Window	NA	25% of Total Window Area	NA	NA
MISCELLANEOUS				
Banner	See Subsection 4-205.3	See Subsection 4-205.3	9 Feet	12 Feet
Flag	NA	NA	9 Feet	12 Feet
Portable	1 Where Allowed	20 Square Feet	NA	NA

(AMENDED BY ORDINANCE 06-12, JUNE 5, 2006)

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

Sign Type	All RS	All RSD	RM-1	R-MHP	COM. FAC., (a)	OPS & NSD	ISD	GCS	HCD	HSD	CBD	I-R	I-G & I-S
Animated	N	N	N	N	N	N	N	N	N	N	N	N	N
Changeable Copy	N	N	A	N	A	N	A	A	A	A	A	A	A
Illumination, Internal	N	N	A, (b)	N	N	N	A	A	A	A	A	A	A
Illumination, External	N	N	N	A	A, (b)	A, (b)	A	A	A	A	A	A	A
Illumination, Exposed													
Bulbs	N	N	N	N	N	N	A	A	A	A	A	A	A
Neon	N	N	N	N	N	N	A	A	A	A	A	A	A
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.													

CHAPTER 3. ACCESS MANAGEMENT STANDARDS

4-301 STATE ROUTE 109 ACCESS MANAGEMENT STANDARDS

4-301.1 PURPOSE

State Route 109 is the primary north-south arterial serving travelers in the City of Portland. The purpose of the State Route 109 Access Management Standards is to allow access to land development in a manner that preserves the safety and efficiency of the transportation system, promotes economic development, and protects environmental resources along State Route 109 Bypass, as proposed by the Tennessee Department of Transportation, between Interstate 65 (I-65) and just south of Centerpoint Road where 109 exits the Portland Planning Region.

4-301.2 APPLICABILITY

The following access management standards apply to all properties abutting and street intersections along State Route 109 in the City of Portland. If conflicts exist between the requirements of this Chapter and other Chapters of Zoning Ordinance or the Subdivision Regulations, the requirements of this Chapter shall supersede.

4-301.3 STREET SPACING

Streets shall be spaced at increments of approximately 1,300 feet. Existing driveways shall be upgraded to streets when a property develops. If necessary, the access point shall also be relocated to comply with the 1,300 feet street spacing requirement, or to more evenly space access points along State Route 109.

4-301.4 TRAFFIC SIGNALS

Signalized intersections shall not be approved at increments less than 5,280 feet (1 mile). Any signal to be installed shall meet signal warrants as required by the TDOT Traffic Design Manual and receive approval from TDOT and the City of Portland.

4-301.5 LOT FRONTAGE

No frontage along State Route 109 shall be used to meet the frontage requirements of the Zoning Code or Subdivision Regulations unless a separate alley or frontage road is provided for access. Individual lots or parcels shall not have individual access to State Route 109.

4-301.6 DRIVEWAYS

Driveways that have not been previously approved by TDOT shall not be approved by the City.

4-301.7 SIDEWALKS

Generally, sidewalks should not be required on State Route 109, as the limited access requirements of the road limits locations for safe pedestrian crossings. At grade pedestrian crossing shall be limited to signalized intersections or as called for in Planning Documents adopted by the Board of Mayor and Aldermen. Planning Documents include but are not limited to a Land Use Plan, Transportation Plan, Corridor Plan, and/or other Small Area Plan. Sidewalks and other pedestrian pathways shall be included within developments along the Highway 109 corridor to ensure north-south movement of pedestrian to pedestrian crossings of Highway 109.

CHAPTER 4. DEVELOPMENT STANDARDS

4-401 TRAFFIC IMPACT ANALYSIS

As a part of an site development plan or subdivision, the Zoning Administrator and/or City Engineer may require, at no cost to the city, a traffic impact study. Traffic impact studies shall be prepared in accordance with the following standards:

4-401.1 WHEN REQUIRED

Traffic impact studies to assess the traffic impacts of a proposed access to adjoining and nearby streets and intersections shall be required when:

(A) The expected number of trips generated by a proposed land use exceeds an estimated 1,000 vehicle trips per day or 100 peak hour vehicle trips per day; or

(B) A proposed land use generates less than 1,000 vehicle trips per day, or 100 peak hour vehicle trips per day when:

(1) The use is on a site located at or near existing or planned signalized intersections; or

(2) The proposed land use may constitute a threat or danger to the safe and efficient flow of traffic.

(C) The Zoning Administrator and City Engineer may waive this provision if a recent, valid traffic study has been completed from which needed traffic impacts can be extrapolated.

4-401.2 PREPARATION

A traffic impact study shall be prepared by a qualified registered professional engineer using the standard format specified by the Institute of Transportation Engineers (ITE) publication Traffic Access and Impact Studies for Site Development, in accordance with the following:

(A) Initial Meeting Prior to preparation of a traffic impact study, the preparer shall review the following with the Zoning Administrator and City Engineer:

(1) Study methodologies and assumptions;
(2) The study area designation;
(3) The study horizon year;
(4) The time periods to be analyzed;
(5) Other approved developments in progress; and
(6) Planned or on-going relevant roadway projects.

(B) Memorandum of Understanding (MOU)

(1) Following initial review with the Zoning Administrator and City Engineer, the study preparer shall submit a MOU documenting the concepts discussed during the initial review.

(2) Following approval of the MOU by the Zoning Administrator, the study may be prepared.

(C) Data

Traffic impact studies shall be prepared utilizing traffic data that are consistent with:

(1) The land use and density data as referenced in the most current edition of Trip Generation, published by the Institute of Transportation Engineers;

(2) Current city and state traffic counts for surrounding streets;

(3) The marketing study for the proposed land use; and

(4) Any additional traffic counts performed as a part of preparing the study.

4-401.3 <u>MINIMUM REQUIREMENTS</u>

Unless otherwise specified by the Zoning Administrator and/or City Engineer, the study shall address:

(A) Trip generation and directional distribution;

(B) Traffic assignment to streets and access locations;

(C) Twenty-four-hour and a.m. and p.m. peak hour, including midday peak hour for nonresidential development, traffic forecasting (on-site and off-site);

(D) Capacity analysis and level of service for adjoining streets, and nearby intersections (including at least one signalized intersection beyond the project boundary) before and after the proposed full development;

(E) Recommendations for street improvements and traffic control installation, a warrant analysis for new signals included in the study, and modifications to existing signals; and

(F) Recommendations for Intelligent Transportation System (ITS) elements in accordance with the ITS Master Plan.

4-401.4 <u>MINIMUM LEVEL OF SERVICE STANDARDS</u>

The following minimum levels of service shall be maintained before, during, and after new development or redevelopment subject to the standards in this subsection:

(A) Roadway and Intersection Operation All roadway segments and intersections shall maintain at least a Level of Service C.

(B) Intersection Turning Movements Lanes used for turning movements within intersections shall maintain a minimum Level of Service D.

(C) Less than Minimum Background Conditions Where forecasted conditions without the site traffic indicate levels of service below the acceptable minimum threshold, the developer shall perform all improvements necessary to restore the pre-development level of operation.

4-402 DESIGN STANDARDS

Standards for the design of any non-residential development or multi-family development (more than two dwelling units attached or detached) are located in the 'City of Portland Design Standards'.

4-403 STANDARDS FOR TELECOMMUNICATION TOWERS AND ANTENNAS

4-403.1 PURPOSE

This section establishes guidance for the siting and general appearance of commercial telecommunication facilities. The purpose of these regulations is to:

1) Enable telecommications providers to furnish comprehensive and efficient wireless communications services to the community, while minimizing the adverse impacts their facilities may have on neighboring properties;

2) Assure safety to the most practical extent possible;

3) Ensure compatibility with adjacent land uses;

4) Protect revitalization and redevelopment areas, historic districts and other like areas of considerable investment;

5) Avoid adverse visual impacts to the city landscape; and

6) Discourage unnecessary proliferation of wireless facilities.

4-403.2 DEFINITIONS

Antennas - any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

Distributed antenna system or DAS - a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

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.

Small cells - compact wireless base stations containing their own transceiver equipment and which function like cells in a mobile network but provide a smaller coverage area than traditional cell towers.

Tower - any structure that is designated and constructed primarily for the purpose of supporting one or more antennas, including serf-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.

4-403.3 APPLICABILITY

1) New Towers and Antennas. All new towers or antennas in the City of Portland shall be subject to these regulations, except as provided in Sections 4-402.3 2) through 3) inclusive.

2) Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 4-402.8 and 4-402.9.

3) Amateur Radio Stations. Amateur radio stations (Hams) licensed under FCC Regulations, Part 97, shall be compliant with FCC 97.15 (a-e) and shall be subject to Section 4-402.6 of this ordinance.

4) Small Cell and DAS Towers. Small Cell and DAS Towers on private property shall be subject to Section 4-402.10 of this ordinance.

4-403.4 ADMINISTRATIVE APPROVAL OF TOWER AND ANTENNAS SITE DEVELOPMENT PLAN

1) All tower and antennas subject to this ordinance shall receive an administrative review of the site development plan and may be approved administratively by the Zoning Administrator when all applicable portions of this Ordinance and other local Ordinances and Regulations have been met.

2) The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

3) If an administrative approval is denied, the applicant has the right to appeal to the Planning Commission.

4-403.5 NEW TOWER DEVELOPMENT STANDARDS

4-403.501 Interpretation

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. The Zoning Administrator shall be the official interpreter of this Ordinance where official interpretations are needed, required or requested.

4-403.502 Exceptions

The following facilities are exempt from this section:

1) Satellite earth stations, dishes and/or antennas used for private television

reception not exceeding three (3) feet in diameter;

2) A government-owned towers or antennas installed upon the declaration of a state of emergency by the federal, state or local government, or a written determination of public necessity by the city; except that such facility must comply with all federal and state requirements;

3) A temporary, commercial tower or antenna installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the city; and

4) A temporary tower may be used for a period of ninety (90) days to allow repair of a damaged permanent towers or antennas, subject to approval by the city. Such temporary tower shall comply with applicable setbacks and height requirements.

4-403.503 <u>Height</u>

The height of a tower or antenna shall be calculated from base of the structure to the highest point of the structure. No tower or antenna shall exceed two hundred (200) feet in height unless the tower is within the Airport Overlay as described in Article XI: Airport Overlay District.

4-403.504 <u>Tower and Antennas Setbacks</u>

There shall be sufficient area of land to prevent the tower from injuring the public and to reduce the visual impact of the tower.

In residential or mixed use zoning districts any tower or antennas at least as far from the nearest property line as the tower or antennas is tall, plus ten (10) percent. For example, a 100 foot tower would have a 110 foot setback.

In commercial or industrial zoning districts any tower or antennas at least as far from the nearest property line as the tower or antennas is tall. For example, a 100 foot tower would have a 100 foot setback.

4-403.505 <u>Separation of Tower and Antennas</u>

4-403.505.1Separation from City Hall

Towers and antennas shall be a minimum distance of one (1) mile from the Portland City Hall to the base of the tower or antennas, with the exception of small cell deployments as defined by this section.

4-403.505.2 Separation from other Towers and Antennas

For the purpose of this Section, the separation distances between Towers shall be measured by following a straight line between the base on the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower. The minimum Tower separation distances from residentially zoned land and from other Towers shall be calculated and applied irrespective of City jurisdiction

boundaries.

Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Section.

Tower structures shall be separated from all other Towers by a minimum of 1,500 feet.

4-403.506 Principal or Accessory Use

A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structure. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not limited to setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located in a leased area within such lot or parcel. Towers that are constructed and antennas that are installed in accordance with the provision of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

4-403.507 Signs

No signs shall be allowed on any antenna or tower or accompanying facility.

4-403.508 Security Fencing and Anti-Climbing Devices

All towers and supporting equipment governed by this Ordinance shall be enclosed by masonry wall not less than eight (8) feet in height and shall also be equipped with appropriate anti-climbing devices.

4-403.509 Landscaping and Screening

The following landscaping requirements shall apply to all towers governed by this Ordinance.

1) Tower facilities and associated components such as equipment shelters shall be landscaped with a landscaped area of plant materials which effectively screens the view of the tower compound. Landscaped areas shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound.

2) Where the tower is sited, abuts or is contiguous to any residential district there shall be provided a continuous, solid screening and it shall be of such plant materials as will provide a year round evergreen screening not less than four (4) feet in height at time of planting, and shall be permanently maintained by the owner/lessee of the tower.

3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.

4) Any required new vegetation shall be in place within thirty (30) days of the completion of the installation of any tower and its appurtenances.

5) The property owner shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat, and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the owner with new plantings that meet the requirements of these regulations.

6) Site landscaping is not required for antennas which are being collocated on existing towers, or which are being placed on other buildings or structures where the antenna is allowed as an accessory use

4-403.510 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.

4-403.511 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 paved and there shall be two (2) improved parking spaces on-site.

4-403.6 SPECIAL PROVISIONS FOR AMATEUR RADIO STATIONS

Amateur Radio Stations (Hams) licensed under FCC regulations shall be exempt from the general requirements of this ordinance. However, Amateur Radio Stations shall adhere to the following regulations:

A. No tower shall be placed within any required front, side, or rear setback area.

B. Towers shall be placed behind the rear building line of the principal structure on the lot.

C. All towers shall be properly grounded as per National Electric Code 810, Section C.

D. Amateur towers greater than one hundred (100) 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 Planning Department sufficient to show that all provisions of this section have been met.

E. 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 in this ordinance. 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.

F. Temporary towers may be erected for a maximum of forty-eight (48) hours for special events or emergencies upon approval by the Planning Department.

G. There shall be no more than one tower per lot.

4-403.7 <u>APPLICATION REQUIREMENTS</u>

An application to develop a transmission and communications tower shall include as a minimum the following:

1. A site development plan as required this ordinance, with all information required to ensure compliance with this ordinance.

2. A "Determination of No Hazard" from the Federal Aviation Administration, as well as all required Federal Communications Commission permit information.

3. Documentation that any applicable leasehold is no less than fifty (50) years in duration.

4. The names, addresses, and telephone numbers of all owners of other Communications/ Transmission Towers or useable antenna support structures within a one-half (1/2) mile radius of the proposed new Tower site, including city-owned property.

5. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's Telecommunication's facilities on city-owned Towers or useable Antenna Support Structures located within a one-half (1/2) mile radius of the proposed Tower site.

6. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's Telecommunications Facilities on Towers of useable Antenna Support Structures owned by other persons located within a one-half (1/2) mile radius of the proposed Tower site.

7. Written technical evidence from an engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another person's Tower or useable Antenna Support Structures owned by other persons located within one-half (1/2) mile radius of the proposed Tower site.

4-403.8<u>MAINTENANCE OR TOWER AND ANTENNAS</u>

1) Tower owners shall at all times employ ordinary and reasonable care and shall install

and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

2) Tower owners shall install and maintain Towers, Telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

3) All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any Person.

4) All maintenance or construction of Towers, Telecommunications Facilities, or antenna Support Structures shall be performed by licensed maintenance and construction personnel.

5) All Towers shall maintain compliance with current RF emission standards of the FCC.

4-403.9 <u>ABANDONMENT OF TOWER AND ANTENNAS</u>

The following regulations shall apply to ensure the removal of abandoned towers:

1) The owner of any telecommunications tower shall provide written notification to the Zoning Administrator within thirty (30) days of the occurrence of either or both of the following:
   a) The tower has changed ownership.

   b) Use of all telecommunications antennas on the tower has ceased.

2) All towers permitted under the requirements of these regulations that are not operated for telecommunications purposes for a continuous twelve (12) month period shall be considered abandoned, and the owner of such tower shall remove same within ninety (90) days of receiving notice from the Zoning Administrator. Failure to do so shall be deemed a violation of these regulations. The owner of the tower may appeal the decision of the Zoning Administrator to the city board of zoning appeals. At such hearing the owner shall be required to show just cause why the tower should not be considered abandoned and subject to removal.

3) At the time a request for a building permit is made, the applicant shall provide proof of the establishment of a financially secured and legally enforceable method of removing a telecommunications tower when it ceases to be used for a period of twelve (12) months. This may be in the form of a bond, a letter of credit or some other financial arrangement approved by the city finance director for financial adequacy and the city law director for legal enforceability. Such bond or other approved financial surety shall be maintained by the owner of the tower so long as the tower exists.

4-403.10 <u>SMALL CELL DEPLOYMENT</u>

New small cell and DAS tower development standards. For the purposes of this ordinance, references to small cell shall also include DAS. All development standards for small cell towers

are contained within this subsection and are not subject to subsection 4-402.4, new tower development standards.

1. *Tower height.* Towers shall not exceed forty (40) feet in height when existing or proposed buildings and structures on the lot are less than forty (40) feet high. In cases where there are taller buildings and structures on the lot, new small cell towers may match the existing height, up to sixty (60) feet.

2. *Collocation.* Collocations for two (2) separate wireless service providers on the same support structure is encouraged whenever feasible and safe.

3. *Antennas.* The maximum dimensions for panel style antennas shall be thirty (30) inches high and twelve (12) inches wide. The maximum dimensions for canister style antennas shall be forty-eight (48) inches high and sixteen (16) inches in diameter.

4. *Accessory equipment.* Shall be contained within a landscaped median, located in a ground vault or mounted on the pole at least eight (8) feet above the ground.

5. *Stealth.* Small Cells shall be designed to fit into the surrounding area by utilizing existing poles and structures. For example, locating antennas on parking lot light poles, signs, or flagpoles.

6. *Setback.* Antennas that are located on parking lot light poles or other existing structures are not subject to a minimum setback.

4-404 RESIDENTIAL ACCESSORY BUILDINGS AND/OR STRUCTURES.

It is the intent of this section that accessory buildings and/or structures may be permitted on any lot used or zoned for residential purposes. The following standards apply to residential accessory buildings and/or structures:

4-404.1 ACCESSORY BUILDINGS.

A. Are permitted in rear yards; no accessory building and/or structure shall be permitted in a regulatory front or side yard.

B. Shall be located a minimum of five (5) feet from any building and/or structure

C. Shall be located a minimum of ten (10) feet or the minimum side yard setback, whichever is least, from any property line.

D. Shall be included in calculations for impervious surface, lot coverage, floor area ratio, or any other zoning or site design requirements applying to the principal use of the lot.

E. Shall be secondary and subordinate to the principal structure.

F. Shall comply with any size requirements for the applicable zoning district.

G. Vehicles, including recreational vehicles, and travel trailers, shall not be used as

temporary or permanent living quarters, storage buildings, utility buildings, or other such uses.

4-404.2 SWIMMING POOLS, WADING POOLS, HOT TUBS, AND SIMILAR STRUCTURES.

A. Swimming pools, wading pools, hot tub, or similar structure shall be constructed no closer than five (5) feet from the waterline to any property line and shall be completely enclosed by a fence or wall in accordance with any adopted swimming pool code.

B. Any building or roofed area associated with a pool, hot tub, or similar structure shall comply with the accessory structure requirements if detached from the primary structure. If attached to the primary structure it shall comply with the zoning requirement of the primary structure.

4-405 FENCES, WALLS, AND HEDGES

Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard as follows:

A. Fences, walls, and hedges must comply with Section 12.01.010, Visibility at Intersections.

B. No fence or wall shall be installed so as to block or divert a natural drainage flow on to or off of any other land.

C. No fence or wall shall be installed over an occupied public utility and drainage easement.

D. Fences may be located along all front, side and rear yards and may be constructed on any common property line.

E. With the exception of chain link or similar material (i.e. welded wire) no fences shall be permitted in the floodplain and/or floodway.

F. Appearance – Fences and walls shall comply with the following standards:

1. Customary Materials – Fences and walls shall be constructed of materials customarily used and manufactured as common fence or wall materials, including solid wood, brick, masonry, stone, chain link, wrought iron, decorative metal materials, or products designed to resemble these materials. Chain link fencing approved as part of a Site Plan shall be vinyl coated and colored dark green, brown or black. Low voltage invisible fences with buried lines are excluded from this requirement.

1) Prohibited Materials – Fences and walls constructed of debris, junk, rolled plastic, sheet metal, plywood, or other waste materials are prohibited in all zone districts, unless such materials have been recycled and reprocessed into building materials marketed to the general public and designed for use as fencing or wall materials. Vinyl slats or thin fabric inserts or coverings are not allowed to be used in any fencing. Barbed wire, electrified fences, or similar products shall not be permitted in

any residential, mixed use, office, or commercial district except on property used primarily for agricultural purposes.

2. Finished Side to Outside – All fences and walls shall be oriented with the "good" or "finished" side facing outward (i.e. one side has visible support framing and the other does not) rather than facing the interior of the lot. This provision shall not preclude the placement of a shadow-box type fence.

3. Uniformity of Materials – Fencing and wall segments located along a single lot side shall be of uniform height, material, type, color, and design and shall be uniform for the entire length of the fence or wall, except where a fence or wall segment transitions from one yard to another or from one height to another.

4. Height Requirements
    a. In residential districts, fences and walls shall not exceed a height of thirty (30) inches in a required front yard and six (6) feet in a required side and rear yard. A fence may exceed the thirty (30) inches if the fence is at least seventy-five (75) percent transparent. Examples of 75% transparency include but are not restricted to: open wrought iron or chain link.

        On corner lots or double frontage lots, a fence in the second front yard, may exceed thirty (30) inches in height but not six (6) feet so long as it does not extend past the front façade of the primary building and is setback at least fifteen (15) from the edge of pavement or on the right of way line, whichever is greater.

    b. In commercial and industrial districts, fences and walls shall not exceed a height of four (4) feet in a required front yard and ten (10) feet in a required side or rear yard. A fence may exceed the thirty (30) inches if the fence is at least seventy-five (75) percent transparent. Examples of 75% transparency include but are not restricted to: open wrought iron or chain link.

