

## **Chapter 25**

### **General Provisions**

#### **25-1.10 Short Title**

These regulations which shall be known as the Zoning Code of Houston, Missouri, hereinafter referred to as "Zoning Ordinance of the City of Houston, Missouri".

#### **25-1.20 Purpose**

The purpose of this Code is to safeguard the health, property, and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within this jurisdiction.

#### **25-1.30 Scope**

1. The provisions of this Code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles and public utilities unless specifically mentioned in this Code.

2. Where, in any specific case, different Sections of this Code specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

3. In fulfilling these purposes, this Chapter is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of this Code, benefits and detriments will be enjoyed and suffered by specific individuals, such is merely a by-product of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction and enforcement hereby shall not be enforceable in tort.

4. If any portion of this Code is held invalid for any reason, the remaining herein shall not be affected.

5. Anything not covered in the following codes shall require consideration as outlined in the Conditional Use section of this code outlined in 25-22.

## **Section 25-2 Fees**

### **25-2.10 Fees**

A fee for services shall be charged. All fees shall be set by the jurisdiction and schedules shall be available at the office of the Code Official.

## **Section 25-3 Existing Building and Uses**

### **25-3.10 Existing Buildings and Uses**

Lawfully established buildings and uses in existence at the time of the adoption of this Code shall be permitted to have their existing use or occupancy continued, provided such continued use is not dangerous to life.

### **25-3.20 Additions, Alterations or Repairs**

Additions, alterations, or repairs shall be permitted to be made to a building or use without requiring the existing building or use to comply with the requirements of this Code, provided the addition, alteration or repair conforms to that required for a new building or use.

### **25-3.30 Maintenance**

All buildings or uses, both existing and new, and all parts thereof shall be maintained. The owner or designated agent shall be responsible for the maintenance of buildings and parcel of land. To determine compliance with this Section, the Code Official shall be permitted to cause any structure or use to be imposed.

### **25-3.40 Moved and temporary Buildings, Structures and Uses**

1. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this Code for new buildings or structures.
2. Temporary buildings, structures and uses such as reviewing stands and other miscellaneous structures, sheds, canopies, or fences used for the protection of the public shall be permitted to be erected, provided a special approval is received from the Code Official for a limited period. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

### **25-3.50 Illegal Uses**

Uses which were illegally established prior to the adoption of this Code shall remain illegal.

## **Section 25-4 Powers and Duties of the Zoning Code Official**

### **25-4.10 General**

This Section establishes the duties and responsibilities for the Zoning Code Official and other officials and agencies with respect to the administration of this Code. The Zoning Code Official and/or designee shall be referred to hereafter as "the Code Official"

### **25-4.20 Deputies**

The Code Official may appoint such number of technical officers and other employees as shall be authorized from time to time. The Code Official shall be permitted to deputize such employees as may be necessary to carry out the function of this Code.

### **25-4.30 Reviews and Approvals**

The Code Official shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in this Code.

### **25-4.40 Comprehensive Plan**

The Code Official shall assist the Planning Commission in the development and implementation of the Comprehensive Plan.

### **25-4.50 Administrative Reviews and Permits**

1. **Review of Building Permits.** All applications for building permits and amendments thereto shall be submitted to the Code Official for review and approved prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of this Code are met.

2. **Site Plan Review.** The Code Official shall receive all applications for site plan review and review for completeness and prepare for submittals for review by the appropriate body.

3. **Conditional Use Permits and Variances.** The Code Official shall receive all applications for conditional uses and variances, or other plans as shall be permitted or approved as required by

this Code, review for completeness and prepare submittals for review by the appropriate body. Refer to section 25-22

4. **Amendments.** All requests for amendments or changes to the Comprehensive Plan or Zoning Code or map shall be submitted to the Code Official for processing.

#### **25-4.60 Interpretations**

1. The interpretation and application of the provisions of this Code shall be by the Code Official. An appeal of an interpretation by the Code Official shall be submitted to the Board of Adjustment who, unless otherwise provided, is authorized to interpret the Code and such interpretation shall be considered final.

2. Uses are permitted within the various zones as described in this Code and as otherwise provided herein.

3. It is recognized that all possible uses and variations of uses which might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this Code. If the proposed use resembles identified uses in terms of intensity and character and is consistent with the purpose of this Code and the individual zones classification, it shall be considered as a permitted/non-permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the hearing body in a public hearing as an amendment to this Code pursuant to Section 25-9.

#### **25-4.70 Liability**

1. The Code Official or designee charged with the enforcement of this Code, acting in good faith and without malice in the discharge of the duties describe in this Code, shall not be personally liable for any damage that may accrue to persons or property because of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the Code Official or employee because such act or omission performed by the Code Official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this Code or enforced by the enforcement agency shall be defended by the jurisdiction until final termination of such proceedings and any judgment resulting therefrom shall be assumed by the jurisdiction.

2. This Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or parcel of land for any damages to persons and property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any liability by reason of the review or permits issued under this Code.

### **25-4.80 Cooperation of Other Officials and Officers**

The Code Official shall be authorized to request and shall receive, so far as is required in the discharge of the duties described in this Code, the assistance and cooperation of other officials of the jurisdiction.

## **Section 25-5 Planning and Zoning Commission**

### **25-5.10 General**

This Section addresses the duties and responsibilities of a Planning Commission, hereafter referred to as "the Commission", and other officials and agencies with respect to the administration of this Code.

### **25-5.20 Establishment of the Commission**

The planning and zoning commission shall consist of nine (9) members, including the mayor, a member of the board of aldermen selected by the board of aldermen annually at its first organizational meeting, and another city official, and six (6) citizens.

### **25-5.30 Terms for Members**

The term of each of the citizen members shall be staggered and be for four (4) years. Any vacancy in the membership shall be filled for the unexpired term by appointment as provided in this section. The board of aldermen may remove any citizen member for cause stated in writing and after public hearing

### **25-5.40 Selection of Members**

All members shall be appointed by the Mayor and approved by the Board of Alderman of the jurisdiction served. Members of the Commission shall be residents of the jurisdiction served. All citizen members of the Commission will serve without compensation. Any vacancy for the unexpired term of any member whose term is not completed shall be filled for the unexpired term by appointment. A member shall continue to serve until a successor has been appointed and approved by the Board of Alderman of the jurisdiction.

### **25-5.50 Chairperson Election and Rules Adoption**

The Commission shall elect from its own membership a Chairperson. It shall also establish and adopt rules for its organization and transaction of business and shall keep a public record of its proceedings.