        On corner lots or double frontage lots, a fence in the second front yard, may exceed four (4) feet in height but not ten (10) feet so long as it does not extend past the front façade of the primary building and is setback at least fifteen (15) from the edge of pavement or on the right of way line, whichever is greater.

    c. In any district, if a fence is constructed on top of a retaining or other wall or berm, the combined height of the fence and wall/berm shall not exceed the maximum height that would apply to a fence or wall alone, in relation to the grade on the highest side of the wall.

    d. In industrial or commercial districts, any fence installed in a front yard shall be at least fifty (50) percent transparent (that is, it shall obscure no more than 50 percent of the view into the land). This section is not intended to

prevent the screening of recycle centers, junk yards, scrap yards, and the like from the view of surrounding properties or public right-of-way.

5. Maintenance Required – All fences and walls shall be maintained in good repair and in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements.

CHAPTER 5. LANDSCAPING, SCREENING, AND BUFFERING

4-501 INTENT

The intent of this section is to establish a set of minimum landscape standards in order to promote the health, safety, and welfare of the general public; to improve the overall appearance of the community; to reduce storm water runoff, noise, heat, and chemical pollution through the preservation and installation of canopy trees; and to reduce the impact of incompatible land-uses through requirements for buffer yards along zoning boundaries which will minimize potential harmful effects of one use on another. The Planning Commission may grant waivers from these standards as indicated in the various subsections.

4-502 APPLICABILITY

The standards in this section apply to all subdivisions of two (2) acres or greater, as well as site development plans for multi-family and non-residential development in the City that are submitted after the effective date of this ordinance, unless otherwise specified within this section. Final plats and site plans based upon previously approved plats shall conform with the regulations applicable at the time of their approval.

4-503 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.

4-504 LANDSCAPE PLAN

The Landscape Plan shall reflect the developer's, builder's, or property owner's best effort to utilize landscaping in order to soften the impact of development and help blend new development into Portland's existing landscape. The Plan shall illustrate full compliance with the requirements of the Landscaping Section.

Multiple site elevations, sketches and/or perspective drawings are encouraged to be included in the earliest stages of the review process to illustrate how the plan responds to these standards.

4-504.1 LANDSCAPE PLAN REQUIREMENTS

a. A separate Landscape Plan shall be submitted at a minimum scale of one inch equals 50 feet. The Landscape Plan shall clearly describe the location, type, size, and spacing of all plant materials. It shall also include planting details and specifications clearly describing material installation, planting mixtures, mulch, material depth, and other necessary information. The Landscape Plan shall correspond with a phasing plan for the development if phasing is proposed. The following elements shall be shown on the landscape site plan:

b. Zoning of site and adjoining properties;

c. Existing and proposed contours at 2 foot intervals or less;

d. Boundary lines and lot dimensions;

e. Date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for creating the landscape plan;

f. Location of all existing and proposed structures and storage areas;

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

h. Drainage features and 100 -year floodplain, if applicable;

i. Parking lot layout including parking stalls, bays, and driving lanes;0.

j. Existing and proposed utility lines, and easements;

k. All paved surfaces and curbs;

l. Existing trees or natural areas to be retained;

m. Planting details, specifications, and installation information for plant materials, soil preparation, mulches, edging, etc. to ensure conformance with landscape industry standards;

n. Irrigation plan or water source to establish plants

o. Proposed plant material;

p. Language and calculations that indicate overall minimum requirements;

q. Plant schedule (see below). The schedule must accurately reflect the landscape plan.

    i. The schedule shall be divided according to type of plant material: existing and proposed trees (broken into categories of type of shade trees, evergreen trees, accent/ornamental trees, etc.), shrubs, groundcovers, turf types, including any seed mixes.

    ii. Plant name abbreviation (if used), plant name (common name, botanical name and variety), and exact quantities of each plant shall be included on the plant schedule.

    iii. The schedule shall indicate the size of plants. Size shall be expressed

in terms of size of container (for example 5 gallon for shrubs, 1 gallon for perennials and groundcovers), height and spread of plant for evergreen trees, or caliper and spread of tree for deciduous trees.

iv. Plant spacing for shrubs and groundcovers must be indicated (for example: "4 feet on center – triangular spacing", ex cetera).

r. 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:

i. A bachelor of science degree in Landscape Design from an accredited university

ii. A four-year ornamental horticulture, agricultural science, or biology degree from an accredited university

iii. A qualified landscape professional with at least five (5) years of experience in an accredited nursery business

4-504.2 <u>APPROVAL OF THE PLAN</u>

Reviews of Landscape Plans shall be conducted by the Zoning Administrator. The Zoning Administrator will make a report to the Planning Commission, and the Planning Commission will approve, deny, or ask for the plan to be revised and/or resubmitted to meet the requirements.

4-504.3 <u>COMPLIANCE WITH THE PLAN</u>

A field inspection of plant materials will be conducted by the Zoning Administrator or his/her designee prior to the issuance of a Certificate of Use and Occupancy. If the landscaping has not been installed and inspected for proper installation prior to receiving a Certificate of Use and Occupancy, a Certificate of Use and Occupancy may be granted provided the following conditions are met:

1. Property owner provides irrevocable letter of credit for the Planning Department;

2. The amount of the letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a 15% contingency cost, as shown on the submitted landscape plan; and

3. The cost of the landscaping shall be certified by a landscape contractor.

4. All landscape zones and plantings installed by the developer shall be in compliance with all planting notes. Size and species identified in the required planting list shall be as specified, unless otherwise approved by Planning Commission prior to installation.

4-505 FRONT YARD LANDSCAPING REQUIREMENTS FOR ONE-FAMILY, DETACHED AND TWO-FAMILY DETACHED

(A) Purpose Landscaping shall be selected and placed in the front yards of newly-developed property to soften the effect of the built environment. An arrangement of vegetation such as trees, shrubs, and grasses shall be required for new development.

(B) Requirements
Front yard landscaping shall be provided as follows:

(1) A foundation planting along one-hundred (100) percent of the façade of each building which abuts a public street, excluding necessary breaks for sidewalks, entrances, etc. The foundation planting area shall have a minimum depth of six (6) feet.

(2) The foundation planting shall include:

(a) Two (2) five (5) gallon Evergreen Shrubs as specified in Section 4-310.3 for every thirty (30) feet of building façade;

(b) Eight (8) three (3) gallon Evergreen or Deciduous Shrubs (or a combination thereof) of at least two different species as specified in Section 4-310.3 for every thirty (30) feet of building façade. The shrub requirement may also be met with a combination of shrubs and ornamental grasses;

(3) The front yard landscaping shall include:

(a) One (1) two inch (2") caliper Shade Tree or two (2) one and one half inch (1 ½") Ornamental Trees as specified in Section 4-310.3 or 4-310.4 for every fifty (50) feet of building façade. Front Yard Landscaping

(4) Landscaping shall be installed prior to any Certificate of Use and Occupancy being issued and no landscaping plan shall be required by the Zoning Administrator. Any tags identifying variety and size shall remain on planting until the landscaping has been inspected.

4-506 LANDSCAPING REQUIREMENTS FOR MULTI-FAMILY AND NON-RESIDENTIAL PROPERTIES

For Commercial and Industrial zoned property, these minimum requirements shall be met by the developer/owner of the property to which these regulations are applicable.

1. A minimum of 20% of open space should be dedicated to landscaped/permeable areas on the site plan. Such green treatment shall include, but not be limited to, trees, shrubs, flowering plants, grass, other groundcover, and, if appropriate, hardscapes in combination with plant materials.

2. Large areas of gravel, mulch, or bare soil are prohibited. Areas should be landscaped with sod, seed, groundcover or shrubs. Areas that are proposed for future development should be seeded and continuously maintained. All undeveloped land on a site shall be landscaped, consisting of a combination of trees, shrubs, flowering plants, grass, or other groundcover.

3. The plan shall include screening for transformers, propane tanks, and similar mechanical

elements.

4. A consistent landscape treatment along public streets enhances the appearance of the public domain, and provides an attractive unified setting for variations among individual developments. Landscape areas shall be located along the frontage of any site.

4-506.1 <u>BUFFERS ALONG STREETS</u>

1. There shall be maintained a strip of landscaped ground at least ten (10) feet in width along the street property line, exclusive of drives and walks. It is required that a mixture of shrubs, trees, hardscapes, or a combination, thereof be planted in this zone.

2. Where parking is located along the street frontage, shrubs measuring at least two (2) feet in height at planting shall be incorporated on five (5)-foot centers between the street tree plantings.

3. In an effort to minimize the visual impact of parking areas, shrub rows shall be planted at a minimum height of 24" along the boundaries of any parking area visible from public streets, 5' on centers. Species used shall be evergreen and tend to have a dwarf growth habit.

4. Trees shall be planted along streets at least 40-feet on center with relatively even spacing. If frontages exceed a multiple of 40-feet, an additional tree should be planted along the street, e.g.: a frontage of 50-feet shall contain two trees. A Frontage of 130-feet shall have four trees, etc.

5. Examples of plant species that can be utilized in above requirements and situations are listed in Section 4-310.

4-506.2 <u>PARKING AREAS</u>

1. Parking lots with more than 19 parking spaces shall have 10% of the parking lot area as interior landscape islands. This measurement shall be taken excluding any landscaping required along the street frontage.

2. To reduce the visible scale of the parking lot, and to reduce heat island affect, parking areas with more than 19 parking spaces shall incorporate landscape islands and other appropriate features.

3. A parking island shall be required at a minimum of every fifteen (15) parking spaces. (See Figure 4-501)

4. These landscaped islands shall be a minimum of 9' wide planting area (measured from back of curb to back of curb) and 19' deep and be planted with hearty and appropriate plant material for parking lot conditions.

5. A minimum of one (1) two (2)-inch caliper or larger canopy tree is to be placed in each proposed island. Said canopy trees can be used toward the overall tree requirements but not toward any existing tree replacement.

6. The islands are to be free of all asphaltic, construction, and/or trash materials. As shown in Figure 4-502.

Figure 4-501: Parking Island Configuration
Note: The text is regulatory, this picture is only an example.

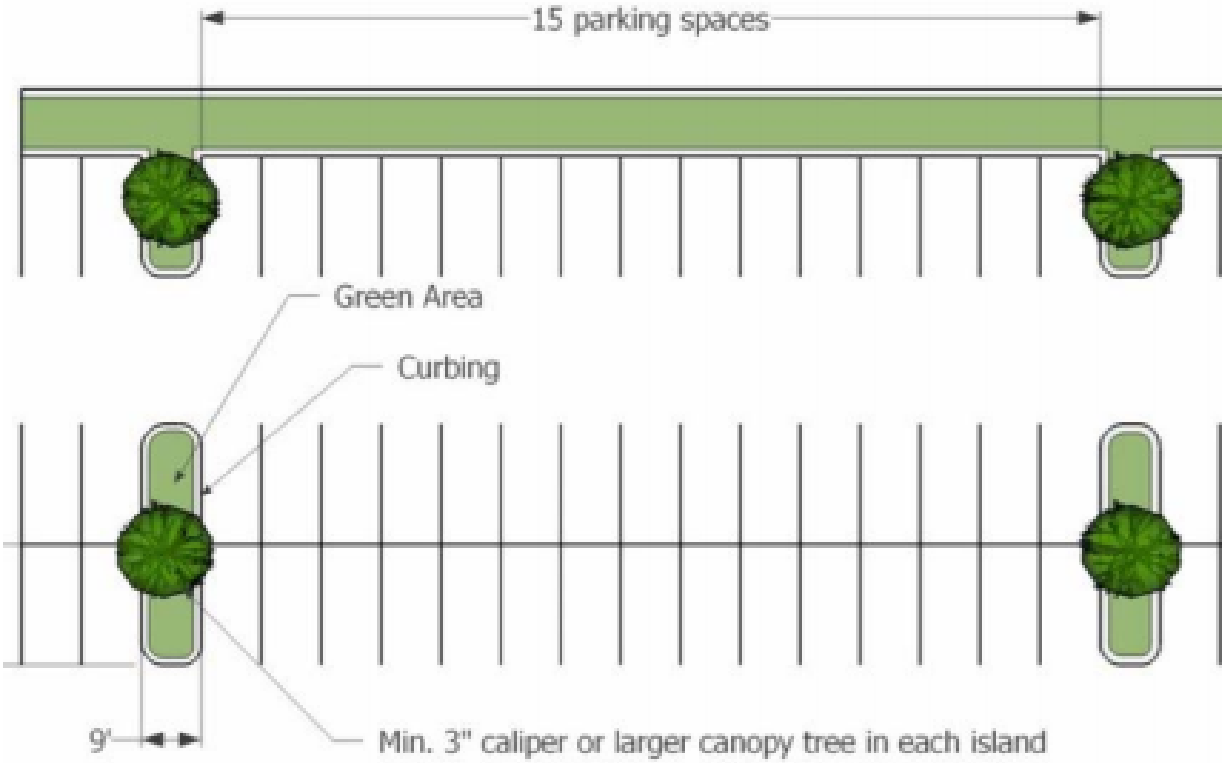
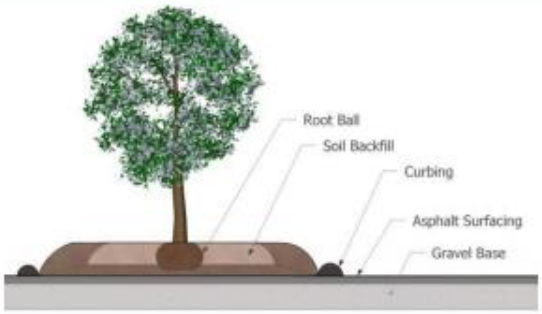
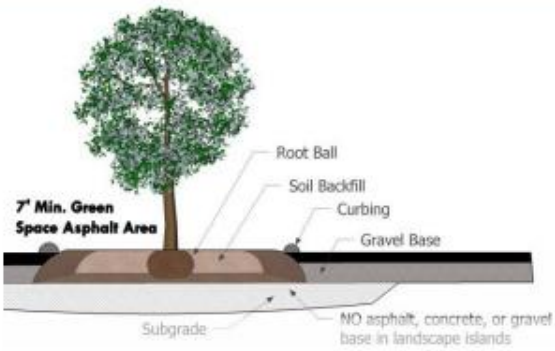


Figure 4-502: Plantings in Parking Islands

Unacceptable	Acceptable
	

4-506.201 Parking Area Screening

Landscape screening shall be required between those portions of an off-street parking area containing five (5) or more parking spaces and a public street where the separation between the parking area and public street edge of

pavement is forty (40) feet or less.

1. Parking lot screening must be provided within ten (10) feet of the perimeter of the parking lot to be screened.

2. Parking lot screening must be a minimum of three (3) feet and a maximum of six (6) feet in height as measured from the adjacent finished surface of the parking area.

3. Evergreen Shrubs shall be used to provide the screen. Such shrubs must be at least two (2) feet tall at planting and anticipated to grow to at least four (4) feet tall at maturity.

4-506.3 <u>FOUNDATION PLANTING</u>

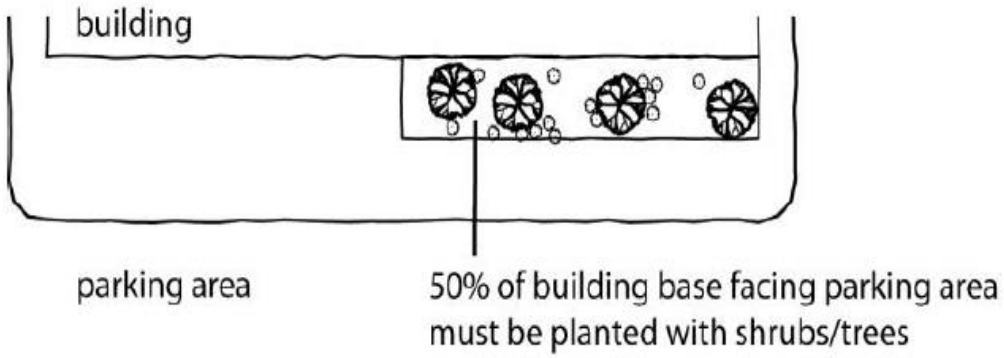
Foundation planting should enhance and highlight building architecture. The use of foundation plantings is particularly important on blank walls (i.e. to window or door openings). Foundation plantings are intended to soften building edges and screen foundations. Where specified, building foundation planting shall meet the following requirements:

1. Required foundation planting shall be in addition to other required site landscaping.

2. Foundation plantings shall be placed within five (5) feet of the building perimeter. If the Zoning Administrator determines that, due to site design considerations such as the location of sidewalks, plazas or service areas, this is not feasible, such plant materials may be located in planter boxes or in the areas of the site in a manner that enhances the overall landscape plan for the development.

3. At least 50% of the building base or foundation facing the parking area is planted with shrubs or trees.

Figure 4-503: Foundation Plantings along the Foundation of Buildings



4. Ten (10) shrubs shall be required for every one hundred (100) linear feet of building perimeter for nonresidential uses.

4-506.4 TURF/GROUND COVER

1. All areas that have been disturbed by a particular site's development and are not within a planted area shall be seeded and strawed or sodded in order to achieve a well-established lawn.

2. All disturbed areas that are 3:1 or greater in slope shall be covered with erosion control mesh and be planted with the appropriate turf or ground cover that will provide a fast growth habit and rapid establishment.

3. All disturbed natural areas that are 3:1 or greater in slope and are located along a street front are to receive sod.

4. All storm drainage ditch bottoms are to receive sod unless a concrete flume has been proposed.

4-507 LANDSCAPE SCREENING

4-307.1 WATER/WASTEWATER STATIONS

Water/Wastewater Stations Proposed water pump stations and wastewater lift stations shall be screened from public view. In order to screen these facilities, the following elements shall be incorporated:

1. An eight-foot wide landscape area with one small evergreen tree per 12 linear feet, provided that said trees shall be planted no closer than eight feet and no more than 16 feet apart.

4-508 LANDSCAPE BUFFERS

1. Landscaping buffers shall be required as shown in Table 4-501: Buffer Matrix.

2. To identify the buffer required find the zoning for the subject property (left side of the matrix) and zoning of adjoining property (top of matrix) and follow to the appropriate capital letter, said capital letter corresponds to Table 4-502: Buffer Type Requirements.

3. Once the buffer type is determined, one of three options shall be planted as described in Table 4-502: Buffer Type Requirements: Alternative 1 Canopy, Alternative 2 Canopy, Alternative Powerline Canopy. Powerline Canopy will be required when overhead electrical service is along a same property line as the buffer.

4-509 SIGHT DISTANCE REQUIREMENTS FOR LANDSCAPE MATERIALS

1. At any public or private street intersection and at the access point for private driveways to public or private streets, a clear zone for sight distance shall be maintained. No landscape material that exceeds the height of two and one half (2.5) feet at maturity or branches lower than six (6) feet shall be planted in any sight distance clear zone as indicated in Figure 4-504.

Table 4-501: Buffer Matrix

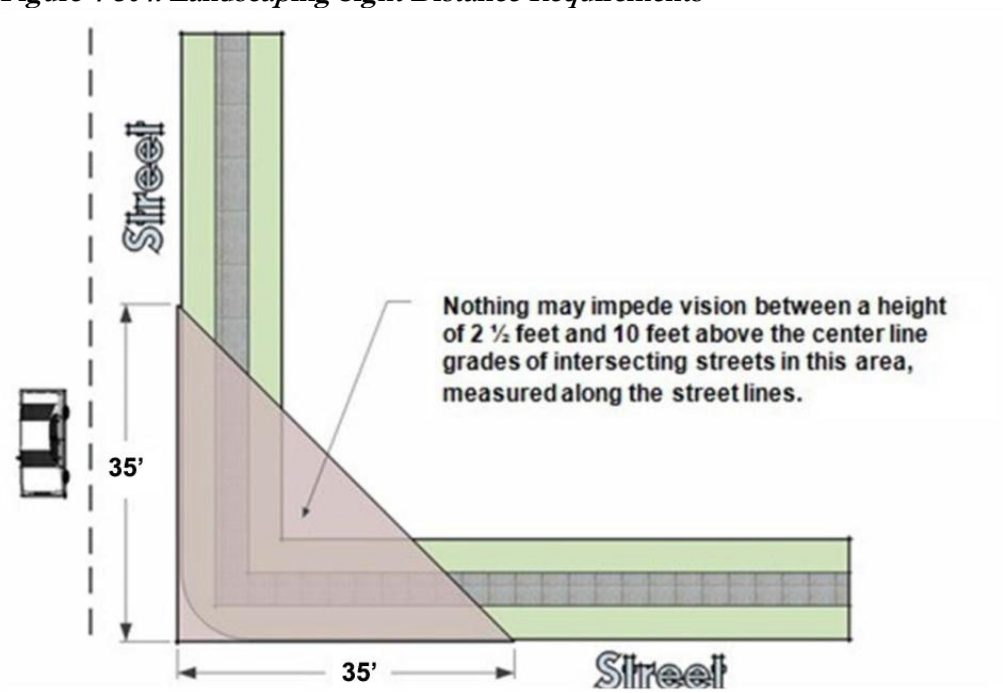
		Zoning District of Adjoining Property								
		R-40, RS-40, RS-20, R-15, RS-15, R-10	R-7.5	RM-1	RMH-P	CBD	OPS and NSD	GCS	HCD and ISD	IG, IR, and IS
Zoning District of Subject Property	R-40, RS-40, RS-20, R-15, RS-15, R-10	None	A	A	A	A	B	B	C	D
	R-7.5	A	None	A	A	A	A	B	C	D
	RM-1	A	A	None	A	A	A	B	C	D
	R-MHP	B	B	B	None	B	B	B	C	D
	CBD	A	A	A	A	None	None	None	None	None
	OPS and NSD	A	A	A	A	A	None	B	B	B
	GCS	B	B	B	B	B	B	None	B	B
	HCD and ISD	C	C	C	C	B	B	B	None	B
	IG, IR, IS	D	D	D	D	B	B	B	B	None

* Where zero lot line structures are being built the buffers may be excluded.

Table 4-502: Buffer Type Requirements

Minimum Required Project Boundary Buffer				
Width and Plants Required per 100 Linear Feet				
Buffer Type		***Alternative 1 Canopy***	***Alternative 2 Canopy***	***Alternative Powerline Canopy***
A	***Width (feet)***	***10***	***10***	***10***
	Number of Canopy Trees	***1***	***1***	***0***
	Number of Accent Trees	***1***	***2***	***3***
	Number of Shrubs	***7***	***3***	***8***
B	***Width (feet)***	***15***	***15***	***15***
	Number of Canopy Trees	***2***	***2***	***0***
	Number of Accent Trees	***4***	***6***	***8***
	Number of Shrubs	***25***	***9***	***24***
C	***Width (feet)***	***20***	***20***	***20***
	Number of Canopy Trees	***3***	***3***	***0***
	Number of Accent Trees	***6***	***8***	***9***
	Number of Shrubs	***34***	***13***	***34***
D	***Width (feet)***	***25***	***25***	***25***
	Number of Canopy Trees	***4***	***4***	***0***
	Number of Accent Trees	***7***	***10***	***14***
	Number of Shrubs	***43***	***17***	***43***

Figure 4-504: Landscaping Sight Distance Requirements



4-510 PLANTING MATERIALS AND STANDARDS

4-510.1 GENERAL

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 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.

4-510.2 TREES

1. When more than 20 canopy or accent trees are required to be planted on a site to meet these regulations, a mix of trees (genera) shall be provided. The following table indicates the maximum percentage of same trees (same genus) that may be planted.

Total Trees Planted on Site	*Minimum Number of Genera Required*	*Maximum Percentage of Any Genera*
20 trees or less	*1*	*100%*
21 to 50 trees	*2*	*70%*
51 to 100 trees	*3*	*50%*
101 to 200 trees	*4*	*40%*
200 to 500 trees	*5*	*30%*
Over 500 trees	*6*	*25%*

2. Minimum Planting Areas - Canopy trees shall have a planting area no less than nine (9) feet wide in all dimensions. Accent and substitution trees shall have a planting area no less than eight (8) feet wide in all dimensions. This requirement may be modified administratively by the Zoning Administrator

4-510.3 SHRUBS

1. All required shrubs for foundation or screening requirements shall be a minimum of 21-inches in height and in a minimum 3-gallon container. Foreground plantings and/or mass plantings are to be a minimum of 1-gallon while some ground cover in mass plantings can be a minimum of 4-inch pots. Depending on verity, in minimum height cannot be met in containers, balled and burlapped plat material should be used.

2. Shrubs shall be of a species that under average conditions will reach a minimum height of 24 inches within 12 months.

3. When planted as a hedge, the maximum spacing for 20-inch high shrubs shall be 40 inches on center.

4. Any size variation in plant material has to be approved by the Zoning Administrator and must be based on the long term survivability of the plant material.

4-510.4 APPROVED TREE AND SHRUB SPECIES

The following list shall be used as a guide in identifying and categorizing the different acceptable types and minimum sizes for any required plant. Plants identified in the guide, "Native Plants of the Tennessee Valley", published by the Tennessee Valley Authority (TVA) shall be acceptable as well, if listed as Middle Region.

4-510.401 Suggested Large Growing Canopy Trees

COMMON NAME:	BOTANICAL NAME:
Autumn Blaze Maple	Acer X Freemanii
October Glory Maple	Acer Rubrum
Sun Valley Maple	Acer Rubrum
Red Sunset Maple	Acer Rubrum
Red Maple	Acer Rubrum
Commemoration Sugar Maple	Acer Saccharum
Green Mountain Sugar Maple	Acer Saccharum
Legacy Sugar Maple	Acer Saccharum
Slender Silhouette Sweetgum	Liquidambar
Tulip Poplar	Liriodendron Tulipifera
White Oak	Quercus Alba
Scarlet Oak	Quercus Coccinea
Bur Oak	Quercus Macrocarpa
Nuttal Oak	Quercus Nuttallii
Willow Oak	Quercus Phellos
Overcup Oak	Quercus "overcup"
Emerald Vase Elm	Ulmus Parvifolia
Maidenhair Ginkgo "Male"	Ginkgo Biloba
Kentucky Coffee Tree	Gymnocladus Dioicus
American Linden	Tilia Americana
Baldcypress	Taxodium Distichum
Black Locust	Robinia Pseudoacacia
Eastern Hemlock	Tsuga Canadensis
Eastern Red-Cedar	Juniperus Virginiana
Eastern White Pine	Pinus Strobus
Loblolly Pine	Pinus Taeda
River Birch	Betula Nigra
Sycamore	Platanus Occidentalis

4-510.402 Suggested Medium Growing Canopy Trees
Plant this size tree no closer than 20 feet from the center of the pole line.

COMMON NAME:	BOTANICAL NAME:
Flame Amur Maple	Acer Ginnalaa
Japanese Bloodgood Maple	Acer Palmatum
Royal Red Maple	Acer Platanoides
Autumn Brilliance Serviceberry	Amelanchier spp.
Dura Heat Birch	Betula Nigra
Frans Fontaine Hornbean	Carpinus Betulas
Shademaster Honey Locust	Gleditsia Triacanthos
Muskogee Crape Myrtle	Lagerstronia X Muskogee
Natchez Crape Myrtle	Lagerstronia X Natchez
Slenden Silhoette Sweetgum	Liguidamabar Styraciflna
Emerald City Tulip Tree	Lirodendron Tulipiferg
Little Gem Magnolia	Magnolia Grandiflora
Sweet Bay Magnolia	Magnolia Viginiana
Bloodgood London Planetree	Platannus Acerifolia
Canada Red Cherry	Prunus Virginiana
Greenspire Littleleak Kinden	Tilia Cordata
Green Vase Zelkova	Zelkova Serrata
Chinese Fringetree	Chionanthus Retusus
Foster Holly	Ilex X Attenuata
Greenleaf American Holly	Ilex Opaca Greenleaf
Hawthorns	Crataegus spp
Canada Chokecherry	Prunus Virginiana/Canada Red

4-510.403 Suggested Ornamental/Accent Trees
Plant this size tree no closer than 10 feet from the center of pole line.

COMMON NAME:	BOTANICAL NAME:
Autumn Brilliance Serviceberry	Amelanchier Arborea
Eastern Redburn	Cercis Canadensis
Forest Pansy Redbud	Cercis Canadensis
Royal White Redbud	Cercis Canadensis
Merlot Redbud	Cercis X Merlot
White Dogwood	Cornus Florida
Pink Dogwood	Cornus Florida
Chinese Kousa Dogwood	Cornus Kousa Chinese

Winter King Hawthorne	Crataegusd Viridis
Rose of Sharon Althea	Hibiscus Syriacus
Ann Magnolia	Magnolia Lilliflorg/Nigra X Stellata
Prairifire Crabapple	Malus Flowering Crab
Snowdrift Crabapple	Malus Snowdrift Flowering Crab
Okame Cherry	Prunus Campannlata X Incisa
Cistena Plum	Prunus X Cistena
Kwanzan Flowering Cherry	Prunus Serrulata
Yoshino Flowering Cherry	Prunus X Yedoensis
Yuma Crape Myrtle	Lipan Indica X Lipan
Sioux Crape Myrtle	Lipan Indica X Lipan Fauriei Sioux
White Fringetree	Chinanthus Virginicus
Witchhazel	Hamamelis spp.
Common Lilac	Syringa Vulgaris
Star Magnolia	Magnolia Stellata
Fringetree	Chionanthus
Shining Sumac	Rhus Copallina
Smoketree	Cotinus Obovatus

4-510.404 Suggested Large Screen Plant (Evergreen & Deciduous)

COMMON NAME:	BOTANICAL NAME:
Robin Hill Serviceberry	Amelanchier Grandiflora
Dura Heat Birch	Betula Nigra
Chinese Konsa Dogwood (clump form)	Cornus Kousa
Leyland Cypress	Cypressoypariss
Monlo Diabolo Ninebark	Physocarpus Opulifolins
Nigra Dark Green Arborvitae	Thuja Occidentalis
Emerald Arborvitae	Thuja Occidentalis
Green Giant Arborvitae	Thuja Plcata X Standishii
Alleghany Viburnum	Viburnum X Rhytidophylloides
Greenleaf American Holly	Ilexopca Greenleaf
Foster Holly	Ilex X Attenuata
White Pine	Pinus Strobus
Hemlock	Tsuga Candensis
Eastern Red Cedar	Juniperus Virginiana

4-510.405 Suggested Hedge & Boarder Plants
Staying within three (3) foot minimum and five (5) foot maximum height.

COMMON NAME:	BOTANICAL NAME:
Otto Luyken Laurel	Prunnus Laurocerasus
Dwarf English Laurel	Prunnus Laurocerasus
Zabel Laurel	Prunnus Laurocerasus
Wardi Yew	Taxus X Media Wardi
Green Mound Yew	Taxus X Media Green Mound
Densiformis Yew	Taxus X Media Densiformii
Wintergreen Boxwood	Buxus Microphylla
Green Velet Boxwood	Buxus Green Velet
Chicagoland Green Boxwood	Buxus Chicagoland Green
China Girl Holly	Ilex Meserveae
Blue Prineness Holly	Ilex Meserveae
Compacta Holly	Ilex Crenata
Dwarf Burfordi Holly	Ilex Meserveae
Greenlustre Holly	Ilex Crenata
Glory Holly	Ilex Crenata
"Fireball" Dwarf Burning Bush	Euonymus Alatus

4-510.406 Suggested Shrubs for Foundation and/or Mass Plantings

COMMON NAME:	BOTANICAL NAME:
Densiformi Yew	Taxus Media Densiformi
Otto Luyken Laurel	Prunus Laurocerasus
Wintergreen Boxwood	Boxus Microphylla
Green Velvet Boxwood	Buxus X Green Velvet
Green Gem Boxwood	Buxus X Green Gem
Chicagoland Green Boxwood	Buxus X Chicagoland Green
American Boxwood	Buxus Sempervirens
Winter Gem Boxwood	Buxus Microphylli
Blue Princess Holly	Ilex Meserveae
China Girl Holly	Ilex Meserveae
Dwarf Burfordi Holly	Ilex Meserveae
Steeds Holly	Ilex Crenata
Compacta Holly	Ilex Crenata
Sea Green Juniper	Juniperus Chinersis
Gray Owl Juniper	Juniperus Chinensis
Bo-Bo Hydrangea	Hydrangea Macropdylla

Nikko Blue Hydrangea	Hydrangea Macropdylla
Little Lime Hydrangea	Hydrangea Poniculata
Snow Queen Hydrangea	Hydrangea Quercifolia
Gulf Stream Nandina	
Dwarf Nandina	
Little Henry Itea	Ithea Virginica
Spice Baby Viburnum	Viburnum Carlesii
Rose Creek Abelia	Abelia Grandiflora
Bronze Anniversary Abeba	Abelia Grandiflora
Pigmy Barberry	Berberis Atropurpurea Nana
Sunjoy Barberry	Berberis Sunjo
Butterfly Bush	Loganiaceae Buddleia
Lowland Behold Butterfly Bash	Loganiaceae Buddleia
Sold Mop Cypress	Chamaecyparis Pisifera
Chardonnay Pearls Deutzia	Deutzia Gracilis 'Duncan'
Inkberry Holly 'Densa'	Ilex Glabra
Blue Star Juniper	Juniperus Squamata
Good Vibrations Gold Juniper	Juniperus Horizontalis 'Hegedus'
Happy Face Yellow Potentilla	Potentilla Fruticosa
Drift Roses	Rosaceae
Spirea	Spiraea Japonica
Hertz Midget Arborvitae	Thuja Occidentalis
Anna's Magic Ball Arborvitae	Thuja Occidentalis
Lil' Ditty Viburnum	Viburnum Cassinoides
Fine Wine Weigela	Weigela Florida 'Bramwell'
Midnight Wine Weigela	Weigela Florida 'Elvera'
My Monet Sunset Weigela	Weigela Florida 'Sunset'

4-510.407 Prohibited Plant Material

Any Hackberry Trees Expect for the variety Celtis Laevigala 'All Season Hackberry'
Any Female varieties of the Ginkgo Tree
Silver Maple
Any Kudzu varieties that may be used for erosion control
Chinese Chestnut
Bradford Pear (except for the specific varieties called Cleveland Select and Aristocrat)
Trumpet Creeper Vine
Nandina Domestica 'Compacta'
Cottonwood Tree

4-511 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.

4-512 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.

3-513 INSTALLATION TIMING

The Zoning Administrator 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.

3-514 LANDSCAPING MAINTENANCE

A letter of credit from a local institution or cashier's check 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 letter of credit and cashier's check 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 letter of credit and cashier's check funds to complete the remaining requirements.

1. Landscape materials, other than plantings, which are dead or have deteriorated shall be reconstituted or replaced to the same specifications as are shown on the approved site plan.

2. Plantings shall be kept watered, fed, cultivated, and pruned to give a healthy appearance during all seasons. Plant materials which have deteriorated shall be replaced with healthy plantings. Excessive pruning of site and street trees is strictly prohibited (no topping). Refer to Section 3-313 for installation timing.

3. Buffers shall be maintained in a condition that assures their continued effectiveness. Where plantings do not survive, or are no longer an effective buffer, they shall be replaced to meet the intent of the approved plan.

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

(D) Mixed Use Districts

RMU Residential Mixed Use
NMU Neighborhood Mixed Use
CMU Corridor Mixed Use

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 Zoning Administrator 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.

(I) To provide sufficient space in appropriate locations for agricultural activities.

(J) 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 benefited 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 <u>RS-40, RS-20, AND RS-15, SINGLE FAMILY DISTRICTS</u> (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 <u>RM-1, HIGH DENSITY RESIDENTIAL DISTRICTS</u>
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 <u>R-MHP, MOBILE HOME PARK RESIDENTIAL DISTRICTS</u>
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 <u>TEMPORARY USES</u>

The temporary uses and structures specified in Subsection 14-203.302, (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 <u>CONDITIONAL USES</u>

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 XII, 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

	DISTRICTS								
	RS-40	R-40	RS-20	RS-15	R-15	R-10	R-7.5	RM-1	R-MHP
I. RESIDENTIAL ACTIVITIES									
A. Permanent Residential Activity									
(1) Dwelling, One Family									
(a) Detached	P	P	P	P	P	P	P	P	X
(b) Semi-Detached	X	X	X	X	X	X	X	P	X
(c) Attached	X	X	X	X	X	X	X	(6-403)	X
(2) Dwelling, Two Family									
(a) Detached	X	P	X	X	P	P	P	P	X
(b) Semi-Detached	X	X	X	X	X	X	X	P	X
(c) Attached	X	X	X	X	X	X	X	(6-403)	X
(3) Dwelling, Multi-Family	X	X	X	X	X	X	X	(6-402)	X
(4) Dwelling, Mobile Home	X	X	X	X	X	X	X	X	(6-405)
B. Semi-Transient Residential Activity									
(1) Apartment Hotel	X	X	X	X	X	X	X	P	X
(2) Boarding or Rooming Houses	X	X	X	X	X	X	X	P	X
(3) Residential Hotel	X	X	X	X	X	X	X	P	X
II. COMMUNITY FACILITIES ACTIVITIES									
A. Administrative Services	(No Special Provisions)	→	→	→	→	→	→	→	→
B. Community Assembly	C (14-506.1)	→	→	→	→	→	→	→	→
C. Educational Facilities	C (14-506.2)	→	→	→	→	→	→	→	→
D. Cultural and Recreational Services	C (14-506.3)	→	→	→	→	→	→	→	→
E. Essential Public Transport, Communication and Utility Services	(No Special Provisions)	→	→	→	→	→	→	→	→
F. Extensive Impact Facilities	C (14-506.4)	X	X	X	X	X	X	X	X
G. Health Care Facilities	C (14-506.5)	→	→	→	→	→	→	→	→
H. Intermediate Impact Facilities	C (14-506.4)	→	→	→	→	→	→	→	→
I. Special Personal and Group Care	C (14-506.6)	→	→	→	→	→	→	→	→
J. Religious Facilities	C (14-506.7)	→	→	→	→	→	→	→	→
K. Special Institutional Care Facilities	C (14-506.8)	→	→	→	→	→	→	→	→
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 (14-508.1)	→	X	X	X	X	X	X	X
D. Mining and Quarrying	C (14-508.2)*	→	X	X	X	X	X	X	X
E. Plant and Forest Nurseries	C (14-508.4)	→	X	X	X	X	X	X	X
F. Keeping of Horses	C (14-508.5)	→	X	X	X	X	X	X	X

KEY TO INTERPRETING USES CLASSIFICATIONS

P = Permitted use within the district indicated (No Special Provisions apply).

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 14-508.3, 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 yards except ha 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.

(b) In Any Rear Yard:

Clothes poles or clothes lines.

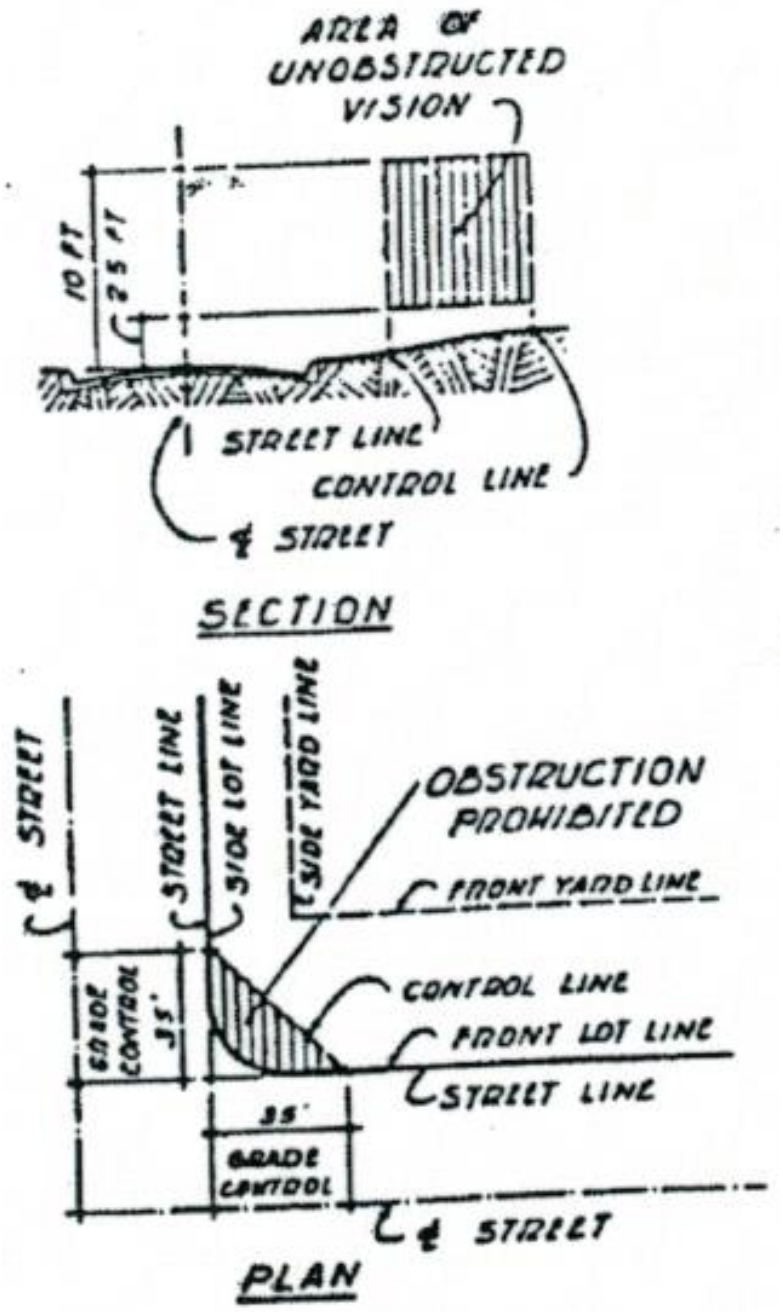
Recreational equipment.

6-305.4 <u>OBSTRUCTION PROHIBITED AT STREET INTERSECTIONS</u>

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 <u>Front Yards</u>

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

6-301A.

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.

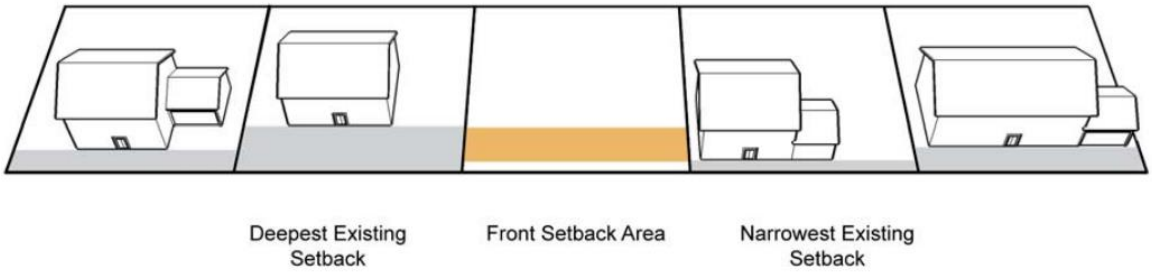
6-305.603 Rear Yard Exception for Through Lots
In all residential districts, no rear yard regulations shall apply to any through lot which extends less than two hundred fifty (250) in depth from street to street. The depth of such lot shall be considered to be the mean length of its side lot lines. In 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 Zoning Administrator 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 Contextual Front Setback for Infill Projects
Contextual Front Setback for Infill Projects Structures shall be located within the range of front setbacks on the street. This range of setbacks is measured on the basis of the six (6) lots surrounding the project site (the three [3] closest lots in either direction along the street). The new structure shall be located within the range of setbacks (no closer than the narrowest setback, no further than the deepest setback). Where a setback in these six (6) lots is significantly out of the range of setbacks along the street, it may be eliminated from the range. Where the calculation of a range of setbacks is not practicable, such as instances where the subject lot(s) is on or within two lots of a corner, the structure shall be located a minimum of 20 feet from the front property line.