### **25-5.60 Commission Secretary**

A Secretary to assist the Commission shall be selected from its membership. The Secretary shall keep minutes of the Commission meetings for public record and conduct correspondence including the notification of decisions. The Secretary shall also certify records. The Secretary shall also prepare and submit the minutes of Commission meetings to the Chairperson and the Commission.

### **25-5.70 Duties and Powers**

1. The Commission shall have the authority and duty to:

A. Prepare, adopt, and submit to the Board of Aldermen for its approval a Comprehensive Plan for the physical development of the City that includes official maps, growth and land use, commercial and industrial uses, transportation and utilities, community facilities, housing, the environmental attributes, and geologic and natural hazards.

B. Make recommendations in connection with the execution and detailed interpretation of the Comprehensive Plan and make such changes and adjustments in the plan as may be deemed desirable from time to time.

C. Act as a Zoning Commission in accordance with the provisions of present or future State zoning enabling acts.

D. Prepare and recommend to the Board of Aldermen rules controlling the subdivision of land.

E. Make recommendation regarding the approval or disapproval of plats for land subdivision. Such plats shall be referred to the Commission before the Board of Aldermen takes any action. Failure of the Commission to act within thirty (30) days shall be deemed as approval.

F. Recommend from time-to-time resolutions which may be desirable to further the purpose of City planning.

### **25-5.80 Zoning Code**

1. It shall be the duty of the Commission to develop and recommend to the Board of Alderman a zoning code in accordance with the guidelines of the Comprehensive Plan establishing zones within the jurisdiction. Such a code shall be made regarding the character of each district and the most appropriate use within the jurisdiction.

2. The Commission shall make periodic reports and recommendations to the Board of Alderman.

### **25-5.90 Division of Land Regulations**

It shall be the duty of the Commission to develop and certify regulations governing the division of land. All divisions of land shall be in accordance with the adopted regulations.

### **25-5.100 Conditional Use Permits**

It shall be the duty of the Commission to review conditional use permit applications. The application shall be accompanied by maps, drawings, or other documentation in support of the request. The granting of a conditional use permit shall not exempt the applicant from compliance with other relevant provisions of related ordinances.

### **25-5.110 Official Zoning Map**

The Board of Alderman shall adopt an official Zoning Map for all area included within the jurisdiction.

### **25-5.120 Appeals and Hearings**

Any person with standing aggrieved by any decisions of the Commission shall have the right to make such appeals as shall be permitted to be provided by this Code or State law. Such appeals shall be based on record.

## **Section 25-6 Conformance with the Code**

### **25-6.10 General**

Upon adoption of this Zoning Code by the Board of Alderman, no use, building or structure, whether publicly or privately owned, shall be constructed, or authorized until the location and extent thereof conforms to the Comprehensive Plan.

## **Section 25-7 Board of Adjustment**

### **25-7.10 General**

1. Definitions. The following words, term, and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

- A. **Board.** shall mean the board of adjustment.
- B. **For Cause** shall mean for reasons which law and public policy recognizes as sufficient warrant for removal. There must be some cause affecting and concerning ability and fitness to perform duties imposed. The cause must be one in which the law and sound public policy will recognize as a cause for the member or alternate to be removed.
- C. **Office of the board** shall mean the city clerk's office
- D. **Sub-serve** shall mean to be useful or helpful to; serve, promote, or aid.
- E. **This ordinance** shall mean Chapter 25, as amended of the City of Houston, Missouri.
- F. **Code Official** shall mean the City Administrator or his designee.

#### **25-7.20 Establishment of the Board**

The board of adjustment shall consist of five (5) members, and three (3) alternates, who shall be residents of the City of Houston, appointed by the mayor and approved by the board of aldermen in the absence of or upon the disqualification of any regular member, in the same capacity and with the same authority as the absent or disqualified regular member.

#### **25-7.30 Terms for Members**

The membership of the first board appointed shall serve respectively, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) three years, one (1) for a term of four (4) years and one (1) for a term of five (5) years. The mayor shall designate which member of the first board shall serve terms of one (1), two (2), three (3), four (4), and five (5) years respectively, upon enactment of this chapter. Thereafter, members shall be appointed for terms of five (5) years each.

#### **25-7.40 Selection of Members**

All members shall be appointed by the Mayor and approved by the Board of Alderman of the jurisdiction served. The terms of office shall be staggered annually to provide continuity in policy and personnel. Members of the Board shall be residents of the jurisdiction served. The Board of Alderman of the jurisdiction shall set compensation for the Board. Any vacancy for the unexpired term of any member whose term is not completed shall be filled. A member shall continue to serve until a successor has been appointed and approved by the Board of Alderman.



### **25-7.50 Chairperson Election and Rules Adoption**

The board shall elect its own chairman who shall serve one (1) year. The board shall adopt rules for the conduct of its business. The chairman, or in their absence the acting chairman, may administer oaths and compel the attendance of witnesses.

### **25-7.60 Board Secretary**

A Secretary to assist the Board shall be appointed from within its membership. The Secretary shall keep minutes of the Board meetings for public record and conduct all correspondence including the notification of decisions. The Secretary shall also certify records. The Secretary shall prepare and submit the minutes of the Board meeting to the Chairperson and the Board.

### **25-7.70 Duties and Powers**

When considering and deciding appeals and applications for vacancies and special exceptions, the board acts in a quasi-judicial capacity. The board of adjustment shall have the following powers:

1. **Appeals.** The board may hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Official in enforcement of this chapter and may also decide any questions involving the interpretation of any of the provisions of this chapter including determination of the location of any district's boundary, if there is uncertainty in respect to thereto.

2. **Special exceptions.** To hear and decide requests for special exceptions to the terms and conditions of this chapter in appropriate cases and subjects to appropriate conditions and safeguards, in harmony with its general purpose and intent and in accordance with the general and specific rules contained herein.

The board of adjustment may, after public notice and hearing and subjects to the conditions and safeguards herein contained, authorize special exceptions to this chapter as follows.

A. Permit the reconstruction, extension or enlargement of a building occupied as a non-conforming use.

B. Permit the extension of a non-conforming use in a building upon a lot occupied as a non-conforming use.

C. Grant in relatively undeveloped sections of the city temporary and conditional permits for not more than two (2) year periods for any use of land excluding structures.

D. Permit the use of property owned by a church for the parking of passenger cars in any district under such conditions and safeguards as are necessary to protect adjacent property.

E. Permit in any district such modifications of the requirements of this chapter as the board may deem necessary to secure an appropriate development in a lot where adjacent to such lot on two (2) or more sides there are buildings that do not conform to this chapter.

F. Permit such modifications of a yard, lot area or lot width requirements as may be necessary to secure appropriate improvements of a parcel of land where such parcel was separately owned on the date of the original passage of this chapter and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification or of such restricted area that it cannot be appropriately improved without such modification.