6-305.608 <u>Special Yards and Setbacks Along District Boundaries</u>
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) <u>Buffer Yards:</u> 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) <u>Special Front Setbacks:</u> 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 <u>STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS</u>
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:

Where: $$S = \frac{{}^{1}a + {}^{1}b + {}^{2}({}^{h}a + {}^{h}b)}{6}$$

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.

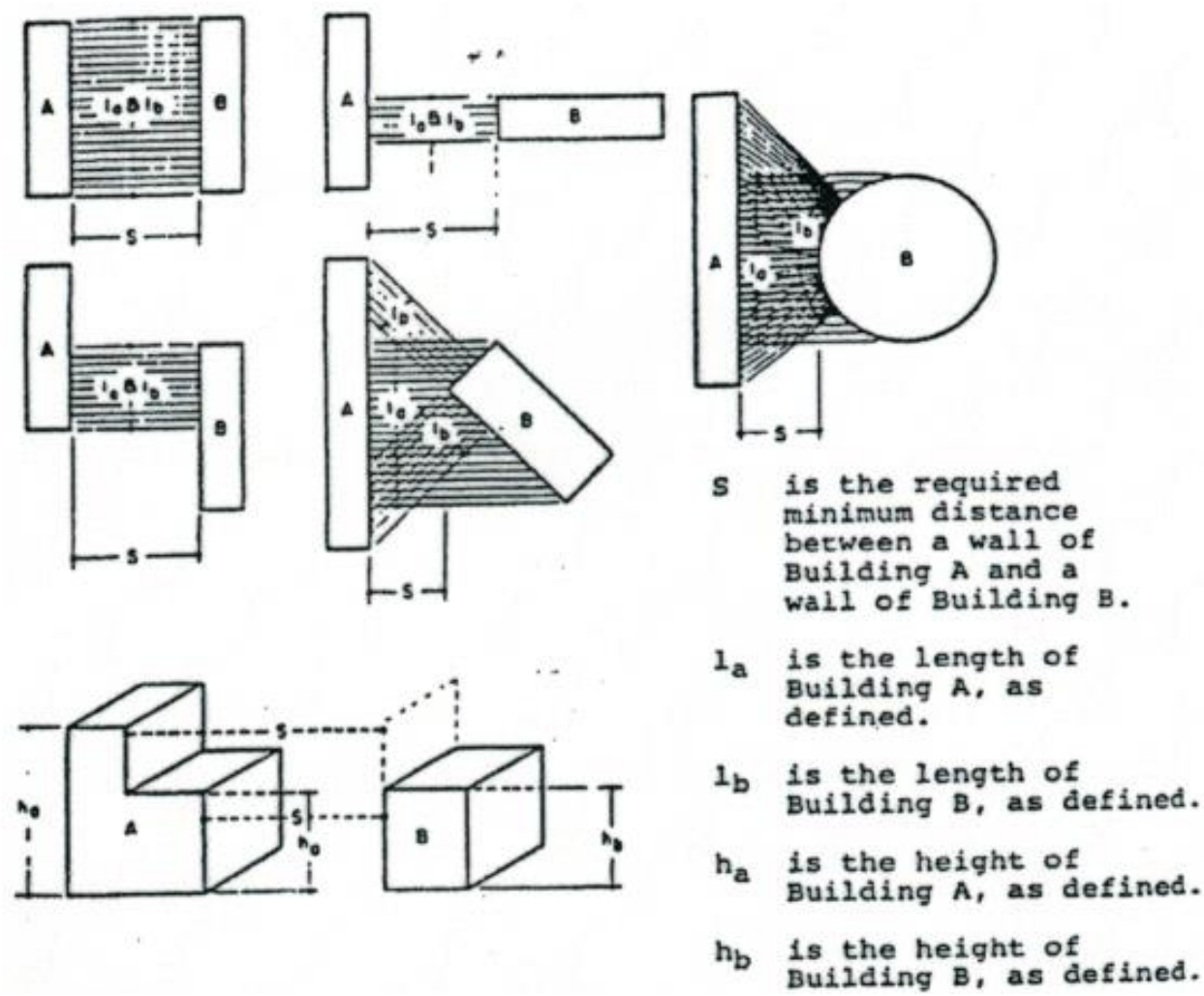
The height of Building A, at any given level, is the height above natural grade level of any portion or portions of a wall or walls along the total length of Building B.

^{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 <u>ACCESS REQUIREMENTS</u>

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 lease 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.

(Amended by BOZA Minutes, March 28, 1996)

TABLE 6-301A: HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS - RESIDENTIAL DISTRICTS

	DISTRICTS								
	RS-40	**R-40**	**RS-20**	**RS-15**	**R-15**	**R-10**	**R-7.5**	**RM-1**	**R-MHP**
I. Maximum Lot Coverage by all Buildings (as % of lot area)	15	15	20	25	25	30	35	50	35
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	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	3
V. Minimum Yard Requirements (in feet)									
A. Residential Activity Buildings									
1. Front – Arterial Streets	50	50	50	50	50	50	50	50	See Special Provisions(1)
– Collector Streets	40	40	40	40	40	40	40	40	See Special Provisions(1)
– Minor Streets	30	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)
– Three-Story Buildings	25	25	20	20	20	20	20	20	See Special Provisions(1)
3. Rear -	30	30	30	30	30	30	25	20	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	30	20	20	20	20	20	20	20
3. Rear -	30	30	30	30	30	30	25	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.

6-401.2 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.

6-401.201 Information Required

(See Subsection 14-202.202)

6-401.202 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.

6-402 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 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) 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 regard less 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 intermingled 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 <u>ACCESS</u>

(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 <u>PARKING</u>

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 <u>OPEN SPACE REQUIREMENTS</u>

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

DWELLING UNIT TYPE	DISTRICTS							
	RS-40	R-40	RS-20	RS-15	R-15	R-10	R-7.5	RM-1
One-Family								
Detached	20	20	10	7.5	7.5	5	3.75	3
Semi-Detached	/	/	/	/	/	/	/	3
Attached	/	/	/	/	/	/	/	1.5
Two-Family								
Detached	/	30	/	/	11.25	7.5	5.5	3.6
Semi-Detached	/	/	/	/	/	/	/	3.6
Attached	/	/	/	/	/	/	/	1.8
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 <u>OPEN SPACE REQUIREMENTS</u>
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 <u>DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS</u>

6-405.1 <u>PURPOSE</u>
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 <u>DESIGN CRITERIA, GENERAL</u>
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 <u>DESIGN CRITERIA, DETAILED</u>

(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 <u>DENSITY</u>

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

The publication entitled "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)", is hereby adopted by reference.

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.

CHAPTER 5. RESIDENTIAL REDEVELOPMENT OVERLAY

This residential redevelopment overlay shall only apply to those lots exclusively zoned for residential uses and within the overlay district boundaries established by City Council through the rezoning process.

6-501 ALLOWED USES

The allowed uses shall be those permitted as a part of the base zoning district.

6-502 LOT WIDTH

The lot width shall be reduced by no more than a maximum of 25% of the base district lot width requirement.

6-503 MINIMUM LOT AREA

The lot area shall be reduced by no more than a maximum of 20% of the base district lot area requirement.

6-504 BUILDING HEIGHT

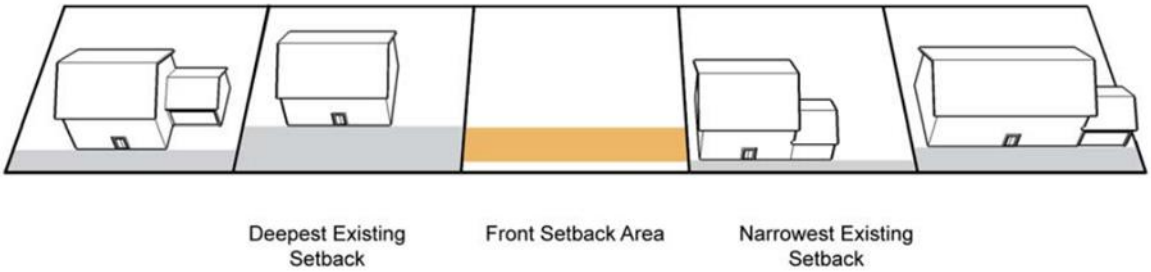
The maximum building height shall meet the requirements of the base zoning district.

6-505 SETBACKS

6-505.1 FRONT

A contextual front setback for primary structures within in the Redevelopment Overlay shall be located within the range of front setbacks on the street. This range of setbacks shall be measures on the basis on the of all structures along the street within the Redevelopment Overlay. The new structure shall be located within the range of setbacks (no closer than the narrowest setback, no further than the deepest setback). Where a setback in the range of lots is significantly out of the range of setbacks along the street, it may be eliminated

from the range.



6-501.2 <u>REAR</u>
Within the Redevelopment Overlay the rear setback shall comply with the requirements of the base zoning district.

6-501.3 <u>SIDE</u>
The Contextual Side Setback shall apply only to primary uses and structures. A Contextual Side Setback may fall at any point between the required side setback and the side setback that exists on a lot that is adjacent on the same side of the road and oriented to the same street as the subject lot, but shall be a minimum of five (5) feet.

If the subject lot is a corner lot, the Contextual Side Setback may fall at any point between the required side setback for a second frontage required by the zoning district and a minimum of fifteen (15) feet. In no case shall the second frontage setback be reduced to allow a structure to be built in the triangle created at the corner with two sides measuring twenty-five (25) feet long on the edge of pavement, as shown in Figure 6-1.
Figure 6-1: Corner Clear Setback Zone.

Figure 6-1: Corner Clear Setback Zone

6-506 LOT COVERAGE

The maximum lot coverage by all buildings and structures shall not exceed 50% of the total lot size.

6-507 PLOT PLANS

Plot Plans shall be required for all buildings and structures constructed in the Redevelopment Overlay District.

6-508 OTHER REGULATIONS

Any regulations not specifically mentioned in this section shall follow the requirements of the base zoning district. This shall include, but is not limited to, parking, driveways, accessory building and/or structures.

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, odorous 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 modem, 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 desires 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 <u>OPS - OFFICE/PROFESSIONAL SERVICE DISTRICTS</u>

This district is 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. Generally speaking, this district will provide a buffer between intense commercial uses and residential districts

7-102.7 <u>HCD - HEAVY COMMERCIAL DISTRIBUTION DISTRICTS</u> (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 XIV, 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 14-203.302, 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

DISTRICTS	CBD	GCS	ISD	MPO	NSD	OPS	HCD
I. RESIDENTIAL ACTIVITIES							
A. Permanent Residential Activity							
(1) Dwelling, One Family							
(a) Detached	(7-306)	X	X	X	X	(7-404)	X
(b) Semi-Detached	(7-306)	X	X	X	X	X	X
(c) Attached	(7-306)	X	X	X	X	X	X
(2) Dwelling, Two Family							
(a) Detached	(7-306)	X	X	X	X	(7-404)	X
(b) Semi-Detached	(7-306)	X	X	X	X	X	X
(c) Attached	(7-306)	X	X	X	X	X	X
(3) Dwelling, Multi-Family	(7-306)	X	X	X	X	X	X
(4) Dwelling, Mobile Home	X	X	X	X	X	X	X
B. Semi-Transient Residential Activity							X
(1) Apartment Hotel	X	X	X	X	X	X	X
(2) Boarding or Rooming Houses	X	X	X	X	X	X	X
(3) Residential Hotel	X	X	X	X	X	X	X
II. COMMUNITY FACILITIES ACTIVITIES							
A. Administrative Services	P	P	P	P	P	P	P
B. Community Assembly	C (14-506.1)	C (14-506.1)	C (14-506.1)	C (14-506.1)	C (14-506.1)	C (14-506.1)	C (14-506.1)
C. Educational Facilities	C (14-506.2)	C (14-506.2)	C (14-506.2)	C (14-506.2)	C (14-506.2)	C (14-506.2)	C (14-506.2)
D. Cultural and Recreational Services	C (14-506.3)	C (14-506.3)	C (14-506.3)	C (14-506.3)	C (14-506.3)	C (14-506.3)	C (14-506.3)
E. Essential Public Transport, Communication and Utility Services	P	P	P	P	P	P	P
F. Extensive Impact Facilities	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)
G. Health Care Facilities	C (14-506.5)	C (14-506.5)	C (14-506.5)	C (14-506.5)	C (14-506.5)	C (14-506.5)	C (14-506.5)
H. Intermediate Impact Facilities	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)	C (14-506.4)
I. Religious Facilities	C (14-506.6)	C (14-506.6)	C (14-506.6)	C (14-506.6)	C (14-506.6)	C (14-506.6)	C (14-506.6)
J. Special Institutional Care Facilities	C (14-506.7)	C (14-506.7)	C (14-506.7)	C (14-506.7)	C (14-506.7)	C (14-506.7)	C (14-506.7)

DISTRICTS	CBD	GCS	ISD	MPO	NSD	OPS	HCD
III. COMMERCIAL ACTIVITIES							
A. Animal Care and Veterinary Services	X	P	P	X	P	X	P
B. Automotive Parking	P	P	P	P	X	X	P
C. Automotive Repair and Cleaning	X	P	P	X	X	X	X
D. Automotive and Other Vehicular, Craft and Related Equipment Sales, Rental and Delivery, Service and Repair	X	P	P	X	X	X	X
E. Automotive Servicing	P	P	P	X	(7-404)	X	X
F. Business and Communications Services	P	P	P	P	X	P	X
G. Construction Sales and Services	X	P	X	X	X	X	P
H. Convenience Retail Sales and Services	P	P	P	P	(7-404)	P	X
I. Financial, Consulting and Administrative Services	P	P	X	X	(7-404)	X	X
J. Food and Beverage Service – General	P	P	P	P	(7-404)	P	X
K. Food Service - Limited	X	P	P	P	X	X	X
L. General Personal Services	P	P	X	X	(7-404)	P	X
M. General Equipment and Repair Services	X	P	X	X	X	X	P
N. General Retail Trade	P	P	P	X	X	X	X
O. Group Assembly – Limited	P	P	X	X	X	X	X
P. Group Assembly – Extensive	P	P	X	X	X	X	X
Q. Professional Services – Medical	P	P	X	P	(7-404)	P	X
R. Professional Services – Other	P	P	X	P	(7-404)	P	X
S. Scrap Operations	X	X	X	X	X	X	X
T. Transient Habitation	X	P	P	P	X	X	X
U. Undertaking Service	P	P	X	P	X	X	X
V. Warehousing, Goods, Transport, and Storage	P	X	P	X	X	X	P
W. Wholesale Sales and Business Supply	P	P	P	X	X	X	P
X. Self-storage facilities	X	X	X	X	X	X	X
Y. Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshop	X	C(14-507.2)	X	X	X	X	X
IV. MANUFACTURING ACTIVITIES							
A. Manufacturing – Limited	X	P	X	X	X	X	X

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.
X = Not Permitted

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 of displayed vehicle or other item shall be located so as to obstruct any "visibility triangle" required by Subsection 6-305.4.

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 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.

7-306.3 MINIMUM LOT SIZE FOR RESIDENTIAL IN CBD – CENTRAL BUSINESS DISTRICT

Within the CBD – Central Business District the minimum lot size for residential uses is 6,000 square feet with the exception of second story residential uses. Second story residential uses

have no required lot size.

7-306.4 <u>MINIMUM LOT SIZE FOR RESIDENTIAL IN OPS – OFFICE/PROFESSIONAL SERVICE DISTRICT</u>

Within the OPS – Office/Professional Service District the minimum lot size for residential uses shall be as follows:

1. Dwelling, one-family detached – 10,000 square feet

2. Dwelling, two-family detached – 15,000 square feet

TABLE 7-301A: HEIGHT BULK, LOT SIZE, AND OPEN SPACE REQUIREMENTS WITHIN MIXED USE AND COMMERCIAL DISTRICTS

	CBD	GCS	ISD	MPO	NSD	OPS	HCD
I. PROVISIONS APPLICABLE TO COMMERCIAL, INDUSTRIAL, AND COMMUNITY FACILITIES ACTIVITIES							
A. Maximum Lot Coverage by All Buildings (as % of Total Lot Area)	(1)	65	50	40	40	40	70
B. Maximum Impermeable Surface Ratio (as % of Total Lot Area)	(1)	80	80	75	65	65	
C. Minimum Area Requirement for Zone Lots (in 000 Square Feet)	(2)	(2)	10	10	10	10	40
D. Maximum Height (in Feet) (Amended by Ordinance 02-26, September 5, 2002)	65	65	35	35	35	35	45
F. Minimum Lot Width (feet						50	
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							
(1) Front	(4)	50(3)	50(3)	50(3)	50(3)	50(3)	20
(2) Side	(4)	10(5)	10(5)	10(5)	10(5)	10(5)	(4)
(3) Rear	(4)	20	20	20	20	20	20(2)
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 XIII, 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 XII, Section 12-202, 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 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.

7-403.1 MAXIMUM SIZE OF ESTABLISHMENTS

No individual commercial establishment shall have a gross floor area exceeding five thousand (5,000) square feet.

7-403.2 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.

7-403.3 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.

7-404 SPECIAL PROVISIONS APPLICABLE TO ALL ACTIVITIES PERMITTED WITHIN OFFICE/PROFESSIONAL SERVICE DISTRICT (OPS) DISTRICTS

It is intended that all activities permitted within this district shall be small, unobtrusive, and produce negligible off-site impact or change the character of existing structures. To this end, no individual structure in the district shall be of such size or character as to create the impression of general commercial development. When Commercial uses are present 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. If a conflict exists between this section and other sections of this Ordinance or Other Development Ordinances the stricter of the two shall prevail.

7-404.1 STRUCTURES

Only one principal structure shall per lot of record. Accessory structures may be permitted which are incidental and subordinate to the principal structure. Accessory structures may not be located within any required setback or buffer area.

7-404.2 MAXIMUM SIZE OF ESTABLISHMENTS

No individual structure shall have a gross floor area exceeding five thousand (5,000) square feet.

7-404.3 CONDUCT OF OPERATIONS

1. Exterior storage of goods or materials of any kind is prohibited. All such storage shall be located in an enclosed building. Outdoor display of merchandise is prohibited.

2. 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.

7-404.4 PARKING AND UNLOADING PROVISIONS

1. Where any activity permitted within the OPS District adjoins any existing residential use, no parking area may be located within any required buffer yard. Such yards may be used only for purposes of screening.

2. Parking shall be located at the rear of the building in accordance with other provisions of this Ordinance.

3. If, based on the use, as determined by City Planning Staff and/or the Planning Commission, an off- street loading/unloading space is required, such space shall be provided behind the building or structure. The space shall be not less than thirty (30) feet in depth and of adequate width to provide for the loading and unloading of delivery vehicles.

4. Landscaping and/or other effective screening, a minimum of twenty (20) feet in width,

shall be provided between parking and the property lines of residential zoned property.

7-404.5 <u>ADDITIONAL DESIGN STANDARDS</u>

1. No additions or extensions shall be made to the front or side(s) of any existing structure unless the character of the structure is retained. Prior to the construction of such additions or extensions, a site plan shall be approved as outlined in this Ordinance.

2. All architectural designs, including those for alterations, additions, or demolition are subject to review and approval of City Staff and/or the Planning Commission.

3. Accessory buildings and signage shall be compatible with the architecture, consistent in design and use the same materials as the principle building.

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 12-202.202; 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 14-203.302, 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

	IR	IG	IS
I. MANUFACTURING ACTIVITIES			
A. Manufacturing – Limited	P	P	X
B. Manufacturing – Intermediate	X	P	X
C. Manufacturing – Extensive	X	X	(8-401)
II. COMMERCIAL ACTIVITIES			
A. Animal Care and Veterinarian Services	P	P	X
B. Automotive and Other Vehicular, Marine Craft, Aircraft and Related Equipment Sales, Rental and Delivery	P	P	X
C. Automotive Parking	P	P	X
D. Automotive Repair and Cleaning	P	P	X
E. Automotive Servicing	P	P	X
F. Construction Sales and Service	P	P	X
G. General Equipment and Repair Services	P	P	X
H. Food and Beverage Service – General	P	P	X
I. Scrap Operation	X	X	(8-401)
J. Warehousing, Goods Transport and Storage	P	P	X
K. Wholesale Sales and Business Supply	P	P	X
L. Sexually Oriented Business	X	X	(8-402)
M. Self-storage facilities	P	P	X
III. COMMUNITY FACILITY ACTIVITIES (Amended by Ordinance 559, January 5, 1998)			
A. Administrative Services	P	P	P
B. Community Assembly	C (14-506.1)	X	X
C. Essential Public Transport, Communication and Utility Services	P	P	P
D. Extensive Impact Facilities	C (14-506.4)	X	X
E. Intermediate Impact Facilities	C (14-506.4)	X	X
F. Religious Facilities	C (14-506.7)	X	X
G. Special Institutional Care Facilities	C (14-506.8)	X	X

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 <u>MEASUREMENT OF YARD WIDTH OR DEPTH</u>

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 (I00) 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.

(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*

	Districts		
	IR	IG	IS
I. Maximum Lot Coverage by All Buildings			
As Percent (%) of Total Lot Area	50	70	70
II. Minimum Zone Lot Requirements			
A. Area (in Square Feet)	(2)	40,000	(2)
B. Width (in Feet, Measured at Building Line	50	100	100
III. Maximum Height			
(In Feet)	45	45	45
IV. Minimum Yard Requirements (In Feet)			
A. Front	20	20	(5)
B. Side	(3)	(3)	(5)
C. Rear	20 (4)	20 (4)	(5)
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 classifies 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 XIV, Chapter 7.

8-402 SPECIAL PROVISIONS APPLICABLE TO SEXUALLY ORIENTED BUSINESSES

(A) Sexually 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 Arcade:** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) **Adult Bookstore, Adult Novelty store, or Adult Video Store:** A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

(b) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) **Adult Cabaret:** An establishment that features as a principal use of its business, entertainers, waiters, or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material, including swim suits, lingerie, or latex covering. "Adult cabaret" includes a commercial establishment that features entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainers;

(4) **Adult Entertainment:** Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, that has as a principal or predominant theme, emphasis, or portion of such performance, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(5) **Adult Motion Picture Theater:** A commercial establishment where, as one of its principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) **Adult Theater:** A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure or "specified anatomical areas" or by "specified sexual activities."

(7) **Massage Parlor:** An establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(8) **Nude Model Studio:** A commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas," and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

(9) **Nudity** or **State of Nudity:** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(10) **Sauna:** An establishment or place primarily in the business of providing, for purposes of sexual stimulation:

(a) A steam bath or dry heat sauna; or

(b) Massage services.

(11) **Semi-Nude:** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part.

(12) **Sexual Conduct:** The engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks, or female breast of a person for the purpose of arousing or gratifying the sexual desire of that person or another person.

(13) **Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude or exposes to view of the persons within such establishment, at any time, "specified anatomical areas";

(14) **Sexually Oriented Business:** A Sexually Oriented Business includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or other adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, when such is held, conducted, operated or maintained for a profit, direct or indirect.

(15) **Sexual Stimulation:** To excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this chapter.

(16) **Specified Anatomical Areas:**

(a) Less than completely and opaquely covered:

i. Human genitals;
ii. Pubic region;
iii. Buttocks; or
iv. Female breasts below a point immediately above the top of the areola; or

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(17) **Specified Services:** Massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter, and any other live adult entertainment as defined in this section.

(18) **Specified Sexual Activities:**

(a) Human genitals in a state of sexual arousal;

(b) Acts of human masturbation, oral copulation, sexual intercourse, or sodomy; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

(C) No Sexually Oriented Business including, but not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, massage parlor, nude model studio, sauna, or sexual encounter center, 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 licensed 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.

(DELETED AND REPLACED BY ORDINANCE 17-67 October 2, 2017)

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 (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"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 **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a

one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" 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 Zoning Administrator (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. <u>Duties and Responsibilities of the Administrator</u>

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.

e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
   1) Be on the site for fewer than 180 consecutive days;

   2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

   3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals
   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. <u>Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated</u>

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 <u>E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)</u>

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. <u>Standards For Areas of Shallow Flooding (AO and AH Zones)</u>

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. <u>Standards For Areas Protected by Flood Protection System (A-99 Zones)</u>

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. <u>Standards for Unmapped Streams</u>

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. <u>Conditions for Variances</u>

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: HISTORIC ZONING

CHAPTER 1. ESTABLISHMENT, PURPOSE AND MEMBERSHIP

10-101 ESTABLISHMENT

The City hereby establishes a historic zoning commission, the Portland Historic Preservation Commission, hereinafter referred to as "the Commission", pursuant to the authority granted in T.C.A. 13-7-401 through 13-7-409. The Commission is to work to preserve, promote, and develop the city's historical resources and to advise the city on the designation of preservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.

10-102 STATEMENT OF PURPOSE

Historic preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting the City of Portland, Tennessee, hereinafter referred to as "the City". More specifically, this historic pereservation ordinance is designed to achieve the following goals:

A. Protect, enhance and perpetuate resources which represent and significant elements of the City's historical, cultural, social, economic, political archaeological, and architectural identity;

B. Insure the harmonious, orderly, and efficient growth and development of the City;

C. Strengthen civic pride and cultural stability through neighborhood conservation;

D. Stabilize the economy of the City through the continued use, preservation, and revitalization of its resources;

E. Promote the use of resources for the education, pleasure, and welfare of the people of the City;

F. Provide a review process for the preservation and development of the City's resources.

10-103 CONFLICT OF INTEREST, MEMBERSHIP, AND TERMS

10-103.1 MEMBERSHIP AND APPOINTMENT

The commission shall consist of nine (9) members. The Commission's membership shall include:

1. A representative of a local patriotic or historical organization;

2. an architect or engineer, if available;

3. a person who is a member of the Portland Municipal-Regional Planning Commission at the time of his/her appointment;

4. a business/real estate professional;

5. two members of Highland Rim Historical Society

6. and the remainder shall be from the Municipal boundary in general.

The Commission's membership shall include members from the community in general but, if possible, it shall include professionals in primary or secondary historic preservation-related disciplines regardless of their place of residence. Efforts to include Commission members from primary historic preservation-related disciplines (architecture, history, architectural history, archaeology, city historian) and secondary historic preservation-related disciplines (urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields) shall be documented. Concerning the composition of the Commission, diversity in terms of gender and ethnicity is desirable. All Commission members shall have demonstrated knowledge of or interest, competence, or expertise in historic preservation.

All members of such boards shall be appointed by the Mayor of the city and confirmed by majority vote of the Board of Aldermen.

The Commission's ex officious may consist of the following members:

1. Mayor or his appointee

2. Alderman (with an interest in Historic Preservation)

3. Zoning Administrator

4. City Historian (if a paid member of City Staff, otherwise the City Historian may serve as a member of the Commission)

5. Parks Director

Ex officious may serve in said capacity for the duration of their appointment or election to their respective positions. Ex officious shall have the right to present, make recommendation, discuss, and debate items before the Commission. Ex officious shall not have the right to make decisions and vote on items before the Commission.

10-103.2 <u>TERM OF OFFICE OF BOARD MEMBERS, REMOVAL, AND VACANCIES</u>

All members of the Commission are appointed by the Mayor and confirmed by the Board of Aldermen, shall serve for designated terms and may be reappointed. Initial appointments to the Commission shall be made so as to provide staggered terms for membership.

Two (2) of the initial appointments shall be for five (5) years; two (2) of the initial appointments shall be for four (4) years; one (1) of the initial appointments shall be for three (3) years; one (1) of the initial appointments shall be for two (2) years; and one (1) of the initial appointment shall be for one (1) year. Subsequent appointments shall be for terms of five (5)

years.

Commission members may be removed for cause at any time by the Mayor. 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 Commission and be automatically terminated. Reasons for removal of a Commission member could include a pattern of poor attendance at meetings, refusal to follow applicable laws and ordinances in carrying out Commission business, failure to comply with conflict of interest provisions, unprofessional conduct at Commission meetings, etc. In the event of Commission vacancies due to death, resignation, involuntary removal, etc., the Mayor shall appoint replacement members to serve the remainder of the unexpired term.

10-103.3 DISQUALIFICATION OF MEMBERS BY CONFLICT OF INTEREST

Because the City may possess relatively few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law, or real estate, and in order not to impair such residents from practicing their trade for hire, members of the Commission are allowed to contract their services to an applicant for a certificate of appropriateness, and, when doing so must expressly disqualify themselves from the Commission during all discussions and voting for that application.. If any member of the Commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall encourage the member to resign his Commission seat. Failing this resignation, and if the Commission member continues to enter into conflict of interest situations with the Commission the chairman or vice-chairman of the commission shall encourage the Mayor to replace the member.

Likewise, any member of the Commission shall be disqualified from participating in the consideration of any request for a certificate of appropriateness involving such a property meeting the following requirements:

A. owns the property in question; or

B. owns property adjacent to the property in question; or

C. who is employed with a firm that has been hired to aid the applicant in any matter whatsoever; or

D. who has any proprietary, tenancy, or personal interest in a matter to be considered by the Commission

CHAPTER 2. RULES OF ORDER (BY-LAWS)

To fulfill the purposes of this ordinance and carry out the provisions contained therein:

A. The Commission annually shall elect from its membership a chairman and vice-chairman. The City Planner shall act as secretary for the Historic Preservation Commission. If neither the chairman nor the vice chairman attends a meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

B. This Chapter 2 of this ordinance shall constitute the rules of order (by-laws) of the Commission which shall govern the conduct of its business. Such rules of order (by-laws) shall be a matter of public record. The Commission may from time to time adopt such other rules of order (by-laws) as are necessary to its operation. A quorum for voting on any item of business shall be any four members who are not disqualified from voting due to a conflict of interest and the concurring vote of a majority of the members of the Commission present shall be necessary to deny or grant any application before the Commission.. Except as provided in this ordinance or in any subsequent amendment, questions arising concerning rules of order (by-laws) shall be settled by reference to Robert's Rules of Order.

C. The Commission shall develop design review guidelines for determining appropriateness as generally set forth in Chapter 2 of this ordinance. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards For Rehabilitation.

D. The Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record. City staff designated by the Mayor shall keep the aforementioned minutes and records, shall provide descriptions of the issues before the Commission, shall provide notice of meetings, and other support services reasonably necessary to the operation of the Commission.

E. The Commission shall establish its own regular meeting time; however, the first meeting shall be held after the adoption of this ordinance and within thirty (30) days after the initial appointment of Commission members. Regular meetings shall be scheduled at least once every six (6) months. The chairman, vice-chairman, or any two (2) members may call a special meeting to consider an urgent matter with adequate public notice.

CHAPTER 3. POWERS AND DUTIES

10-301 POWERS OF THE COMMISSION

A. The Commission shall conduct or cause to be conducted a continuing study and survey of resources within the City; however, the Commission is not authorized to incur any financial obligation without the express authorization of the City Council.

B. The Commission shall recommend to the City the adoption of ordinances designating preservation districts, landmarks, and landmark sites where appropriate along with the preservation of historic artifacts and in the establishment and maintaining of any city owned museum.

C. The Commission may recommend that the City recognize sub-districts within any preservation district, in order that the Commission may adopt specific guidelines for the regulation of properties within such a sub-district.

D. The Commission shall review applications proposing construction, alteration, repair, rehabilitation demolition, or relocation of any resource within the preservation districts, landmarks, and landmarks sites.

E. The Commission shall grant or deny certificates of appropriateness, and may grant certificates of appropriateness contingent upon of specified conditions.

F. The Commission does not have jurisdiction over interior arrangements of buildings and structures, except where such change will affect the exterior of the building and structures or when dealing with a city owned museum.

G. Subject to the express approval of the City Council and subject to the requirements of the City, the Commission may apply for, receive, hold, and spend funds from private and public sources, in addition to any appropriations made by the city for the purpose of carrying out the provisions of this ordinance.

H. Within the limits of any appropriations or grant in a budget approved by the City Council and subject to the approval of the Mayor, the Commission is authorized to contract with such staff, technical experts, or other persons as may be required for the performance of its duties and to request the equipment, supplies, and other materials necessary for its effective operation.

I. The Commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land or water for the examination or survey thereof. No member or agent of the Commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof.

10-302 DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS

By ordinance, the City may establish landmarks, landmark sites, and preservation districts within the area of its jursdication such landmarks, landmark sites, or preservation districts shall be designated following the criteria contained in this ordinance.

A. The Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the City's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The Commission shall work toward providing complete documentation for previously designated preservation districts which would include:

    1. A survey of all property within the boundary of the district, with photographs of each building.

    2. A survey which would be in a format consistent with the statewide Inventory format of the Historic Preservation Division of the State Historic Preservation Office (SHPO).

B. The Commission shall advise the City on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.

C. A resource or resources may be nominated for designation upon the recommendation of three members of the Commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the Commission. The Commission must reach a decision on whether to recommend a proposed nomination to the City Council within twelve months in the case of a preservation district and six months in the case of either a landmark or landmark site. After twelve months for a district and six months for a landmark or landmark site if no action has been taken by the Commission the nomination proceeds to the Portland Municipal Regional Planning Commission for their recommendation to the City Council.

D. The Commission shall hold a public hearing on the proposed preservation district, landmark, or landmark site. If the Commission votes to recommend to the City the designation of a proposed resource, it shall promptly forward to the Portland Municipal Regional Planning Commission its recommendation, in writing, together with an accompanying file.

E. The Commission's recommendations to the Planning Commission and City Council for designation of a preservation district shall be accompanied by:

    1. A map of the preservation district that clearly delineates the boundaries

    2. A verbal boundary description and justification

    3. A written statement of significance for the proposed preservation district

F. The City Council shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in the newspaper generally used by the City for such notices.

G. Within sixty (60) calendar days after the public hearing held in connection herewith, the City shall consider the adoption of the ordinance with such modifications as may be necessary.

H. Furthermore, the Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites and preservation districts. An updated list and map shall be maintained by such agencies and made available to the public.

10-303 CERTIFICATES OF APPROPRIATENESS

No exterior feature of any resource which is a designated landmark or landmark site or which is within a designated preservation district, shall be altered, added to, relocated, or demolished until after an application for a certificate of appropriateness of such work has been approved by the Commission. Likewise, no construction which affects a resource shall be undertaken without a certificate of appropriateness.

A. The Commission shall serve as a review body with the power to approve and deny applications for certificates of appropriateness.

B. In approving and denying applications for certificates of appropriateness, the Commission shall accomplish the purposes of this ordinance.

C. A certificate of appropriateness shall not be required for work deemed by the Commission to be ordinary maintenance or repair of any resource as defined in the Design Guidelines.

D. All decisions of the commission shall be in writing and shall state the findings of the Commission, Its recommendations, and the reasons therefore.

E. Expiration of a Certificate of Appropriateness: a certificate of appropriateness shall expire eighteen (18) months after its issuance EXCEPT THAT a certificate shall expire if work has not begun within six (6) months of its issuance. When a certificate has expired, an applicant may seek a new certificate.

F. Resubmitting of Applications: Twelve months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.

10-304 CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Commission shall use the Secretary of the Interior's Standards for Rehabilitation, as the basics for Design Guidelines created for each district or appropriateness:

A. General Factors:

1. Architectural design of existing building, structure, or appurtenance and proposed alteration

2. Historical significance of the resource

3. Materials composing the resource

4. Size of the resource

5. The relationship of the above factors to, and their effect upon the Immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historical character and integrity

B. New construction:

1. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, the materials, the textures, the patterns, the trims, and the design of the roof.

2. Existing rhythm created by existing building masses and spaces between them shall be preserved.

3. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.

4. No specific architectural style shall be required.

C. Exterior alteration:

1. All exterior alterations to a building, structure, object, site, or landscape feature shall be **atible**with the resource itself and other resources with which it is related, as is provided in Section 7, A and B, and the design, over time, of a building, structure, object, or landscape feature shall be considered in applying these standards.

2. Exterior alterations shall not adversely affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.

D. In considering an application for the demolition of a landmark or a resource within a preservation district; the following shall be considered:

1. The Commission shall consider the individual architectural, cultural, and/or historical significance of the resource.

2. The Commission shall consider the importance or contribution of the resource to the architectural character of the district.

3. The Commission shall consider the importance or contribution of the resource to neighboring property values.

4. The Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.

5. Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, if any, as set forth in Section 7, B, prior to receiving a demolition permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.

6. Applicants that have received a recommendation for demolition shall be required to have a demolition permit as well as certificate of appropriateness for the new construction. Permits for demolition and construction shall not be issued simultaneously.

7. When the commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments, and agencies.

10-305 PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS, REVIEW PROCESS

Anyone desiring to take action requiring a certificate of appropriateness concerning a resource for which a permit, variance, or other authorization from the city building official is also required, shall make application therefore in the form and manner required by the applicable code section or ordinance. Anyone desiring to take any action requiring a certificate of appropriateness shall submit an application for such certificate of appropriateness with the City Planner. After receipt of any such application, the City Planner shall be assured that the application is proper and complete. No building permit shall be issued by the Building Codes Department which affects a resource without a certificate of appropriateness. In the event that a building permit need not be obtained for construction, alteration, demolition, or relocation of any resource, a certificate of appropriateness is still required before such work can be undertaken. Such application shall be reviewed in accordance with the following procedure:

A. When any such application is filed, the City Planner shall immediately notify the Commission chairman, vice-chairman, or staff of the application having been filed.

B. The chairman or vice-chairman shall set the agenda for the regular meeting date or set an agenda with a time and date, no later than thirty (30) days after the filing of the application for a hearing by the Commission, and the City Planner shall be so informed.

C. The applicant shall, upon request, have the right to a preliminary hearing by the commission for the purpose of making any changes or adjustments which might be more consistent with the Commission's standards.

D. Not later than three (3) days before the date set for the said hearing, the city official designated by the Mayor shall provide written or verbal notice thereof to the applicant and to all members of the Commission.

E. Notice of the time and place of said hearing shall be given by publication in a newspaper

having general circulation in the city at least three (3) days before such hearing and by posting such notice on the bulletin board in the lobby of city hall.

F. At such hearing, the applicant for a certificate of appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the City shall have the right to present any additional relevant evidence in support of the application.

G. The Commission shall have the right to conditional approval.

H. Either at the meeting or within not more than fifteen (15) days after the hearing on an application, the Commission shall act upon it, either approving, denying, or deferring action until the next meeting of the Commission, giving consideration to the factors set forth in Section 10-304 hereof. Evidence of approval of the application shall be by certificate of appropriateness issued by the commission and, whatever its decision, notice in writing shall be given to the applicant and the city building official.

I. The issuance of a certificate of appropriateness shall not relieve an applicant for a building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, repair, or demolition.

10-306 <u>MINIMUM MAINTENANCE REQUIREMENTS</u>

In order to insure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the City's minimum housing code and the City's building code.

10-307 <u>PUBLIC SAFETY EXCLUSION</u>

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

A. The City Building Code Official concurs with the property owner that the resource cannot be repaired and restored and so notifies the Commission in writing.

B. The Commission, if in doubt after receiving such notification from the City Building Code Official, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a certificate of appropriateness for the demolition. The Commission may indicate in writing by letter to the city building official that it will require a time period of up to thirty days for this purpose, and, upon such notification to the city building official, this section shall be suspended until the expiration of such a delay period.

10-308 ENFORCEMENT AND PENALTIES

The Historic Preservation Commission shall be enforced by the city building official, who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

CHAPTER 4. APPEALS AND ECONOMIC HARDSHIP

10-401 APPEALS

Applicants may appeal a decision of the Commission may file an appeal of the order or judgment to the courts by the procedure of statutory certiorari (after the determination of the issue by the commission) in the manner provided by T.C.A 13-7-409.

10-402 ECONOMIC HARDSHIP

The Historic Preservation Commission (HPC) can take into consideration economic hardship arguments of the applicant. In its determination, the HPC would consider that by reason of the exceptional deterioration of the structure or by reason of the particular economics of the proposed project, the strict application of the Design Guidelines would result in peculiar and practical difficulties or undue economic hardship upon the owner to develop the property.

The HPC would also consider whether the relief of the particular hardships would not establish substantial detriment to the public good or substantially impair the intent and purpose of the Historic Preservation Ordinance. The peculiar hardship would apply to the particular land or building regardless of the owner, and the peculiar hardship is not created as a result of an act upon the part of the applicant.

If a Certificate of Appropriateness (COA) is denied to a property owner, the HPC will consider economic hardship and other factors that may affect an owner's ability to undertake and complete rehabilitation or other work considered. Economic hardship, caused by unusual and compelling circumstances, is based on one or more of the following:
The property cannot reasonably be maintained in the manner dictated by the ordinance;
There are no other reasonable means of saving the property from deterioration or collapse, or;
The property is owned by a nonprofit organization and it is not feasible financially or physically to achieve the charitable purposes of the organization while maintaining the property appropriately.

10-402.1 ECONOMIC HARDSHIP CRITERIA

Economic Hardship is a finding made by the Historic Preservation Commission when the denial of a Certificate of Appropriateness will:

A. Deprive the owner of the property of all reasonable use of, or economic return on, the property, or

B. Place an unreasonable economic burden on the property owner commensurate with the owner's financial ability to meet the requirements of the COA.

The HPC shall apply the following criteria:

A. The basis to establish economic hardship for an income-producing property shall be that a reasonable rate of return cannot be obtained from a property that retains its historic features or structures in either its present condition or if its features or structures are rehabilitated.

B. Economic hardship in regard to a non-income-producing property shall be found

when the property owner demonstrates that the property has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.

C. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:

1. Willful or negligent acts by the owner.

2. Purchase of the property for substantially more than market value.

3. Failure to perform normal maintenance and repairs.

4. Failure to diligently solicit and retain tenants.

5. Failure to provide normal tenant improvements.

To make a determination of Economic Hardship the HPC can request the following information in order to make its decision:

A. Cost estimates of the proposed construction, alteration, demolition, or removal and an estimate of the additional costs that would be incurred to comply with the recommendations of the HPC for issuance of a COA.

B. A report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

C. Estimated market value of the property in its current condition; estimated market value after completion of the proposed construction, alteration, demolition, or removal; after any change recommended by the HPC; and in the case of a proposed demolition, after renovation of the existing property for continued use.

D. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property and its market value for continued use after rehabilitation.

E. For income-producing properties, information on annual gross income, operating and maintenance expenses, depreciation deductions and annual cash flow after debt service, current property value appraisals, assessed property valuations, real estate taxes, and any other information considered necessary by the HPC for determine whether substantial evidence of economic hardship exists.

F. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

G. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

H. Amount paid for the property, the date of purchase, and the party from whom purchased.

Approval of Economic Hardship shall be based on the following criteria:

A. Denial of the COA will diminish the value of the subject property so as to leave substantially no value.

B. Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in this zone.

C. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical

D. Rental at a reasonable rate of return is not feasible.

E. Denial of the COA would damage the owner of the property unreasonably in comparison to the benefit conferred to the community.