**3. Variances.** The board may authorize, upon appeal, in specific cases, variances where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, to vary or modify the application of the regulations or provisions of this chapter relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

A. A variance may be granted an applicant when the board of adjustment finds:

1. That there are special circumstances or conditions applying to the land or buildings for which the variance is sought, when circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in that same district or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter shall deprive the applicant of the reasonable use of such land or building, and.
2. That the granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such district or neighborhood in which the property is located, and.
3. That the granting of such variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish such purpose; and
4. That the literal enforcement and strict application of the provisions of this chapter will result in an unnecessary hardship inconsistent with the general provisions and intent of this chapter and that in granting such variance the spirit of this chapter will be preserved and substantial justice done. In addition to considering the character and use of adjoining buildings and those in the vicinity of the property, the board, in determining its findings, shall consider:
  - a. The number of persons residing, working in or utilizing such building or property and traffic conditions in the vicinity of the building or property.

- b. An adequate supply of light or air to adjacent property, any substantial increase in congestion in the public streets, any increase in the danger of fire, or any increase in the endangerment of the public safety
- c. Any undue injury to the use and enjoyment of adjacent property.
- d. To hear and decide all matters referred to it or upon which it is required to pass under the provisions of the laws and ordinances of this city.

B. In addition to the above powers the board of adjustment may also hold hearings on and decide the following exceptions to or variations to this chapter:

1. To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership at the time of adoption of the ordinance from which this chapter is derived.

2. Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning district map where the street layout on the ground varies from the street layout as shown on this map.

3. Permit reconstruction of a nonconforming building otherwise prohibited by section 25-20 where such action would not constitute continuation of a monopoly.

4. Vary the yard, lot width and area, accessory building height or fence regulations where there is an exceptional or unusual physical condition of a lot, not generally prevalent in the neighborhood, which condition when related to the yard regulations of this chapter would prevent a reasonable or sensible arrangement of buildings on the lot.

5. Vary the off-street parking regulations by not more than fifty (50) percent where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this chapter, or where it can be conclusively shown that adequate off street to serve a particular use has been provided by or is controlled by the City of Houston.

6. To grant a permit for temporary building for commerce or industry in a residential district which is incidental to the residential development, such permit to be issued for a period not to exceed two (2) years.

#### **4. Exercise of power.**

A. In exercising the above-mentioned powers, the board may, in conformity with this chapter, reverse or affirm wholly or partly, or may modify the order, requirement decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Code Official

B. In granting an appeal, special exception, or variance under the provision of this chapter, the board of adjustment may designate such conditions in connection therewith, which, in its opinion, will secure substantially the purpose and intent of this chapter.

C. Decision of the board in respect to the above shall be subject to appeal to the Circuit Court of Texas County within thirty (30) days after the filing of the decision in the office of the board.

## **5. Decisions.**

The Board shall be permitted to decide in any manner it sees fit; however, it shall not have the authority to alter or change this Code or Zoning Map or allow as a use that which would be inconsistent with the requirements of this Code. Provided however, that in interpreting and applying the provisions of this Code, the requirements shall be deemed to be the spirit and intent of the Code and do not constitute the granting of a special privilege. Decision of the board in respect to the above shall be subject to appeal to the Circuit Court of Texas County within thirty (30) days after the filling of the decision in the office of the board.

## **Section 25-8 Hearing Examiner**

### **25-8.10 General**

This Section addresses the duties and responsibilities of a Hearing Examiner, hereafter referred to as the "Examiner", and other officials and agencies with respect to the administration of this Code.

### **25-8.20 Appointment of an Examiner**

The Examiner shall be appointed and approved by the Board of Aldermen. Compensation shall be set by same. In the event the Board of Aldermen choose not to appoint an Examiner, the Commission shall serve as the Examiner.

### **25-8.30 Duties and Powers**

The Examiner shall hear and consider all applications for discretionary land rezones and use decisions authorized by the Board of Aldermen by resolution. Such considerations shall be set for public hearing. The Examiner shall be bound by the same standards of conduct as the Commission and Board with respect to the administration of this Code.

## **Section 25-9**

### **Hearings, Appeals and Amendments**

#### **25-9.10 Hearings**

Upon receipt of an application in proper form, the Code Official shall arrange to advertise the time and place of public hearing. Such advertisement shall be given by at least one (1) publication in a newspaper of general circulation within the jurisdiction. Such notice shall state the nature of the request, the location of the property and the time and place of the hearing. Reasonable effort shall also be made to give notice by regular mail of the time and place of hearing to each surrounding property owner; the extent of the area to be notified shall be set by the Code Official. A notice of such hearing shall be posted in a conspicuous manner on the subject property.

#### **25-9.20 Appeals**

1. **Filing.** Any person with standing aggrieved or affected by any decision of the Code Official shall be permitted to appeal to the Examiner, Board or Commission by written request with the Code Official. Upon furnishing the proper information, the Code Official shall transmit to the Examiner, Board or Commission all papers and pertinent data related to the appeal.
2. **Time Limit.** An appeal shall only be considered if filed within ten (10) working days after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the Code Official shall be considered final.
3. **Stays of Proceedings.** An appeal stays all proceedings from further action unless there is immediate danger to public health and safety.

#### **25-9.30 Amendments**

This Code shall be permitted to be amended, but all proposed amendments shall be submitted to the Code Official for review and recommendation to the Commission.

#### **25-9.40 Voting and Notice of Decision**

1. There shall be a vote of most of the Board and Commission present to decide any matter under consideration. Each decision shall be entered in the minutes by the Secretary. All records shall be kept in accordance with State regulations and such appeals shall be open to the public.
2. Notice in writing of the decision and the disposition of each appeal shall be given to the Code Official and each appellant by mail or otherwise.

## **Section 25-10 Violations**

### **25-10.10 Unlawful Acts**

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy or maintain any building or land or cause or permit the same to be done in violation of this Code. When any building or parcel of land regulated by this Code is being used contrary to this Code, the Code Official shall be permitted to order such use discontinued and the structure, parcel of land or portion thereof vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Code Official after receipt of such notice to make the structure, parcel of land or portion thereof comply with the requirements of this Code.

## **Section 25-11 Permits and Approvals**

### **25-11.10 General**

All departments, officials and employees which are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would conflict with this Code.

### **25-11.20 Expiration or Cancellation**

1. Each license, permit or approval issued shall expire after one hundred eighty (180) days if no work is undertaken or such use or activity is not established, unless a different time of issuance of the license or permit is allowed in this Code or unless an extension is granted by the issuing agency prior to expiration.
2. Failure to comply fully with the terms of any permit, license or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license, permit or approval shall be permitted to be taken on proper grounds by the Code Official. Cancellation of a permit or approval by the Commission or Board shall be permitted to be appealed in the same manner as its original action. All fees collected during the time frame of issuance of license, permit or approval shall be non-refundable.

### **25-11.30 Validity of Licenses, Permits and Approvals**

For the issuance of any license, permit or approval for which the Commission or Board is responsible, the Code Official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including any issuance. Except as specifically provided for in this Code and conditions of approval, the securing of one (1)

required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

#### **25-11.40 Site Plan Review:**

- A. The purpose of a site plan review is to ensure that the design and layout of certain developments permitted will constitute suitable development and will not result in a detriment to the neighborhood or the environment. All proposals for condominium units are subject to the provisions of this section, and no condominiums shall be erected or externally enlarged except in conformity with a site plan bearing an endorsement or approval from the board of aldermen.
- B. All applications for site plan review shall be made and processed in the same manner as provided for zoning amendments. An applicant for site plan review shall file a copy of an application form and a site plan with the building official. Unless this requirement is waived by the board of aldermen, the site plan shall be prepared by a registered professional engineer or architect except for one or two family residential buildings. The site plan shall include and be accompanied by the following items and information.
  - 1. The site plan shall show all existing and proposed buildings, existing and proposed contour elevations, structures, parking spaces, driveway openings, driveways, service areas, facilities for sewage, refuse and other waste disposal and for surface water drainage, and landscape features, such as fences, walls, planting areas, walks and lighting, both existing and proposed. The site plan shall also show the relation of the above features to adjacent ways and properties. The site plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.
  - 2. The applicant shall submit such materials as may be required regarding design features to integrate the proposed development into the existing landscape, to enhance aesthetic assets and to screen objectionable features from neighbors.
  - 3. The applicant shall submit such materials as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians, and an estimate of the projected number of motor vehicle trips to and from the site for an average day.

## **Section 25-12 Definitions**

### **25-12.10 Definitions**

1. **Scope.** For the purposes of this chapter, certain terms and words are defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “building” shall include the word “structure”; and the word: shall” is mandatory and not directory. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Code, have the meanings shown in this Chapter.

2. **Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

3. **Terms Defined in Other Codes.** Where terms are not defined in this Code and are defined in the Building or Mechanical Codes, such terms shall have the meanings ascribed to them as in those codes.

4. **Terms Not Defined.** Where terms are not defined through the methods authorized by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

“**Accessory building**” means a subordinate building which is incidental to the principal building or use and which is located on the same lot with such principal building or use.

“**Accessory use**” or “structure” means a use or structure incidental to the principal use of a building and which is located on the same lot with the principal building or use.

“**Administrator**” means the City Administrator of Houston, Missouri.

“**Agricultural**” (farm) use means an area which is used for the growing of typical farm products, such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep, and swine. The term “farming” includes the operating of such an area for one or more of the above uses, including dairy farms, with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, that such land shall consist of at least ten acres in one parcel under common ownership or operation and provided further that farming does not include the feeding of collected garbage or offal to swine or other animals or confined feeding operation.

“**Alley**” means a permanent public service way dedicated for or in public use, other than a street, place, road, crosswalk, or easement, and designed to provide a secondary means of access for a special accommodation to the back or side of abutting properties and not intended for general traffic circulation.

**Apartment/ Apartment House.** See the Definition of “Dwelling, multiple.”



**“Basement”** means that portion of a building which is partly below and partly above grade and having one-half or more of its height above grade. A basement is counted as a story for the purpose of height regulation if subdivided and used for business or dwelling purposes.

**“Bed and Breakfast”** means a dwelling containing guest rooms that are intended to be used for sleeping purposes for occasional guests for compensation, whether paid directly or indirectly, in which meals are made available and which dwelling is used as a permanent residence by its owner.

**“Billboard”** or **“sign”** means an outdoor panel, structure, illustration, or device designed to carry or display a sign or advertisement for the purpose of making anything known including those in which the origin or point of sale is remote from the display. Billboards and signs shall include walls, fences or other structures on which advertising signs may be painted or attached. Billboards shall be deemed to be any sign or structure used or designed for the outdoor display of commercial or noncommercial messages, the sign face (display area, border, and trim) of which exceeds one hundred (100) square feet in area. The term “sign face” shall exclude the sign base, supports or other structural members.

**“Boarding, lodging or rooming house”** means a building or place where rooming and lodging, with or without meals, are provided (or which is equipped to regularly provide such services) by prearrangement for definite periods and for compensation, for more than five persons, but not more than twenty (20) persons. A boarding, lodging or rooming house is distinguished from a hotel, which is open to transients and has accommodations for six or more persons.

**“Buildable width”** means the width of the lot left to be built upon after the side yards are provided.

**“Building”** means any structure having a roof supported by columns or walls built for the support or enclosure of persons, animals or tangible property of any kind but not including any vehicle, mobile home (with or without wheels), travel trailer nor any moveable device, such as furniture, machinery, or equipment. When any portion of a building is completely separated from any other portion thereof by division wall constructed in accordance with the building code of the city, then each such portion shall be deemed to be a separate building.

**“Building area”** means the area included within surrounding exterior walls (or exterior walls and firewalls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if included within the horizontal projection of the roof or floor above.

**“Height of building”** means the vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and the ridge for gable, hip, and gambrel roofs.

**“Building official”** means the designated building official of Houston, Missouri.

**“Cellar”** means that portion of a building which is having more than one-half of its height below grade. A cellar shall not be counted as a story for the purpose of height regulation.

**“Child- or day-care center”** means any place, home or institution which receives five or more children under the age of seventeen (17) years and not of common parentage, for care apart from their natural parents, legal guardians or custodians, which received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools, organized, operated or approved under the laws of this state; custody of children fixed by a court of competent jurisdiction; children related by blood or marriage within the third degree of the custodial person; or to churches or other religious or public institutions while their parents or legal guardians are attending services, meetings or classes, or are engaged in church activities.

**“City Clerk”** means the city clerk of Houston, Missouri.

**“Medical or Dental Clinic”** means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians or dentists practicing medicine or dentistry together.

**“Club”** means a building or portion thereof, or premises owned or operated by a corporation, association, person, or persons for a social, educational, recreational, or fraternal purpose but not primarily for profit or to render a service which is customarily carried on as a business.

**“Commercial use”** means generally, any businesses of a commercial nature that has as its primary function the direct sale of goods or services to the public.