F. All means of involving City sponsored incentives such as financial assistance, building code modifications, loans, grants etc. have been explored to relieve possible economic disincentives.

ARTICLE XI: AIRPORT OVERLAY DISTRICT

CHAPTER 1. DEFINITIONS

As used in this Ordinance, unless the context otherwise requires;

1. AIRPORT- Portland Municipal Airport

2. AIRPORT ELEVATION- The established elevation of the highest point on the usable landing area measured in feet from mean sea level. For the Portland Municipal Airport, this value is 817 Feet MSL.

3. APPROACH SURFACE – A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of this Ordinance. The perimeter of the approach surface coincides with the perimeter of the approach zone.

4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES –These zones are set forth in Section 3 of this Ordinance.

5. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

6. HAZARD TO AIR NAVIGATION- An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

7. HEIGHT – For the purpose of determining the height limits as to all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

8. HORIZONTAL SURFACE- A horizontal plane 150 feet above the established airport elevation, the perimeter of which plane coincides with the perimeter of the horizontal zone.

9. LANDING AREA- The surface area of the airport used for the landing, takeoff, or taxiing of aircraft.

10. NONCONFORMING USE- Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this Ordinance or an amendment thereto.

11. NONPRECISION INSTRUMENT RUNWAY- A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

12. OBSTRUCTION-Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 4 of this Ordinance.

13. 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.

14. PRECISION INSTRUMENT RUNWAY- A runway having an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

15. PRIMARY SURFACE- A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

16. RUNWAY- A defined area on an airport prepared for landing and take-off of aircraft along its length.

17. STRUCTURE- An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

18. TRANSITIONAL SURFACES- These surfaces extend outward and upward at ninety (90) degree angles to the runway centerline at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

19. TREE-Any object of natural growth.

20. VISUAL RUNWAY – A runway intended solely for the operation of aircraft using visual approach procedures.

21. UTILITY RUNWAY- A runway that is constructed for and intended to be used by propeller driven aircraft 12,500 pounds maximum gross weight and less.

22. (Larger than UTILITY RUNWAY) – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

23. ZONING BOARD OF APPEALS – The board of appeals has the power to: Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision of any ordinance enacted pursuant. Hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass: Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment

of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted. TCA 13-7-207.

CHAPTER 2. GENERAL PROVISIONS

11-201 ZONES

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones, which include all of the land lying beneath the Approach Surface, Transitional Surfaces, Horizontal Surface, and Conical Surface as they apply to Portland Municipal Airport. Such zones are shown on a zoning map and the Airport Layout Drawing (ALD), which is attached to this Ordinance as Attachment A and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

(1) APPOACH ZONES

A. Runway Larger than Utility with Visibility Minimum Greater Than ¾ mile Non-precision Instrument Approach Zone – The inner edge of this approach zone coincides with the width of the primary surface and is **500 feet wide**. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of **10,000** feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(2) TRANSITIONAL ZONES – The transitional zones are the areas beneath the transitional surfaces.

(3) HORIZONTAL ZONE - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(4) CONICAL ZONE- The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

11-202 HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) APPROACH ZONES – Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Zone – Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(2) TRANSITIONAL ZONES – Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 817 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet

outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

(3) HORIZONTAL ZONE- Established at one hundred fifty (150) feet above the airport elevation, or a height of 967 feet above the mean sea level.

(4) CONICAL ZONE – Slope twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(5) EXCEPTED HEIGHT LIMITATIONS – Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

11-203 USE RESTRICTIONS

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking-off, or maneuvering of aircraft intending to use the airport.

11-204 NONCONFORMING USES

(1) REGULATIONS NOT RETROACTIVE – The regulations described by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the relations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and which has been diligently prosecuted.

(2) MARKING AND LIGHTHING – Notwithstanding the preceding provision of this Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Portland Municipal Airport Authority to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Portland Municipal Airport Authority.

11-205 PERMITS

(1) FUTURE USES – Except as specifically provided in A, B, and C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted.
Each application for a permit shall indicate the purposed for which the permit is desired, with sufficient particularity to permit it be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 7, Par. (4).

A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

B. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

C. In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limitations to Section. See above

(2) EXISTING USES No permit shall be granted that would allow the establishment or creation or any airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments hereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(3) NONCONFORMING USES, ABANDONED OR DESTROYED – Whenever the City of Portland Regional Planning Commission determines that a nonconforming structure or tree has been abandoned or more than eight (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning relations.

(4) VARIANCES – Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use property, not in accordance with the regulations

prescribed in this Ordinance, may apply to the Zoning Board of Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will not do substantial justice and will be in accordance with the spirit of this ordinance. Additionally, no application for variance to the requirements of this ordinance may be considered by the Zoning Board of Appeals unless a copy of the application has been furnished to the Municipal Airport Manager or Portland Airport Authority for advice as to the aeronautical effects of the variance. If the Municipal Airport Manager or Portland Airport Authority does not respond to the application within 15 days after receipt, the Zoning Board of Appeals may act on its own to grant or deny said application.

(5) OBSTRUCTION MARKING AND LIGHTING – Any permit or variance granted may, if such action is deemed advisable by the Portland Municipal Airport Authority or the Zoning Board of Appeals to effectuate the purpose of this Ordinance and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to allow the Portland Airport Authority to install, operate, and maintain, at the expense of the City, such markings and lights as may be necessary.

CHAPTER 3. ADMINISTRATION

11-301 ENFORCEMENT

It shall be the duty of the City of Portland Planning and Codes Office to enforce the regulations prescribed herein. Applications for permits shall be made to the Planning and Codes Office upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Portland Planning and Codes Office shall be promptly considered and either granted or denied. Applications for variances shall be made to the City of Portland Zoning Board of Appeals by completing said application for variance determination.

11-302 APPEALS AND JUDICIAL REVIEW

(A) Any person aggrieved by any decision of the City of the Portland Zoning Board of Appeals made in administration of this ordinance may appeal such decision to the Circuit Court of Sumner County, Tennessee.

(B) All appeals hereunder must be taken within ten (10) days after such ruling by filing a notice of appeal specifying the grounds thereof. The Notice of Appeal shall forthwith be transmitted by the City Recorder of the City of Portland to the Clerk of the Circuit Court for Sumner County, Tennessee and shall include papers constituting the record upon which the action appealed from was taken.

(C) An appeal shall stay all activities in furtherance of the action by the application and appeal in accordance with applicable law.

11-303 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Ordinance, the City of Portland Regional Planning Commission, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct, or abate any such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation and to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, business or use in or about such premises.

11-304 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

11-305 SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

ARTICLE XII: PLANNED UNIT DEVELOPMENT DISTRICTS

CHAPTER 1. GENERAL PROVISIONS

12-101 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.

12-102 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 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.

12-103 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.

12-104 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 12-203.2 is submitted therewith.

12-105 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.

12-106 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.

12-107 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 12-206.

(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.

12-108 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.

12-109 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:

12-109.1 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 12-211.2. 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.

12-109.2 <u>CONVEYANCE OF COMMON OPEN SPACE</u>

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 12-109.3, 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.

12-109.3 <u>REQUIREMENT FOR MAINTENANCE ORGANIZATION</u>

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.

12-109.4 <u>MANDATORY PROVISIONS GOVERNING ORGANIZATION AND OPERATION OF MAINTENANCE ASSOCIATION</u>

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.

12-109.5 <u>FAILURE OF MAINTENANCE ORGANIZATION</u>

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.

12-109.6 <u>ASSURANCE INVOLVING THE PROVISION OF COMMON OPEN</u>

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 12-109.2, 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.

12-110 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.

12-111 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 XIV, 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

12-201 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.

12-202 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.

12-203 PRELIMINARY APPROVAL OF THE PROPOSED PLANNED UNIT DEVELOPMENT

12-203.1 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 12-203.2.

12-203.2 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.

12-203.3 <u>REVIEW BY OTHER DEPARTMENTS OF CITY GOVERNMENT</u>
Other departments of the City as appropriate, shall review the plan proposed for the planned unit development.

12-203.4 <u>PLANNING COMMISSION ACTION ON PRELIMINARY APPLICATION FOR PLANNED UNIT DEVELOPMENT</u>
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.

12-203.401 <u>Conditional Preliminary Approval - Land-Holder's Response</u>
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.

12-203.402 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 XIV, 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.

12-204 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.

12-204.1 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.

12-204.2 <u>FINAL APPROVAL OF STAGES</u>

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 12-107.

12-204.3 <u>FINAL MASTER DEVELOPMENT PLAN OF A PLANNED UNIT DEVELOPMENT</u>

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.

12-204.4 <u>ACTION ON FINAL PLAN</u>

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.

12-204.401 <u>Review Procedure</u>

(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.

12-204.402 <u>Approval with Modification</u>
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:

12-204.403 <u>Filing of an Approved Final Development</u>
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.

12-204.404 DISAPPROVAL

If the Planning Commission finds that the final plan does not meet the test for substantial compliance set forth in Section 12-205, 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.

12-205 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.

12-206 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.

12-207 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.

12-208 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.

12-208.1 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.

12-208.2 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 12-209.

12-209 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.

12-209.1 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.

12-209.2 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.

12-209.3 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.

(e) **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.

12-210 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION

12-210.1 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.

12-210.2 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 12-111, 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.

12-210.3 <u>RESUBDIVISION OF A PLANNED UNIT DEVELOPMENT AFTER COMPLETION</u>

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 12-210.2, 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

12-301 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.

12-302 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.

12-303 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.

12-303.1 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.

12-303.2 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.

12-303.3 CONDITIONAL USES

Any provisions of Section 12-111, 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

12-303.4 TEMPORARY USES

The temporary uses and structures specified in Subsection 14-203.3, as permissible within residential districts may be permitted within residential planned unit developments for the limited periods specified for each such use or activity.

12-303.5 PROHIBITED USES

Any use, other than a temporary use, not approved within an overall development plan or subsequent amendment thereto.

12-304 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.

Minimum Gross Area for

Base Zoning District	Formation of Residential Planned Unit Development District
R-40	10 acres
RS-20	7 acres
R-15, RS-15	4 acres
R-10	3 acres
R-7.5	2 acres
RM-1	1 acre

12-305 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.

12-306 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 12-307, 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 12-308.

12-306.1 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.

12-306.2 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.

12-306.3 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.

12-306.301 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.

12-306.302 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.

12-307 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.

12-307.1 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.

12-307.2 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 distiller 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.

12-308 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.

12-309 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.

12-310 SETBACK REQUIREMENTS

For all buildings located within the internal portion of the site, setbacks are to be established consistent with the provisions of Section 12-308. 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.

12-311 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.

12-312 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 12-307.2, shall apply.

12-313 ACCESS REQUIREMENTS

Every dwelling unit shall meet the provisions for access set forth in Article VI, Section 6-307.

12-314 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.

12-315 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

12-401 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 12-102.

12-402 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.

12-402.1 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.

12-402.2 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.

12-402.3 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.

12-403 LOCATION AND REQUIRED AREA OF COMMERCIAL PLANNED UNIT DEVELOPMENT

12-403.1 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.

12-403.2 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.

12-403.3 MINIMUM REQUIRED SITE

The minimum site required for the various types of commercial planned unit developments shall be as shown below:

COMMERCIAL PUD TYPE	MINIMUM REQUIRED SITE IN SQUARE FEET
Convenience Retail/Service	20,000
General Retail Sales and Service	40,000
Commercial Enterprise-General	40,000

12-404 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 12-404.1A. 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 12-402. 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 12-404.1A;

(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.

12-402.2 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 12-404.1, (b).

12-404.3 CONDITIONAL USES

The provisions of Section 12-111 and Subsection 12-404.1, (b), shall apply to the process of considering conditional uses for location within commercial planned unit development districts.

12-404.4 TEMPORARY USES

The temporary uses and structures specified in Article XIV, Subsection 14-203.3, 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.

12-404.5 PROHIBITED USES

Any use, other than a temporary use, not approved within an overall development plan or subsequent amendment thereto.

TABLE 12-404.1A: PERMITTED AND CONDITIONAL USES AND STRUCTURES ALLOWABLE WITHIN COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICTS

	CPUD DISTRICTS		
COMMUNITY FACILITY ACTIVITIES	CRS	GRS	CEG
A. Administrative Services			
B. Community Assembly			
C. Educational Facilities	(See Section 12-111 and Subsection 12-404.1, for Procedure Involved in Considering These Uses for Location Within Commercial PUD Districts)		
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			
COMMERCIAL ACTIVITIES			
A. Animal Care and Veterinary Services	P	P	P
B. Automotive Parking	X	P	P
C. Automotive Repair and Cleaning	X	X	P
D. Automotive and Other Vehicular, Craft and Related Equipment Sales, Rental and Delivery	X	P	P
E. Automotive Servicing	P	P	P
F. Business and Communications Services	P	P	P
G. Construction Sales and Services	X	X	P
H. Convenience Retail Sales and Services	P	P	P
I. Financial, Consulting and Administrative Services	P	P	P
J. Food and Beverage Services – General	P	P	P
K. Food Services - Limited	X	P	P
L. General Personal Services	P	P	P
M. General Equipment and Repair Services	X	P	P
N. General Retail Trade	X	P	P
O. Group Assembly – Limited	X	P	P
P. Group Assembly - Extensive	X	P	P
Q. Professional Services - Medical	P	P	P
R. Professional Services - Other	P	P	P
S. Scrap Operations	X	X	X
T. Transient Habitation	X	P	P
U. Undertaking Services	X	P	P
V. Warehousing, Goods Transport and Storage	X	X	P
W. Wholesale Sales and Business Supply	X	P	P
MANUFACTURING ACTIVITIES			
A. Manufacturing - Limited	X	X	P

KEY TO INTERPRETING USE CLASSIFICATIONS

P = Use Permitted Subject to Provisions of Subsection 12-404.2.

X = Use Not permitted Within the District.

12-405 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.

12-405.1 BUILDING HEIGHT

The height of buildings permitted within commercial planned unit developments shall be controlled as provided herein.

12-405.101 Basic Requirements

No portion of any building or other structure may, except as provided in Subsection 12-405.102, exceed thirty-five (35) feet in height. Provided, however, that along district boundaries the provisions of Subsection 12-407.2, shall apply to all commercial PUD's.

12-405.102 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.

12-405.2 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.

12-406 OPEN SPACE REQUIREMENTS

The following open space requirements shall be applied to the various types of commercial planned unit developments.

12-406.1 PROVISIONS APPLICABLE TO CONVENIENCE RETAIL/SERVICE PLANNED UNIT DEVELOPMENTS

12-406.101 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.

12-406.102 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 (I0) 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.

12-406.103 <u>Building Setback</u>

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.

12-406.2 <u>PROVISIONS APPLICABLE TO ALL OTHER COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICTS</u>

Except as required by Section 12-407, (along district boundaries) and Subsection 12-405.3, 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.

12-407 <u>SPECIAL YARD AND HEIGHT REQUIREMENTS ALONG PERIMETERS ADJOINING CERTAIN DISTRICTS</u>

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.

12-407.1 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.

12-407.2 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.

12-408 PROVISIONS GOVERNING OFF-STREET PARKING AND LOADING

12-408.1 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.

12-408.2 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.

12-408.3 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.

12-408.4 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.

12-408.5 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.

12-409 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

12-501 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 12-102.

12-502 LOCATION AND SITE OF INDUSTRIAL PLANNED UNIT DEVELOPMENT

The location and required area of industrial planned unit development districts shall be as follows:

12-502.1 LOCATION

An industrial planned unit development may be developed independently or as part of a combined planned unit development as set forth in Section 12-106 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.

12-502.2 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.

12-503 USES AND STRUCTURES

The provisions of this section shall apply to all uses and activities permitted within any industrial planned unit development.

12-503.1 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

12-503.2 <u>PERMITTED ACCESSORY USES AND STRUCTURES</u>

(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.

12-503.3 CONDITIONAL USES

The provisions of Section 12-111 and Subsection 12-503.1, (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

12-503.4 TEMPORARY USES

The temporary uses and structures specified in Subsection 14-203.3, 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.

12-503.5 PROHIBITED USES

Any uses or structures not of a nature specifically permitted herein.

12-504 BULK REGULATIONS FOR INDUSTRIAL PLANNED UNIT DEVELOPMENT

The following building, site and yard requirements shall be applied in industrial planned unit development.

12-504.1 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.

12-504.2 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.

12-504.3 MINIMUM OPEN SPACE, SETBACK AND BOUNDARY REQUIREMENTS

Within an industrial planned unit development district, the following open space, setback and boundary requirements shall apply.

12-504.301 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.

12-504.302 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 12-505, shall apply.

12-505 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.

12-505.1 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.

12-505.2 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.

12-506 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.

12-506.1 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.

12-507 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 12-507.1, below. The design, lighting provisions, etc., contained in Article IV, Chapter 1, are fully applicable to all industrial planned unit developments.

12-507.1 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.

12-508 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 XIII: 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

13-201 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.

13-202 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.

13-203 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.

13-204 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.

13-205 ZONE LOT CONTAINING NONCONFORMING USE

A zone lot containing a nonconforming use shall not be reduced in area except to comply with Section 13-204.

13-206 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 13-207) is undertaken.

13-207 CHANGE OF NONCONFORMING USE

13-207.1 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.

13-207.2 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.

13-207.3 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.

13-208 EXPANSION OF NONCONFORMING USES

13-208.1 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.

13-208.2 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.

13-208.3 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.

13-208.4 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.

13-209 DAMAGE OR DESTRUCTION

13-209.1 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.

13-209.2 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 13-207) to other than a permitted use.

13-209.3 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.

13-209.4 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.

13-209.5 RECONSTRUCTION OF FLOOD DAMAGED PROPERTY

The provisions of Section 13-211, shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within floodplain districts.

13-210 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.

13-211 SPECIAL PROVISIONS GOVERNING NONCONFORMING BUILDINGS WITHIN FLOODPLAIN DISTRICTS

13-211.1 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.

13-211.2 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 13-204, 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.

13-211.3 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.

13-212 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.

13-212.1 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 fore-going, 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.

13-212.2 <u>TIME LIMIT FOR CONFORMITY</u>

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

13-301 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.

13-302 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.

13-303 NONCOMPLYING BUILDINGS AND OTHER STRUCTURES

13-303.1 CONTINUATION OF USE

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this chapter.

13-303.2 REPAIRS AND ALTERATIONS

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Sections 13-303.3 thru 13-303.5.

13-303.3 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.

13-303.4 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.

13-303.5 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.

13-303.6 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 XIV: ADMINISTRATION AND ENFORCEMENT

CHAPTER 1. GENERAL PROVISIONS

14-101 ORGANIZATION AND PURPOSE

The administration of this ordinance is hereby vested in three (3) offices of the government of the City of Portland as follows:

(A) The Building Code Official, and his or her duly appointed assistants.

(B) The Zoning Administrator

(C) The Board of Zoning Appeals.

It is the purpose of this article to set out the authority of each of these three (3) 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

14-102 APPOINTMENT AND DUTIES OF THE BUILDING CODE OFFICIAL

14-102.1 Appointment of the Building Code Official

There is hereby created the office of building code official The building code official 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.

14-102.2 Duties of the Office of Building Code Official

The Building Code Official shall enforce this ordinance and in addition thereto and in furtherance of said authority he shall:

(1) Issue all building permits, and make and maintain all records thereof;

(2) Issue all use and occupancy permits, and make and maintain all records thereof;

14-102.3 Powers of the Building Code Official Regarding the Issuance of Permits

The building code official 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 code official to approve any plan or issue any permits or certificates of occupancy for any excavation or construction until the appropriate site plans have been approved by the Zoning Administrator or Planning Commission.

Under no circumstances is the Building Code Official permitted to make changes in this ordinance nor to vary its terms and provisions in carrying out his duties.

The Building Code Official 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.

14-103 APPOINTMENT AND DUTIES OF THE ZONING ADMINISTRATOR

14-103.1 ZONING ADMINISTRATOR

The duly appointed City Planner for the City of Portland shall also serve as the Zoning Administrator.

14-103.2 DUTIES OF THE OFFICE OF ZONING ADMINISTRATOR

The Zoning Administrator shall enforce this Ordinance, and in addition thereto and in furtherance of said authority he shall:

A. Issue all zoning permits, and make and maintain records thereof;

B. Issue and administer all, site sureties and make and maintain all records thereof;

C. Conduct inspections of use of land to determine compliance with the provisions of this Ordinance;

D. Maintain permanent and current records of this Ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, site plans, including preliminary and final master development plans, and applications therefore;

E. Provide information to the public on all matters relating to this Ordinance;

F. Receive, file and forward to all necessary agencies all applications for conditional uses, and for amendments to this Ordinance;

G. 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;

H. 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.

I. Administration to the Boards of Zoning Appeals

J. Administration of the Floodplain Ordinance.

K. Act as Secretary to the Planning Commission

L. Act as Secretary to the Board of Zoning Appeals

M. Act as Secretary to the Historic Preservation Commission

14-103.3 <u>POWERS OF THE ZONING ADMINISTRATOR REGARDING THE ISSUANCE OF PERMITS</u>

The Zoning Administrator shall have the power to grant zoning/development permits, and make inspections of land, development sites and properties necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plan or issue any zoning/development permits for any excavation or construction until he has, first conferred with the City Engineer, and inspected such plans in detail and found them to conform to this Ordinance.

Under no circumstances is the Zoning Administrator permitted to make changes in to this Ordinance nor to vary its terms and provisions in carrying out his duties without authorization by the Board of Mayor and Alderman upon adoption an amendment to this Ordinance.

The Zoning Administrator 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.

CHAPTER 2. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

14-201 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 Code Official has issued a building permit for such work.

14-202 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 Code Official 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 Code Official 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 Code Official to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this ordinance.

14-202.1 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).

14-202.101 Building Code Official May Require Proof of Authority

The Building Code Official 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.

14-202.102 Applications to be Complete

All applications for building permits must be complete before the Building Code Official is required to consider the application. Subject to Subsection 14-202.103, an application is complete when it contains all the information that is necessary for the Building Code Official to decide whether or not the development if completed as proposed, will comply with all the requirements of this ordinance.

14-202.103 Content of Plans

The presumption established in this ordinance is that the information set forth in

Subsection 14-202.2, is necessary to satisfy the requirements of this section.

However, it is recognized that each development is unique, and therefore, the Building Code Official may allow less information or require more information to be submitted according to the needs of the particular case.

14-202.104 Forms to Be Developed

The Building Code Official 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 Code Official 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 Code Official shall develop standard forms that will expedite the submission of the necessary plans and other required information.

14-202.2 DEVELOPMENT PLANS REQUIRED

The development plans indicated in Subsections 14-202.201 and 14-202.202 (below) are required for the uses indicated.

14-202.201 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 14-202.203.)

(6) Where subsurface sewage disposal is anticipated, certification from the Department of Health and Environment approving the lot for such use.

14-202.202 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 shall contain information that ensures compliance with this ordinance and other applicable City ordinances is required for

all commercial, industrial, community facilities, and residential activities (excepting one and two family detached and semi-detached dwellings). The Zoning Administrator shall develop and update, as needed, checklist that act as a guide for compliance with this ordinance and other applicable City ordinances. Plans shall be prepared and stamped by registrants of the State of Tennessee who are licensed surveyors, engineers, architects, or landscape architects according to particular type of development.

The Planning Commission shall adopt, no later than December of each year, a calendar for the following year that at a minimum includes the submittal date and meeting date. 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. Planning Commission shall require both hard copies and a digital (PDF) copy at the initial submittal and any resubmittal thereafter. The Planning Commission shall adopt the number of copies required at initial submittal and resubmittals with the calendar every year.

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.

All site development plans, including amendments and minors shall be subject to the following requirements:

(A) All four copies will be stamped "approved" and signed by the Zoning Administrator once approved by the appropriate City and/or Utility Staff.

(B) One copy will be returned to the applicant and is required to be kept on site until a full Certificate of Occupancy is received.

(C) One (1) full size set, one (1) PDF, and one (1) DWG files of "as-built" plans shall be submitted at project completion but prior to bond release and receiving a final Certificate of Use and Occupancy.

The Zoning Administrator and appropriate City Staff may review and approve a Site Development Plan as a Minor Site Development Plan when one of the following criteria is met:

(A) Existing sites with each Change of Occupancy/Use

(B) New buildings up to 5,000 square feet

(C) Building additions up to 5,000 square feet that meet the minimum zone lot requirements/lot coverage

(D) Any other associated items determined by the Zoning Administrator to be minor.

The Zoning Administrator and appropriate City Staff may review and approve an amendment to a site development plan as a Site Development Plan Amendment if the following criteria is met:

1. On-site traffic pattern is not changed
2. No impervious surface is added
3. No buildings are moved and/or added
4. No changes to the façade are made
5. All changes comply with the requirements of this Ordinance and other applicable City Ordinances

More than two Site Development Plan Amendment shall require Planning Commission approval.

Applicants requesting review by staff for Minor Site Development Plan or Site Development Plan Amendment 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.

The following signature block shall be included on the cover page of all Site Development Plans submitted for review including minors and amendments.

SITE DEVELOPMENT PLAN APPROVAL

The City of Portland Municipal-Regional Planning Commission approved the final site development plan for (Enter Project Name) at their meeting on this ____ day _____, _____. The Zoning Administrator and appropriate City Staff has reviewed this site development plan and it meets the City's development ordinances and conditions of approval, except for any variances or exceptions granted by the Board of Zoning Appeals or Planning Commission.

This Site Development Plan shall expire on this ____ day _____, _____ if site preparation (grading) has not begun and building permits have not been issued. The Site Development Plan approval shall be extended to the ____ day of _____, _____, once the construction of buildings or stormwater structures has been stared so long as the proper permits are maintained.

_____ _____

Zoning Administrator Date

14-202.203 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.

14-202.3 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.

14-202.301 Time Limit on Plot Plans and Site Development Plans
Any plot 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 14-202.302, shall apply, provided, however, that in no instance shall an approved plot plan become null and void in less than one (1) year.

Any site development plan approved under the provisions of this ordinance shall remain valid for (3) years after the date of its approval. If site preparation (grading) has not begun and building permits have not been issued after three (3) years the site development plan shall become null and void. Upon beginning construction of buildings or stormwater structures the approval shall be extended two (2) years, to five (5) years total , provided that any necessary permits are maintained.

14-202.302 Time Limit on Building Permit
Any building permit issued by the Building Code Official 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.

14-202.4 SITE DEVELOPMENT AGREEMENT AND PERMITS REQUIRED

1. Site Development Agreement
   Prior to the issuance of any permit, other than a building permit for construction of a one- or two-family dwelling, under authority of this ordinance applicants shall review and enter into a "Site Development Agreement" in a form that is approved by the Board of Mayor and Aldermen from the purpose of acknowledging the understanding and agreement of the applicant with the policies and procedures o f the City as they relate to proposed site development and construction activities.

2. Permit Required
   a. No Site Work Without Permit
      The permits indicated within this section are required before any site grading or construction activity of any type is initiated upon any zone lot or parcel or land or before extending or changing to another activity type on any zone lot.

   b. Application
      Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by any officer, department, or employee or the City, unless the application for such permit has been examined by the Office of the Zoning Administrator and a determination made by that office that the proposed building or activity complies with all the provisions of this ordinance. An application for a zoning permit shall include all information and exhibits necessary to determine if the proposed activity and/or development is in compliance with the provisions of this ordinance. Any building permit or any

other permit issued in conflict with this provision or any other provision of this ordinance shall be null and void.

c. Permits
The following zoning permits are required subject to the specific provision of the referenced sections:

Permit Applicable Provision
i. Building Permit Subsection 14-201

ii. Use and Occupancy Permits Subsection 14-203

14-203 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 Code Official 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.

14-203.1 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 Code Official.

14-203.2 ISSUANCE OF CERTIFICATE OF OCCUPANCY
The following shall apply in the issuance of any certificate of use and occupancy:

14-203.201 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.

14-203.202 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.

14-203.203 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.

14-203.204 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.

14-203.3 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 Code Official, at the sole discretion of said inspector. Any person aggrieved by the decision of the Building Code Official may request relief from the Board of Zoning Appeals, as prescribed in Article XIV, 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)

14-203.301 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.

13-203.302 Surety Required for Temporary Use and Occupancy Permit

A temporary use and occupancy permit may be issued prior to completion of all construction and prior to completion of all requirements of this Ordinance and applicable federal, state, and local regulations provided the Zoning Administrator and appropriate Department Head have inspected the premises and determined that the project is sufficiently complete to allow for occupancy of the premises and have authorized such occupancy in writing. Reasonable terms may be imposed as a condition of allowing occupancy. A surety and time limit shall be imposed for completion of the remaining improvements.

The time limit shall be set by the Zoning Administrator and appropriate Department Head based on the amount of time the City determines is necessary and appropriate. The time limit shall not exceed six (6) months. In the case of the time allowed to complete landscaping, sufficient time shall be given to avoid planting during dry, hot weather, or freezing weather. Furthermore, a surety shall be provided to guarantee the completion of all remaining required improvements such as, but not limited to, landscaping, irrigation, final grading, and drainage.

The surety shall be in the form of a letter of credit in the amount specified by the Zoning Administrator and appropriate Department Head plus fifteen percent (15%). A cashiers' check will also be accepted and shall be deposited immediately into the City's bank account. This surety shall be returned to the issuer upon the issuance of a permanent use and occupancy permit. Where surety has been posted, and required improvements have not been installed within the terms of the surety and temporary use and occupancy permit, then the Zoning Administrator and/or appropriate Department Head may declare the surety to be in default and authorize the calling of

the surety and the completion of the improvements under the supervision of the appropriate City Department.

Letters of credit shall be from a bank location within Sumner County or a county adjoining Sumner County where such letter(s) may be drawn upon.. The surety shall name the City of Portland as beneficiary, shall comply with all statutory requirement. All Irrevocable Letters of Credit shall be issued prior to issuance of building permits and/or prior to commencing construction of improvements. Letters of Credit shall in no event exceed one (1) year and must contain automatic renewal provisions, that provide for automatic renewal of the Irrevocable Letter of Credit unless the City is provided at least sixty (60) days' notice of non-renewal by the issuer of said Irrevocable Letter of Credit.

14-203.303 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 Code Official. 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 hereinunder 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.

13-204 SITE SURETY REQUIRED

Any application for a zoning permit or building permit which requires the submission of a site development plan shall be accompanied by a surety in the amount of the estimated cost of public infrastructure improvements including, but not limited to, water line and sewer line installation, and public drainage conveyances. A Separate surety is required to include the cost of restoring the site to natural grades including stabilizing the site and protecting adjacent properties and rights-of-way from erosion.

The surety shall be in the form of a letter of credit in the amount specified by the Zoning Administrator and appropriate Department Head plus fifteen percent (15%). A cashiers' check will also be accepted and shall be deposited immediately into the City's bank account. This surety shall be returned to the issuer upon the issuance of a permanent use and occupancy permit. Where surety has been posted, and required improvements have not been installed within the terms of the terms of the site development plan approval, then the Zoning Administrator and/or appropriate Department Head may declare the surety to be in default and authorize the calling of the surety and the completion of the improvements under the supervision of the appropriate City Department.

Letters of credit shall be from a bank location within Sumner County or a county adjoining Sumner County where such letter(s) may be drawn upon.. The surety shall name the City of Portland as beneficiary, shall comply with all statutory requirement. All Irrevocable Letters of Credit shall be issued prior to issuance of building permits and/or prior to commencing construction of improvements. Letters of Credit shall in no event exceed one (1) year and must contain automatic renewal provisions, that provide for automatic renewal of the Irrevocable Letter of Credit unless the City is provided at least sixty (60) days' notice of non-renewal by the issuer of said Irrevocable Letter of Credit.

Acceptance of the infrastructure shall follow the process in Article III: Assurance for Completion and Maintenance of Improvements of the Subdivision Regulations. A fifteen percent (15%) maintenance surety shall be held on all public infrastructure improvements the applicant shall be required to file a

maintenance/warranty bond with the Zoning Administrator prior to acceptance. This bond is established for purposes of assuring the quality of the materials and construction of such facilities. Such bond shall be in an amount considered adequate by the Zoning Administrator to assure satisfactory condition of the required improvements. In no event will this bond be set below an amount equal to fifteen (15) percent of the estimated original cost of such improvements.

CHAPTER 3. BOARD OF ZONING APPEALS

14-301 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.

14-302 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.

14-303 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.

14-304 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.

14-305 <u>ELECTION OF OFFICERS</u>

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.

14-306 <u>CONFLICT OF INTEREST</u>

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 form 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.

14-307 <u>MEETINGS OF THE BOARD</u>

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.

14-308 <u>RULES AND PROCEEDINGS OF THE BOARD</u>

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.

14-309 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.

14-310 LIABILITY OF BOARD MEMBERS, ZONING ADMINISTRATOR, AND EMPLOYEES

Any Board Member, Zoning Administrator, 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 assure 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, Zoning Administrator, 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.

14-311 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.

14-312 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.

14-401 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 14-202.2. 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 14-308, (C) and 14-402. 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.

14-402 NOTICE TO AFFECTED PROPERTY OWNERS

It shall be the general rule of the Board that reasonable efforts shall De 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.

14-403 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 narrowness, 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 exceptional 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.

14-404 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.

14-405 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.

14-406 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 14-403, 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.

14-407 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 Zoning Administrator 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 Zoning Administrator, 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.

14-408 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.

14-409 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.

14-409.1 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.

14-409.2 <u>CONTENT OF APPLICATION</u>

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.

14-409.3 <u>RESTRICTION OF VARIANCES</u>

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.

14-409.4 <u>NOTICE TO APPLICANT UPON APPROVAL OF VARIANCES</u>

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

14-501 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.

14-502 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 14-202.2, 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 14-505, 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 14-308, (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.

14-503 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 14-504 thru 14-508.4, 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.

14-504 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.

14-505 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.

14-501.1 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.

14-505.2 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.

14-505.3 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.

14-505.4 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.

14-506 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 14-506.1 through 14-506.7, only when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

14-506.1 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 Zoning Administrator, 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.

14-506.2 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:

Enrollment Capacity	Minimum Site Size
1-49	1.5 acres
50-99	2.0 acres
100-149	2.5 acres
150 or more	Add ½ additional acre to 2.5 acres for each additional 50 students or

fraction thereof above 149

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.

14-506.3 <u>SPECIAL CONDITIONS FOR CULTURAL AND RECREATIONAL SERVICES</u>

(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.

14-506.4 <u>SPECIAL CONDITIONS FOR INTERMEDIATE AND EXTENSIVE IMPACT</u>

(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.

14-506.5 SPECIAL CONDITIONS FOR HEALTH CARE FACILITIES

14-506.501 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 Agency.

(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.

14-506.502 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

14-506.6 SPECIAL CONDITIONS FOR SPECIAL PERSONAL AND GROUP CARE FACILITIES

14-506.601 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.

14-506.602 <u>Day Care Centers</u>

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 aforedescribed 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.

14-506.603 <u>Family Care and Group Care Facilities</u>

(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 aforedescribed 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.

14-506.604 <u>Nursing Homes, Retirement and Rest Homes</u>

(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 aforedescribed 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.

14-506.7 <u>SPECIAL CONDITIONS FOR RELIGIOUS FACILITIES</u>

(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.

14-506.8 <u>SPECIAL CONDITIONS FOR SPECIAL INSTITUTIONAL CARE FACILITIES</u> (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 the public road.

14-507 SPECIAL STANDARDS FOR COMMERCIAL ACTIVITIES

A conditional use permit shall not be granted for the commercial activities specified in Subsection 14-507.1 and 14-507.2, unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable districts.

14-507.1 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.

14-507.2 <u>SPECIAL CONDITIONS FOR PAY-DAY LOAN AGENCY, TITLE LOAN ESTABLISHMENTS, CHECK-CASHING FACILITY, OR PAWNSHOPS</u>

(a) Shall not be allowed within:

(1) 1,320 feet from any other Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshops

(2) 1,320 feet from any school.

Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premise where the Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshops establishment is located, to the nearest property line of the premises of any Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshops or school.

(b) Shall not be allowed within the boundaries of the North Gateway Planning Study Area.

(c) Shall not be allowed to adjoin any residential zoned property.

14-508 <u>SPECIFIC STANDARDS FOR AGRICULTURAL AND EXTRACTIVE ACTIVITIES</u>

A conditional use permit shall not be granted for the agricultural and extractive activity specified in Subsection 14-508.1 thru 14-508.4 unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

14-508.1 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, hereinunder. 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, hereinunder.

g. A plan for odor control to include evidence developed from operations similar to the one being proposed shall accompany the application required, hereinunder.

14-508.2 <u>SPECIAL CONDITIONS FOR MINING AND QUARRYING</u>

(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 (i00) 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.

14-508.3 <u>SPECIAL CONDITIONS FOR COMMERCIAL STORAGE OF EXPLOSIVES</u>

(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 same 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.

14-408.4 <u>SPECIAL CONDITIONS FOR PLANT NURSERY ACTIVITY</u>
The Board of Appeals shall prescribe the number of accessory off-street parking spaces that will adequately service the activity.

14-508.5 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

14-601 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.

14-602 INITIATION OF AMENDMENT

Amendments may be initiated by the City Council, the Planning Commission, Zoning Administrator or by an application by any other interested persons.

14-603 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.

14-604 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.

14-605 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.

14-606 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)

14-607 AMENDMENTS AFFECTING ZONING MAP

Upon enactment of an amendment to the zoning map which is part of this ordinance, the Zoning Administrator shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

14-608 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.

14-609 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.

14-610 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 Zoning Administrator 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

14-701 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 Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and act thereon as provided by this ordinance.

14-702 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance, or of polices and procedure, including "Site Development Agreements", adopted in pursuance thereof 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.

14-703 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 Zoning Administrator 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 Zoning Administrator 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.

ARTICLE XV: MIXED USE DISTRICTS

CHAPTER 1. MIXED USE ZONING DISTRICTS

15-101 RESIDENTIAL MIXED USE (RMU)

15-101.1 PURPOSE OF RESIDENTIAL MIXED USE

The Residential Mixed-Use (RMU) District is established to encourage diverse functioning neighborhoods that mix various types of residential development as the primary Use Type, limited neighborhood-serving nonresidential uses, and complementary institutional uses (e.g., churches, post offices, police sub-stations). The district permits a diverse mixture of detached and attached development and accessory dwellings. In addition to a variety of residential types, the district permits centrally-located open space, day care facilities, and small-scale, neighborhood-serving convenience retail located on corner lots.

1. Accommodate mixed-use buildings with a primary residential feel with neighborhood supportive retail, office, and restaurant uses allowed at intersections on the ground floor residential units above the nonresidential space;

2. Encourage development that exhibits the physical design characteristics of pedestrian oriented, storefront-style shopping at street intersections; and

3. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

15-101.2 USES AND STRUCTURES

15-101.201 ALLOWED USES

1. Residential Activities
    a. Dwelling, Single-family detached
    b. Dwelling, Two-family detached
    c. Dwelling, Townhome (6-403)
    d. Dwelling, Semi-detached (6-403)
    e. Dwelling, Multi-family (6-402)

2. Community Facilities Activities
    a. Administrative Services
    b. Essential Public Transport, Communication, and Utility Services

3. Commercial Activities
    a. Animal Care and Veterinarian Services
    b. Business and Communications Services
    c. Convenience Retail Sales and Services
    d. Financial, Consulting and Administrative Services
    e. Food and Beverage Service – General
    f. Food Service – Limited
    g. General Personal Services
    h. General Retail Trade

i. Professional Services – Medical
j. Professional Services – Other
k. Transient Habitation

15-101.202 CONDITIONAL USES

1. Community Facilities Activities
    a. Community Assembly (14-506.1)
    b. Educational Facility (14-506.2)
    c. Cultural and Recreational Services (14-506.3)
    d. Health Care Facilities (14-506.5)
    e. Religious Facilities (14-506.7)
    f. Special Institutional Care Facilities (14-506.8)

15-101.203 PROHIBITED USES

1. Drive Through Facilities
2. Service or Gas Stations
3. Commercial Outdoor Kennels or Boarding of Animals
4. Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshop
5. Self-storage facilities
6. Any use or structure not specifically permitted by right or conditional use.

15-101.204 ACCESSORY USES ALLOWED

1. Accessory Structures for Dwelling, Single-family detached or Dwelling, Two-family detached
2. Dwelling, Accessory Dwelling Units for Dwelling, Single-family detached
3. Home Occupations for residential uses

15-101.3 BUILD TO LINE AND SETBACKS

15-101.301 FRONT BUILD TO LINE

The front shall not have a traditional setback, instead there shall be a build to line. The front façade of a building shall be placed within the build to line. The build to line shall be ten (10) feet to fifteen (15) feet.

15-101.302 REAR SETBACK

The rear setback shall be ten (10) feet.

15-101.303 SIDE SETBACK

The side setback shall be five (5) feet. On a corner lot the front build to line shall apply.

15-101.304 CORNER LOT BUILD TO LINE

Corner lots shall have a build to line from both streets unless the building would fall within the no obstruction zone in Section 6-305.4. If the building is within the obstruction zone the building shall be placed in the order of the following scenarios until a resolution is found:

1. Building is placed in the build to line of the arterial street.

2. Building is placed in the build to line of the collector street.

3. Building is placed as close to the street as possible, upon the recommendation of the Zoning Administrator.

15-101.4 MINIMUM LOT AREA

1. The minimum lot area shall be 5,000 square feet for any uses not specifically listed within this section.

2. The minimum lot area for Dwelling, Townhome and Dwelling, Semi-detached shall be 2,500 square feet.

3. The minimum lot area for Dwelling, Multi-family shall be 2,500 square feet.

4. There shall be no lot minimum lot area for Dwelling, Multi-family units provided on the second story or higher.

15-101.5 MINIMUM LOT WIDTH

1. The minimum lot width shall be 50 feet for all uses except Dwelling, Townhomes and Dwelling, Semi-detached.

2. The minimum lot width for Dwelling, Townhomes and Dwelling, Semi-detached shall be 25 feet.

15-101.6 MAXIMUM LOT COVERAGE

The maximum lot coverage by all buildings shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-101.7 IMPERVIOUS SURFACE AREA

The maximum impervious surface area shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-101.8 BUILDING HEIGHT

The maximum building height shall be 35 feet.

15-101.9 LOT AREA PER RESIDENTIAL UNIT (DENSITY)

1. The minimum lot area of 5,000 square feet shall be required for a Dwelling, Single-family detached structure.

2. A minimum of 2,500 square feet of lot area shall be provided for Dwelling, Two-family detached, Dwelling, Townhome, Dwelling, Semi-detached, and Dwelling, Multi-family.

3. No minimum lot area shall be required for residential uses on the second floor of a mixed-use building. Any residential use on the first floor shall meet the minimum lot area requirement of 2,500 square feet.

15-101.10 OFF-STREET PARKING AND LOADING REQUIREMENT

1. Parking requirements shall be reduced by half (½) of the requirements in Article IV: Supplementary Districts Regulations, Chapter 1. Accessory Off-Street Parking and Loading Requirements.