**“Commission”** means the planning and zoning commission of Houston, Missouri.

**“Comprehensive plan”** means an official document adopted by the city setting forth a plan for the physical development of the community, including studies of land use, streets, traffic volume and flow, schools, parks, and other public buildings.

**“Condominium”** means a single-dwelling structure intended to be occupied by several single families, and within which each single-family dwelling unit is sold to its occupants as an individually subdivided parcel of the entire structure; a type of building in which the ownership is divided into separate units which may be owned and sold by separate owners.

**“Zoning district”** means a section or sections of the city for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of the use are uniform.

**“Drive-in restaurant or café”** means a restaurant, café, or similar establishment where the facilities or services are designed to permit food or beverages to be consumed on the premises,

either inside or outside of the building or in automobiles parked on the premises, or to be purchased and picked up by automobile.

**“Driveway”** means a minor private way used by vehicles and pedestrians for common access to a single lot or facility.

**“Attached single-family dwelling”** means a building designed for or occupied exclusively by one family and surrounded by a yard or other separation from buildings or adjacent lots.

**“Multiple or apartment dwelling”** means a building or portion thereof designed for or occupied by three or more families living independently of each other, exclusive of attached single-family dwellings, town houses, patio houses or condominiums on individually subdivided lots of records.

**“Two-family dwelling”** means a building or portion thereof designed for and occupied by two families living independently of each other, including a duplex or semi-detached dwelling.

**“Dwelling Unit”** means one or more rooms in a dwelling designed for or intended to be occupied as independent and separate living quarters by a single family as defined herein, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**“Family”** means one or more persons related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization, and not more than two other persons not related by blood, marriage or adoption and living together as a single housekeeping organization in a dwelling unit.

**“Filling Station”** means any building or premises used for the sale at retail of motor vehicle fuels, oil, or accessories, or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacement of motors, bodies or fenders of motor vehicles, or painting motor vehicles, and excluding public garages.

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

**“Frontage”** means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than four hundred (400) feet distant on either side of a proposed building or structure.

**“Commercial or public garage”** means a building or structure for the storage or parking of motor-driven vehicles and in which provisions may be made for fueling or normal servicing of such vehicles. The terms “servicing” shall not include an automotive repair shop, nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

**“Private garage”** means a detached accessory building, or portion of the main building, housing the automobiles of the occupants of the premises; provided that no business, occupation, or services are conducted for profit therein, nor space there for more than one automobile is leased to a nonresident of the premises.

**“Storage or parking garage”** means a building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from daily storage furnished to transients, and within which motor fuels and oils may be sold; but no motor-driven vehicles may be equipped, repaired, hired, or sold.

**“Hotel”** means any building or portion thereof that contains six or more guest rooms that are intended to be used or occupied or are occupied for sleeping purposes, by guests for compensation, whether it is paid directly or indirectly, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

**“Industrial park”** means a tract of land, the control, and administration of which are vested in a single body, suitable for industrial use because of location, topography, proper zoning, availability of utilities and accessibility to transportation. The uses permitted may be regulated by protective minimum restrictions (covenants) including the size of the site, parking and lodging regulations, and building setback lines from the front, side and rear yards that may be more restrictive than this chapter.

**“Industry”** or **“industrial”** as used in this chapter, are restricted to establishments primarily involved in product manufacturing and processing, heavy equipment uses and warehousing. It does not include retail and wholesale trades, agricultural uses, institutional uses and other businesses that are primarily commercial in nature.

**“Institution”** means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

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

**“Lot”** means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building, together with any accessory buildings, open spaces and

parking spaces required by this chapter and having its principal frontage upon a street or upon an officially approved place.

**“Corner lot”** means a lot abutting upon two or more streets at their intersection.

**“Lot Coverage”** means that percentage of a lot which, when viewed from above, would be covered by a structure or structures, or any part thereof, excluding roof eaves.

**“Depth of lot”** means the mean (average) horizontal distance between the front and the rear lot lines.

**“Double frontage lot”** means a lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

**“Front Lot Line”** means in the case of an interior lot, a line separating the lot from a street or place; and in the case of a corner lot, a line separating the narrowest frontage of the lot from a street.

**“Lot Width”** means the dimension (width) of a lot, measured between side lot lines on the required building setback line for the district in which the lot is located.

**“Lot of record”** means a lot which is a part of a subdivision, the map or plat of which has been recorded in the office of the county recorder of Texas County, Missouri; or a lot or parcel of land, the deed of which has been recorded in the office of the county recorder of Texas County, Missouri, prior to the adoption of this chapter.

**“Manufacturer”** means an establishment whose primary function is the mechanical or chemical transformation or processing of materials or substances into new products, including the assembly of component parts and the blending of materials.

**“Mobile business unit/manufactured business unit”** means a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty (40) body feet or more in length, or, when erected on site, contains three hundred twenty (320) or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used for commercial, educational, or industrial purposes with or without a permanent foundation. The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the manufactured unit placed thereon may be moved from time to time at the convenience of the owner.

Mobile business units/manufactured business units are those factory-built structures manufactured under the authority of the Federal Manufactured Home Construction and Safety Standards Act, effective June 15, 1976, and must carry a seal of approval of the US Department

of Housing and Urban Development (HUD) as required by the Missouri Public Service Commission.

The term **“manufactured home”** shall also include units defined as above if such units are in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components capable of repeated towing and includes two or more manufactured home units joined into a single residential unit which is kept on separate chassis for repeated towing.

**“Modular unit”** means a transportable building unit to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational, or industrial purposes. This definition shall not apply to structures under six hundred fifty (650) square feet used temporarily and exclusively for construction site office purposes. A modular unit may or may not constitute a manufactured home as defined herein.

**“Motel” “Motor Court” “Motor Lodge” or “Tourist Court”** means any building or group of buildings containing guestrooms or dwelling units, some, or all of which have a separate entrance leading directly from the outside of the building, with garage or parking space conveniently located on the lot and designed, used, or intended wholly or in part for the accommodation of transients in automobiles.

**“Nonconforming use”** means any building or land lawfully occupied by a use at the time of passage of this chapter, or amendment thereto, which does not conform after the passage of this chapter, or amendment thereto, with the use regulations of the district in which it is situated.

**“Nursery School”** means a school operated by a person or organization which is conducted primarily for the education of preschool-age children for no more than four hours per child per day and which provides no custodial care.

**“Nursing Home,” “Rest Home” or “Convalescent Home”** means a home for the aged or infirm, in which three or more persons, not of the immediate family are received, kept, or provided with food and shelter or care, whether compensation or not; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured. The definition of “nursing home” shall include any adult boarding facility, intermediate care facility, as defined in Chapter 198 of the Revised Statutes of the state of Missouri.

**“Office”** means a place where business or services for others is transacted, and not a place where tangible property or goods, wares or merchandise are commonly created, exchanged, or sold.

**“Parking Area”** means an open, paved area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold and fees charged; but no vehicles may be equipped, repaired, rented, or sold.

**“Off-street parking space”** means an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street, road, or alley, and permitting the ingress and egress of an automobile.

**“Park Street”** means a private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

**“Pedestrian sidewalk sign”** is defined as any portable outdoor sign providing supplemental business identity or advertisement which is placed upon a public sidewalk or city right-of-way in addition to the types and amount of signage that could otherwise be achieved under the sign regulations of the city of Houston.

**“Place”** means any open, unoccupied, officially dedicated space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

**“Plat”** means a map, plan or layout of a city, township, section, or subdivision, indicating the location and boundaries of individual properties.

**“Porch”** means a covered entrance to a building usually with a separate roof, that may or may not be enclosed, or a roofed, open gallery attached to the exterior of a building.

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

**“Public Building”** or **“facility”** means a building or facility owned or operated by a general unit of a local, state, or federal government; or a public building or facility under the laws of the state of Missouri; or a building or facility operated or used by a nonprofit organization and open to general use by the public.

**“Recreational Vehicle”** means a vehicular, portable structure, built on a chassis, or designed to be carried by any type of vehicle (whether located on or off such vehicle), traditionally used as a temporary dwelling for travel, recreational, or vacation purposes.

**“RV Park”** means an area designed to provide space where one or more recreational vehicles can be temporarily parked for travel, recreation, or vacation purposes.

**“Self-service storage facility”** means a building or structure used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis.

**“Shopping Center”** or **“mall”** means group of architecturally unified commercial establishments in one or more buildings, built on a site which is planned, developed, owned, and managed as an operating unit related in its location, size, and type of shops to the trade area that the unit serves. The unit provides on-site parking in a definite relationship to the types and total size of the stores, and a mall includes a roofed-over common pedestrian way.

**Sign.** See Definition of “**billboard**”

“**Story**” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling next above it.

“**Half Story**” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space, not more than sixty (60) percent of the floor area, is finished off for use. A half-story may be used for occupancy only in conjunction with and by the occupancy of the floor immediately below.

“**Street**” means a public right-of-way or thoroughfare which affords the principal means of access to abutting property.

“**Street Line**” means a dividing line between a lot, tract or parcel of land and a contiguous street.

“**Structure**” means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground and including, but not limited to the following: advertising signs, billboards, fences, backstops for tennis courts, pergolas (projecting roofs), satellite television antennas and freestanding solar collectors or equipment.

“**Structural alteration**” means any change in the supporting members of a building, such as bearing walls, or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls, excepting such repair or replacement as may be required for the safety of the building, but not including openings in bearing walls as permitted by existing ordinances.

“**Tourist or Trailer Camp**” means an area where one or more tents, auto trailers of recreational vehicles can be or are intended to be parked, designed, or intended to be used as temporary living facilities of one or more families and intended primarily for automobile transients.

“**Townhouse Apartment**” means one of a series of three or more attached dwellings, two or three stories in height, for single-family occupancy which are separated from one another by partition walls extending from the basement to roof without openings, but which are not located or sited on individual subdivided lots.

“**Use**” means the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

“**Vestibule**” or “**Lobby**” means a passage, hall or room between the outer door and the interior of a building.

“**Yard**” means an open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this



chapter. In measuring required yard widths and depths, the minimum horizontal distance between the lot line and the main building shall be used.

**“Front Yard”** means a yard extending across the front of the lot and being the minimum horizontal distance between the front lot line and the main building, or any projections thereof, other than the projections of uncovered steps, unenclosed balconies, or unenclosed portion. On corner lots, the front yard shall be considered as being parallel to the street upon which the lot has its least dimension.

**“Rear Yard”** means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building, or any uncovered steps, unenclosed balconies, or unenclosed portion. On all lots, the rear yard shall be at the opposite end of the lot from the front yard.

**“Side Yard”** means a yard between the main building and the sideline of the lot and extending from the required front yard to the required rear yard and being the minimum horizontal distance between the side lot line and the side of the main buildings or any projections thereto.

## Section 25-13

### Use Zones

#### 25-13.10 Classification

To classify, regulate and restrict the locations of uses and locations of buildings designated for specific areas and to regulate and determine the area of yards, courts, and other open spaces within or surrounding such buildings, property is hereby classified into zones as prescribed in this Chapter.

#### 25-13.20 Minimum Areas

The minimum areas that may constitute a separate or detached part of any of the following zones on the Zoning Map or subsequent amendments to said Zoning Map shall be as shown on Table 25-13.1. When a non-residential zone is directly across the street from or abuts the zone with the same or less restrictive classification, the area of the land directly across the street or abutting the property may be included in the calculations in meeting the minimum zone size requirements.

<b>Table 25-13.1</b>	
<b>Minimum Areas for Zones</b>	
<b>Zone</b>	<b>Minimum Area of the Zone</b>
A-1	5 acres

R-1	7,200 Square Feet
R-2	7,200 Square Feet
R-3	7,200 Square Feet
C-1	7,200 Square Feet
C-2	7,200 Square Feet
I-1	N/A
I-2	N/A

### **25-13.30 Zoning Map Generally**

The boundaries of each zone are to be indicated upon the official Zoning Map as approved by the legislative authority. Said map and subsequent amendments thereto shall be considered as a part of this Code.

### **25-13.40 Annexed Territory- Classification**

Any territory hereafter annexed shall automatically, upon such annexation, be classified as R-1 residential zone and be subject to all conditions and regulations applicable to property in such district. Owners of areas to be annexed may request other zoning at the time of annexation for consideration by the City Board of Aldermen.

### **25-13.50 Conditional Uses- Generally**

The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible buildings and land uses and for the property location of all types of uses required for the social and economic welfare of the community. To accomplish this objective, each type and kind of use is classified as permitted in one (1) or more of the various use zones established by this Code. However, in addition to those uses specifically classified and permitted in each zone, there are certain additional uses which it may be necessary to allow because of the unusual characteristics of the service they provide the public. These conditional uses require considerations as to their proper location to adjacent, established or intended uses or to the planned growth of the community. The conditions controlling the locations and operations of such special uses are established by the applicable Sections of this Code.