2. Parking requirements may be further reduced by Planning Commission upon the recommendation of Staff. Staff's recommendation shall be based on information provide by the Developer or Business Owner, which may include the following:
    a. Parking demand on similar type of developments
    b. Availability of shared parking facilities
    c. Availability of reasonable pedestrian and bicycle infrastructure
    d. A general parking study
    e. A site specific parking study
    f. The level of risk for a negative impact on the normal flow of traffic if the number of parking spaces is not adequate
    g. The availability of an area where parking could be expanded if the demand increased

3. No loading spaces shall be required in the RMU district.

4. Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

5. No parking shall be allowed between the street and the building. This requirement shall not restrict on-street parking.

6. On-street parking shall not be allowed on arterial or collectors. This shall include any road identified as a future collector or future collector in any Plan adopted by the Planning Commission, Mayor of Board and Aldermen, Tennessee Department of Transportation, or the Metropolitan Planning Organization.

15-101.11 FLOOR TO FLOOR AND FLOOR AREA OF GROUND-FLOOR SPACE

1. All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 10 feet.

2. All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:
    (1) At least 700 square feet or 25 percent of the lot area (whichever is less).

15-101.12 COMMERCIAL USE LIMITATIONS

15-101.1201 COMMERCIAL LOCATION LIMITATIONS

Commercial uses and mixed-use buildings shall be limited to the parcels on the four corners of an intersection and within 200 feet of the intersection within the RMU zoning district.

15-101.1202 COMMERCIAL SIZE LIMITATIONS

The gross floor area of commercial establishments in the RMU district shall not exceed 5,000 square feet.

15-101.13 INDOOR/OUTDOOR OPERATIONS

All permitted uses in the RMU district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

15-101.14 DESIGN ELEMENTS

Within the RMU district, Commercial and Mixed-Use sites or Residential sites with three or more dwelling units shall be subject to the City of Portland Design Standards. If any conflicts exist between this section and the Design Standards this section shall prevail. Mixed Use, Commercial, and Residential Uses, with more than two units, shall be subject to the City of Portland's Design Standards.

15-101.1401 TRANSPARENCY

1. A minimum of 65 percent of the street-facing building façade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.

2. The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than 3 feet above the adjacent sidewalk. (3) Product display windows used to satisfy these requirements must have a minimum height of 4 feet and be internally lighted.

15-101.1402 DOORS AND ENTRANCES

1. Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

15-101.1403 LANDSCAPING

Upon recommendation of the Zoning Administrator, width and area requirements may be reduced by the Planning Commission to ensure that buildings comply with the build to lines required in the district. Landscaping may be planted in permanent raised beds and planters of appropriate size.

15-101.15 VEHICLE AND DRIVEWAY

1. Buildings with exclusive, residential uses shall not have direct access to arterial or collector streets or future arterial or future collectors identified in any City adopted Plan or Tennessee Department of Transportation maps.

2. When any residential uses are provided on an arterial of collector or future arterial or future collectors an alley shall be provided.

3. Access for mixed use buildings shall be limited to every 500 feet and shall be on a street lower hierarchy, when available.

4. Cross access easements, for ingress and egress, shall be required for any lot fronting an arterial when an alley is not provided.

15-102 NEIGHBORHOOD MIXED USE (NMU)

15-102.1 PURPOSE OF RESIDENTIAL MIXED USE

The Neighborhood Mixed-Use (NMU) District is intended primarily for mixed pedestrian-scaled neighborhood-serving nonresidential uses and high-density residential uses in the same structure or in close proximity to one another. Development in this district shall promote pedestrian-scaled uses through connections to adjacent neighborhoods, the construction of mixed-use buildings, and the establishment of residential and nonresidential uses in close proximity to one another. Nonresidential uses may include small scale retail, service, and professional offices that provide goods and services to the residents of the surrounding neighborhood. Nonresidential uses should typically be located at the intersection of two collector streets or a collector street and arterial street. Residential uses are encouraged on the upper floors of nonresidential establishments.

1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;

2. Encourage development that exhibits the physical design characteristics of pedestrian oriented, storefront-style shopping streets; and

3. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

15-102.2 USES AND STRUCTURES

15-102.201 ALLOWED USES

1. Residential Activities
    a. Dwelling, Single-family detached
    b. Dwelling, Two-family detached
    c. Dwelling, Townhome (6-403)
    d. Dwelling, Semi-detached (6-403)
    e. Dwelling, Multi-family (6-402)

2. Community Facilities Activities
    a. Administrative Services
    b. Essential Public Transport, Communication, and Utility Services

3. Commercial Activities

a. Animal Care and Veterinarian Services
b. Business and Communications Services
c. Convenience Retail Sales and Services
d. Financial, Consulting and Administrative Services
e. Food and Beverage Service – General
f. Food Service – Limited
g. General Personal Services
h. General Retail Trade
i. Group Assembly – Limited
j. Professional Services – Medical
k. Professional Services – Other
l. Transient Habitation

15-102.202 CONDITIONAL USES

1. Community Facilities Activities
    a. Community Assembly (14-506.1)
    b. Educational Facility (14-506.2)
    c. Cultural and Recreational Services (14-506.3)
    d. Health Care Facilities (14-506.5)
    e. Religious Facilities (14-506.7)
    f. Special Institutional Care Facilities (14-506.8)

15-102.203 PROHIBITED USES

1. Drive Through Facilities
2. Service or Gas Stations
3. Commercial Outdoor Kennels or Boarding of Animals
4. Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshop
5. Self-storage facilities
6. Any use or structure not specifically permitted by right or conditional use.

15-102.203 ACCESSORY USES

1. Accessory Structures for Dwelling, Single-family detached or Dwelling, Two-family detached
2. Dwelling, Accessory Dwelling Units for Dwelling, Single-family detached
3. Home Occupations for residential uses

15-102.3 BUILD TO LINE & SETBACKS

15-102.301 FRONT BUILD TO LINE

The front shall not have a traditional setback, instead there shall be a build to line. The front façade of a building shall be placed with the build to line. The build to line shall be ten (10) feet to twenty (20) feet.

15-102.302 REAR SETBACK

The rear setback shall be ten (10) feet.

15-102.303 SIDE SETBACK

The side setback shall be zero (0) feet. On a corner lot the front build to line shall apply.

15-102.304 CORNER LOT BUILD TO LINE

Corner lots shall have a build to line from both streets unless the building would fall within the no obstruction zone in Section 6-305.4. If the building is within the obstruction zone the building shall be placed in the order of the following scenarios until a resolution is found:

1. Building is placed in the build to line of the arterial street.

2. Building is placed in the build to line of the collector street.

3. Building is placed as close to the street as possible, upon the recommendation of the Zoning Administrator.

15-102.4 MINIMUM LOT AREA

1. The minimum lot area shall be 5,000 square feet for any uses not specifically listed within this section.

2. The minimum lot area for Dwelling, Townhome and Dwelling, Semi-detached shall be 2,500 square feet.

3. The minimum lot area for Dwelling, Multi-family shall be 2,500 square feet.

4. There shall be no lot minimum lot area for Dwelling, Multi-family units provided on the second story or higher.

15-102.5 MINIMUM LOT WIDTH

1. The minimum lot width shall be 50 feet for all uses except Dwelling, Townhomes and Dwelling, Semi-detached.

2. The minimum lot width for Dwelling, Townhomes and Dwelling, Semi-detached shall be 25 feet.

15-102.6 MAXIMUM LOT COVERAGE

The maximum lot coverage by all buildings shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-102.7 IMPERVIOUS SURFACE AREA

The maximum impervious surface area shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-102.8 BUILDING HEIGHT

The maximum building height shall be 45 feet.

15-102.9 LOT AREA PER RESIDENTIAL UNIT (DENSITY)

1. The minimum lot area of 5,000 square feet shall be required for a Dwelling, Single-family detached structure.

2. A minimum of 2,500 square feet of lot area shall be provided for Dwelling, Two-family detached, Dwelling, Townhome, Dwelling, Semi-detached, and Dwelling, Multi-family.

3. No minimum lot area shall be required for residential uses on the second floor of a mixed-use building. Any residential use on the first floor shall meet the minimum lot area requirement of 2,500 square feet.

15-102.10 OFF-STREET PARKING REQUIREMENT

1. Parking requirements shall be reduced by half (½) of the requirements in Article IV: Supplementary Districts Regulations, Chapter 1. Accessory Off-Street Parking and Loading Requirements.

2. Parking requirements may be further reduced by Planning Commission upon the recommendation of Staff. Staffs recommendation shall be based on information provide by the Developer or Business Owner, which may include the following:
    a. Parking demand on similar type of developments
    b. Availability of shared parking facilities
    c. Availability of reasonable pedestrian and bicycle infrastructure
    d. A general parking study
    e. A site specific parking study
    f. The level of risk for a negative impact on the normal flow of traffic if the number of parking spaces is not adequate
    g. The availability of an area where parking could be expanded if the demand increased

3. No more than one (1) loading space shall be required per parcel in the NMU district. Article IV: Supplementary Districts Regulations, Chapter 1. Accessory Off-Street Parking and Loading Requirements used to determine if a loading space will be required.

4. Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

5. No parking shall be allowed between the street and the building. This requirement shall not restrict on-street parking.

6. On-street parking shall not be allowed on arterial or collectors. This shall include any road identified as a future collector or future collector in any Plan adopted by the Planning Commission, Mayor of Board and Aldermen, Tennessee Department of Transportation, or the Metropolitan Planning Organization.

15-102.11 FLOOR TO FLOOR AND FLOOR AREA OF GROUND-FLOOR SPACE

1. All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 10 feet.

2. All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:
    a. At least 800 square feet or 25 percent of the lot area (whichever is greater) on lots with street frontage of less than 50 feet; or

    b. at least 20 percent of the lot area on lots with 50 feet of street frontage or more.

15-103.12 RESIDENTIAL LOCATION LIMITATIONS

1. The first 200 feet in depth, along the frontage of an arterial or collector, shall be reserved for commercial or mixed uses.

2. Multi-family dwelling units are appropriate along arterial or collector roads as part of mixed-use building, with the first story (ground level) being reserved for commercial uses. The upper stories may be used for residential, commercial or office activities.

3. Buildings used in whole for multi-family dwelling units shall not be within the 200-foot area reserved for commercial or mixed uses.

15-102.12 COMMERCIAL USE LIMITATIONS

15-102.1201 COMMERCIAL LOCATION LIMITATIONS

Commercial uses and mixed-use buildings shall only be allowed within 500 feet of an intersection of two collector streets, two arterial streets, or a collector and arterial street within the NMU zoning district.

15-102.1201 COMMERCIAL SIZE LIMITATIONS

The gross floor area of commercial establishments in the NMU district shall not exceed 10,000 square feet.

15-102.13 INDOOR/OUTDOOR OPERATIONS

All permitted uses in the NMU district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

15-102.14 DESIGN ELEMENTS

Within the RMU district, Commercial and Mixed-Use sites or Residential sites with three or more dwelling units shall be subject to the City of Portland Design Standards. If any conflicts exist between this section and the Design Standards this section shall prevail. Mixed Use, Commercial, and Residential Uses, with more than two units, shall be subject to the City of Portland's Design Standards.

15-102.1401 TRANSPARENCY

1. A minimum of 65 percent of the street-facing building façade between two

feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.

2. The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than 3 feet above the adjacent sidewalk. (3) Product display windows used to satisfy these requirements must have a minimum height of 4 feet and be internally lighted.

15-102.1402 DOORS AND ENTRANCES

1. Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

15-102.1403 LANDSCAPING

Upon recommendation of the Zoning Administrator, width and area requirements may be reduced by the Planning Commission to ensure that buildings comply with the build to lines required in the district. Landscaping may be planted in permanent raised beds and planters of appropriate size.

15-102.15 VEHICLE AND DRIVEWAY

1. Buildings with exclusive, residential uses shall not have direct access to arterial or collector streets or future arterial or future collectors identified in any City adopted Plan or Tennessee Department of Transportation maps.

2. When any residential uses are provided on an arterial of collector or future arterial or future collectors an alley shall be provided.

3. Access for mixed use buildings shall be limited to every 500 feet and shall be on a street lower hierarchy, when available.

4. Cross access easements, for ingress and egress, shall be required for any lot fronting an arterial when an alley is not provided.

15-103 CORRIDOR MIXED USE (CMU)

15-103.1 PURPOSE OF RESIDENTIAL MIXED USE

The Corridor Mixed-Use (CMU) District provides for development of high density residential and mixed-use development on lots fronting the City's arterials as identified in the Comprehensive Plan or on the Tennessee Department of Transportation (TDOT) Functional Classification Map (FCC). The district acts as a transition from larger-scale regionally-oriented nonresidential uses to smaller scale uses providing services to surrounding neighborhoods. Developments in this district are generally a mix of pedestrian and auto-oriented uses.

Depending on the presence of on-street parking, buildings may be located close to the street and may be larger in size than uses typically found in the NMU District.

1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;

2. Encourage development that exhibits the physical design characteristics of pedestrian oriented, storefront-style shopping streets; and

3. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

15-103.2 USES AND STRUCTURES

15-103.201 ALLOWED USES

1. Residential Activities
    a. Dwelling, Single-family detached
    b. Dwelling, Two-family detached
    c. Dwelling, Townhome (6-403)
    d. Dwelling, Semi-detached (6-403)
    e. Dwelling, Multi-family (6-402)

2. Community Facilities Activities
    a. Administrative Services
    b. Essential Public Transport, Communication, and Utility Services

3. Commercial Activities
    a. Animal Care and Veterinarian Services
    b. Automotive and Other Vehicular, Craft, and Related Equipment Sales and Rental
    c. Business and Communications Services
    d. Convenience Retail Sales and Services
    e. Drive Through Facilities (15-103.1504)
    f. Financial, Consulting and Administrative Services
    g. Food and Beverage Service – General
    h. Food Service – Limited
    i. General Equipment Maintenance and Repair Services
    j. General Personal Services
    k. General Retail Trade
    l. Group Assembly – Limited
    m. Professional Services – Medical
    n. Professional Services – Other
    o. Service or Gas Stations (15-103.1505)
    p. Transient Habitation

15-103.202 CONDITIONAL USES

1. Community Facilities Activities

a. Community Assembly (14-506.1)
b. Educational Facility (14-506.2)
c. Cultural and Recreational Services (14-506.3)
d. Health Care Facilities (14-506.5)
e. Religious Facilities (14-506.7)
f. Special Institutional Care Facilities (14-506.8)

15-103.203 PROHIBITED USES

1. Pay-day Loan Agency, Title Loan Establishments, Check-cashing Facility, or Pawnshop
2. Self-storage facilities
3. Any use or structure not specifically permitted by right or conditional use.

15-103.203 ACCESSORY USES

1. Accessory Structures for Dwelling, Single-family detached or Dwelling, Two-family detached
2. Dwelling, Accessory Dwelling Units for Dwelling, Single-family detached
3. Home Occupations for residential uses

15-103.3 BUILD TO LINE & SETBACKS

15-103.301 FRONT BUILD TO LINE

The front shall not have a traditional setback, instead there shall be a build to line. The front façade of a building shall be placed with the build to line. The build to line shall be ten (10) feet to twenty (20) feet.

15-103.302 REAR SETBACK

The rear setback shall be ten (10) feet.

15-103.303 SIDE SETBACK

The side setback shall be zero (0) feet. On a corner lot the front build to line shall apply.

15-103.304 CORNER LOT BUILD TO LINE

Corner lots shall have a build to line from both streets unless the building would fall within the no obstruction zone in Section 6-305.4. If the building is within the obstruction zone the building shall be placed in the order of the following scenarios until a resolution is found:

1. Building is placed in the build to line of the arterial street.

2. Building is placed in the build to line of the collector street.

3. Building is placed as close to the street as possible, upon the recommendation of the Zoning Administrator.

15-103.4 MINIMUM LOT AREA

1. The minimum lot area shall be 5,000 square feet for any uses not specifically listed within this section.

2. The minimum lot area for Dwelling, Townhome and Dwelling, Semi-detached shall be 2,500 square feet.

3. The minimum lot area for Dwelling, Multi-family shall be 2,500 square feet.

4. There shall be no lot minimum lot area for Dwelling, Multi-family units provided on the second story or higher.

15-103.5 MINIMUM LOT WIDTH

1. The minimum lot width shall be 50 feet for all uses except Dwelling, Townhomes and Dwelling, Semi-detached.

2. The minimum lot width for Dwelling, Townhomes and Dwelling, Semi-detached shall be 25 feet.

15-103.6 MAXIMUM LOT COVERAGE

The maximum lot coverage by all buildings shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-103.7 IMPERVIOUS SURFACE AREA

The maximum impervious surface area shall not exceed 80% of the total lot unless there is structured parking in part of the building.

15-103.8 BUILDING HEIGHT

The maximum building height shall be 65 feet.

15-103.9 LOT AREA PER RESIDENTIAL UNIT (DENSITY)

1. The minimum lot area of 5,000 square feet shall be required for a Dwelling, Single-family detached structure.

2. A minimum of 2,500 square feet of lot area shall be provided for Dwelling, Two-family detached, Dwelling, Townhome, Dwelling, Semi-detached, and Dwelling, Multi-family.

3. No minimum lot area shall be required for residential uses on the second floor of a mixed-use building. Any residential use on the first floor shall meet the minimum lot area requirement of 2,500 square feet.

15-103.10 OFF-STREET PARKING REQUIREMENT

1. Parking requirements shall be reduced by half (½) of the requirements in Article IV: Supplementary Districts Regulations, Chapter 1. Accessory Off-Street Parking and Loading Requirements.

2. Parking requirements may be further reduced by Planning Commission upon the

recommendation of Staff. Staffs recommendation shall be based on information provide by the Developer or Business Owner, which may include the following:

a. Parking demand on similar type of developments
b. Availability of shared parking facilities
c. Availability of reasonable pedestrian and bicycle infrastructure
d. A general parking study
e. A site specific parking study
f. The level of risk for a negative impact on the normal flow of traffic if the number of parking spaces is not adequate
g. The availability of an area where parking could be expanded if the demand increased

3. No more than one (1) loading space shall be required per parcel in the CMU district. Article IV: Supplementary Districts Regulations, Chapter 1. Accessory Off-Street Parking and Loading Requirements used to determine if a loading space will be required.

4. Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

5. No parking shall be allowed between the street and the building. This requirement shall not restrict on-street parking.

6. On-street parking shall not be allowed on arterial or collectors. This shall include any road identified as a future collector or future collector in any Plan adopted by the Planning Commission, Mayor of Board and Aldermen, Tennessee Department of Transportation, or the Metropolitan Planning Organization.

15-103.11 FLOOR TO FLOOR AND FLOOR AREA OF GROUND-FLOOR SPACE

1. All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 10 feet.

2. All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:

   (1) at least 50 percent of the lot area.

15-103.12 RESIDENTIAL LOCATION LIMITATIONS

1. The first 400 feet in depth, along the frontage of an arterial or collector, shall be reserved for commercial or mixed uses.

2. Multi-family dwelling units are appropriate along arterial or collector roads as part of mixed-use building, with the first story (ground level) being reserved for commercial uses. The upper stories may be used for residential, commercial or office activities.

3. Buildings used in whole for multi-family dwelling units shall not be within the 400-foot area reserved for commercial or mixed uses.

15-103.13 COMMERCIAL USE LIMITATIONS

15-103.1301 COMMERCIAL LOCATION LIMITATIONS

1. Commercial uses or mixed-use buildings shall be within 800 feet of an arterial street within the CMU zoning district.

2. Commercial or mixed-use buildings shall be within 400 feet of a collector street within the CMU zoning district.

15-103.1301 COMMERCIAL SIZE LIMITATIONS

The gross floor area of commercial establishments in the CMU district shall not exceed 15,000 square feet.

15-103.14 INDOOR/OUTDOOR OPERATIONS

All permitted uses in the CMU district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

15-103.15 DESIGN ELEMENTS

Within the RMU district, Commercial and Mixed-Use sites or Residential sites with three or more dwelling units shall be subject to the City of Portland Design Standards. If any conflicts exist between this section and the Design Standards this section shall prevail. Mixed Use, Commercial, and Residential Uses, with more than two units, shall be subject to the City of Portland's Design Standards.

15-103.1501 TRANSPARENCY

1. A minimum of 65 percent of the street-facing building façade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.

2. The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than 3 feet above the adjacent sidewalk. (3) Product display windows used to satisfy these requirements must have a minimum height of 4 feet and be internally lighted.

15-103.1502 DOORS AND ENTRANCES

1. Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

15-103.1503 LANDSCAPING

Upon recommendation of the Zoning Administrator, width and area requirements

may be reduced by the Planning Commission to ensure that buildings comply with the build to lines required in the district. Landscaping may be planted in permanent raised beds and planters of appropriate size.

15-103.1504 DRIVE THROUGH

1. Drive Throughs shall not be on the street side façade of a building. This shall include but is not limited to the menu board, drive isle, or other apertures related to the operation of the drive through.

2. No drive through aisles or queuing lanes may be between the structure and the street.

3. The City of Portland Design Standards for drive throughs shall apply unless they conflict with this section, in the event of a conflict this section shall prevail.

15-103.1505 SERVICE OR GAS STATIONS

1. Canopies and pump islands shall not be placed between the primary building and the street.

2. Any aperture related to the operation or service of a service or gas station shall not be placed between the primary building and the street. This shall include, but is not limited to, fuel pumps, air pumps, car washes, ex cetera. This provision is not intended to limit street furniture. (i.e. benches, stationary waste bins[excluding dumpsters], street lighting, ex cetera.)

15-103.16 VEHICLE AND DRIVEWAY

1. Buildings with exclusive, residential uses shall not have direct access to arterial or collector streets or future arterial or future collectors identified in any City adopted Plan or Tennessee Department of Transportation maps.

2. When any residential uses are provided on an arterial of collector or future arterial or future collectors an alley shall be provided.

3. Access for mixed use buildings shall be limited to every 500 feet and shall be on a street lower hierarchy, when available.

4. Cross access easements, for ingress and egress, shall be required for any lot fronting an arterial when an alley is not provided.