## **Section 25-14**

### **Agricultural Zones**

#### **25-14.10 Agricultural Zones Defined**

Agricultural Zone. Allowable agricultural (A) zone uses shall be:

1. Farming, dairy farming, livestock (except hogs, swine and commercial poultry raising), game birds, pasturing of livestock and all uses commonly classed as agricultural, with no restrictions to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions as to the sale or marketing of products raised on the premises, provided that any building, structure or yard for raising, feeding, pasturing, housing of or sale of livestock or poultry shall be located at least one hundred (100) feet from an R-1, R-2, or R-3 district and provided further that there shall be no feeding or disposal of garbage, rubbish, or offal, other than regular removal, within three hundred (300) feet of an R-1, R-2, and R-3 district. Lot size for farm use should be at least 10 acres.
2. Public Parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members and not for financial gain.
3. Public schools and institutions of higher education, public libraries, municipal buildings.
4. Single-family dwellings on a minimum of one (1) acre of ground, not connected to agricultural operations.
5. Private clubs, except skeet and gun clubs and those the chief activity of which is a service customarily carried on as a business.
6. Roadside stands for the sale of farm products grown on the premises. Such roadside stands shall be required to be set back from the edge of the roadway pavement at least twenty-five (25) feet to permit adequate ingress and egress and parking.
7. Grain Elevators or similar storage structures, including buildings for the seasonal or temporary storage of grain with a setback of one hundred (100) feet from the property line.
8. Public Utilities including water treatment plants, sewage treatment plants, and electrical distribution plants.
9. Veterinary hospitals or the keeping of small animals provided that any building or enclosure housing animals shall be located at least two hundred (200) feet from all the property lines.
10. Accessory buildings and uses customarily incidental to any of the above uses, including repair shops, sheds, garages, barns, silos, irrigation wells and pumps, and bunkhouses. One (1) sign not to exceed four (4) square feet shall be considered an accessory use.
11. Nurseries, greenhouses, and truck gardens.
12. Airports and landing fields having prior approval of the Federal Aviation Agency
13. Cemeteries, including mausoleums; if mausoleums shall be distant at least two hundred (200) feet from every street line and adjoining lot lines and provided further, that any new cemetery shall contain an area of twenty (20) acres or more.

#### **25-14.20 Bulk Regulations**

The minimum area, setbacks, density, and maximum height shall be as prescribed in Table 25-14.1. No parking requirements are necessary for agricultural uses. Parking for other allowed uses shall be required by Section 25-18.

Table 25-14.1 Agricultural (A-1) Zone Bulk Regulations (In Feet, Unless Noted Otherwise) a								
Zone	Minimum Lot Area (acres)	Maximum Density (units/acre)	Lot Dimensions		Setback Requirements			Maximum Building Height (b)
			Minimum Lot Width	Minimum Lot Depth	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	
A-1	1	1 dwelling 1 acre	150	250	30	12	30	45

- a- Open spaces and parks can be of a reduced size, if approved by the Code Official
- b- Access storage structures, windmills and similar structures shall be permitted to exceed the maximum height when used exclusively in conjunction with agricultural use and when approved by the Code Official.

## Section 25-15

### Residential Zones

#### 25-15.10 Residential Zones Defined

1. **Allowable residential (R) zone uses shall be:**

The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter, are the regulations of all Residential zones. The maximum amount of lot covered by buildings and/or paved surfaces in Residential zones shall not exceed forty percent (40%) of the lot area.

A. **R-1 Zone.** The purpose of the R-1 single-family residential zone is to provide areas primarily for single-family housing with relatively larger lot sizes and relatively more open space, with other allowed uses designed primarily to serve residential areas. The maximum amount of lot covered by building and/or paved surfaces shall not exceed forty percent (40%) of the lot area.

- 1. Detached single-family dwellings

2. Buildings which are a usual accessory to residential dwellings including, but not limited to garage, woodshed, garden shed, home shop, greenhouse, guest house.
  3. Church
  4. Library
  5. Public parks and playgrounds, including public recreational or service buildings or municipally owned swimming pools.
  6. Private athletic fields or clubs except for skeet, gun clubs, and those that the chief activity of which is a service customarily carried on as a business.
  7. Group Homes. No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be charitable or not-for-profit in nature.
  8. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the occupancy of the completed structure, or completion or abandonment of the construction work, whichever occurs first.
  9. Accessory buildings and uses including accessory detached private garages no more than 750 square feet.
  10. Publicly owned or operated parks, playgrounds, community buildings, museums, libraries or art galleries and municipal facilities, including police and fire stations.
  11. Public Schools, or Private Schools having curriculum like that ordinarily given in a public school, including religious instruction in parochial schools.
- B. R-2 Zone.** The purpose of the R-2 multiple-family residential district is to provide areas primarily for multi-family housing with relatively larger lot sizes and relatively more open space, with other allowed, uses designed primarily to serve residential areas. The maximum amount of lot covered by buildings and/or paved surfaces shall not exceed forty percent (40%) of the lot.
1. Any use permitted in section R-1
  2. Two-Family dwellings commonly referred to as duplexes, when all buildings and required off-street parking spaces and covered parking spaces not to be in any of the required setback areas to ensure adequate green space for two (2) families.
  3. Two-unit condominiums
- C. R-3 Zone.** The purpose of the R-3 residential zone is to provide areas primarily for larger housing developments such as apartment buildings. The maximum amount of lot covered by buildings and/or paved surfaces shall not exceed forty percent (40%) of the lot.
1. All uses in an R-1 and R-2 Zones
  2. Boarding, rooming, and lodging houses

3. Nursing, Rest, or Convalescent homes
4. Accessory buildings and accessory uses, customarily incidental to above uses and not involving the conduct of a business, including parking garages or carports, storage garages associated with multiple-family dwellings, and swimming pools. Accessory buildings and uses are subject to the restrictions established herein. Parking and storage shall be located not less than sixty (60) feet from the front line and not less than ten (10) feet from any other street line, or a garage constructed as a part of the main building. Swimming pools must meet all yard depth and width requirements, be adequately fenced to prevent access by small children and meet all applicable health and sanitary requirements.
5. Multi-family units shall ensure adequate green space. Additionally, recreation space at twenty (20) square feet per dwelling unit shall be appropriately developed to ensure adequate outdoor leisure opportunity.

**25-15.20 Bulk regulations**

The minimum area, setbacks, density, and maximum height shall be as prescribed in Table 25-15.1. Off-street parking shall be as required by Section 25-18

**25-15.30 Yard Variance for Corner Lots**

1. **General.** The minimum side yard setback on the street side of a corner lot shall be fifteen (15) feet or more, except where a garage, carport or similar facility is located on the end of the structure adjacent to the side street. In this case, the setback to the side entry garage, carport or similar facility from the side street shall be twenty-five (25) feet or more. A front entry garage, carport or similar facility located adjacent to the street side of the lot should be discouraged but not prohibited.

2. **Exception.** For existing lot/tracts where the frontage width is less than eighty (80) feet at the front yard setback line, the minimum side yard setback on the street side of a corner lot shall be eight (8) feet with a total side yard (two (2) sides) setback being twenty percent (20%) of the lot width or a minimum of five (5) feet on the interior side of the lot, whichever is more.

Table 25-15.1 Residential (R) Zone Bulk Regulations (In Feet, Unless Noted Otherwise)				
Zone	Minimum Lot Area (acres)	Lot Dimensions	Setback Requirements	

		Minimum Lot Width	Minimum Lot Depth	Minimum Front Yard	Minimum Side Yard(c)	Minimum Rear Yard	Maximum Building Height (a)
R-1	7,200	70	100	30	12	30	35
R-2	7,200	70	100	30	12	30	35
R-3	7,200 (b)	70	100	30	12	30	35

(a) For churches or places of worship, the tower/steeple height shall not exceed seventy-five (75) feet with a maximum building height of forty-five (45) feet.

(b) Minimum lot area per dwelling unit shall not be less than three thousand (3,600) square feet.

(c) Refer to Section 25-15.30 Yard Variance for Corner Lots for lot restrictions.

(d) Lots on streets that are sixty percent (60%) or more developed will be allowed a setback equal to the average of the existing structures.

## Section 25-16

### Commercial Zones

#### 25-16.10 Commercial Zones

The following uses shall be permitted in the commercial district when in compliance with commercial lot development standards, including all uses permitted in the residential zone. Any commercial area which is developed into an R-1, R-2, or R-3 District with residential housing will abide by the regulations of those zones. This list is to be used as examples only and shall serve as a guide to permitted uses of a similar character.

1. **C-1 central business zone.** The following uses are permitted in a C-1 zone:

- A. Retail food stores, including grocery stores, meat markets, delicatessens, ice-cream or candy-store, and bakeries with baking and processing for retail trade on the premises only.
- B. Drugstores and medical prescription centers
- C. Restaurants, cafes, and lunchrooms, excluding drive-in facilities
- D. Barbershops and beauty parlors
- E. Self-service laundries and dry-cleaning outlets
- F. Branch facilities of banks and savings and loan institutions
- G. Custom dressmaking and tailoring shops

- H. Hardware or household appliance sales and repair, shoe sales or repair shops, bicycle sales and repair shops
- I. Microbrewery
- J. Dance Studio/ Ballet
- K. Funeral homes or mortuaries
- L. Tattoo, body piercing, or branding establishment, as defined in Title 20 of the Code of State Regulations with a special use permit only
- M. Art, book, photo supply, school supply, and stationery stores. Artists of photographic studios.
- N. Florist, gift, or card shops. Greenhouses associated with florist shops, with a special use permit only,
- O. Apparel and clothing accessories stores, and sporting goods stores
- P. Business, institutional, governmental, professional, or medical offices
- Q. Automobile service and gasoline filling stations, with a special use permit only
- R. Any other type of retail store not specifically permitted herein, when authorized by the board of alderman after receipt of review and recommendations from the city planning and zoning commission, and only when such use is consistent with the intent and purpose of the C-1 commercial district regulations.
- S. Accessory buildings and accessory uses, subject to the restrictions established herein.

**2. C-2 highway business district.** The following uses are permitted in a C-2 zone:

- A. Any uses permitted in a C-1 zone and automobile repair, provided services are performed inside of the building, including body repair and painting, providing vehicles are stored inside.
- B. Automotive washing, including automatic and self-service facilities.
- C. Automotive accessory, including tire and battery service.
- D. Beverage bottling or individually packaged concessionaire storage and/or distribution.
- E. Feed and seed (retail only) store.
- F. Lawn and farm equipment sales and service provided all work is performed inside a building.
- G. Mini/self-storage warehouses, consisting of not more than six hundred (600) square foot units.
- H. Recreational facilities, including bowling alleys, skating rink, archery ranges, miniature golf course, physical fitness centers and other similar places of amusement.
- I. Bicycle and motorcycle sales, service, and repairs, provided services are performed inside the building.
- J. Restaurant where food is served to occupants remaining in the vehicles or with drive-through window.
- K. Family and group day care and religious, cultural, and fraternal activities.



L. Rehabilitation centers, schools and colleges operated for profit (including commercial, vocational and trade schools).

M. Building materials supply sales (wholesale and retail).

N. Plumbing and electrical material supply sales (wholesale and retail).

O. HVAC sales, service and accessory fabrication, wood crafting and machine shops, all with a maximum of five thousand (5,000) square feet and when conducted wholly within an enclosed building.

P. Commercial shopping center (including wholesale and retail sales).

Q. Health and medical institutions (such as hospitals).

R. Hotels and motels.

S. Auction houses.

T. Pet shop/small animal hospital or kennels, when conducted wholly within an enclosed building.

## 25-16.20 Bulk Regulations

The minimum area, setbacks, density, and maximum height shall be as prescribed in Table 25-16.1. Off-street parking shall be as required by Section 25-18.

Zone	Minimum Lot Area (acres)	Lot Dimensions		Setback Requirements			Maximum Building Height (a)
		Minimum Lot Width	Minimum Lot Depth	Minimum Front Yard(b)	Minimum Side Yard(c)	Minimum Rear Yard(b)	
C-1	7,200	70	100	0	0	0	45
C-2	7,200	70	100	0	0	0	45

(a) Accessory towers, satellite disks and similar structures shall be permitted to exceed listed heights when approved by the Code Official

(b) There shall be a minimum of thirty (30) feet when lot abuts Residential Zone and a buffer zone. The buffer shall consist of a planting screen of suitable shrubbery maintained at a minimum height of eight (8) feet and be a minimum of eight (8) feet deep, or solid fencing a minimum of eight (8) feet in height.

(c) There shall be a minimum of twelve (12) feet when lot abuts a Residential Zone and a buffer zone. The buffer shall consist of a planting screen of suitable shrubbery maintained at a minimum height of eight (8) feet and be a minimum of eight (8) feet deep, or solid fencing a minimum of eight (8) feet in height.

## Section 25-17

### Industrial Zones

## 25-17.10 Industrial Zones Defined

The purpose of this chapter is to provide areas for light and heavy industrial and manufacturing uses that create a minimum amount of nuisance outside the plant; are conducted entirely within enclosed buildings; use the open area around such buildings only for limited storage of raw materials or manufactured products and to provide areas for industries and manufacturers that depend on trucking of materials and products in locations that are buffered, to the extent possible, from residential and commercial areas.

1. **Allowable industrial zone uses shall be:** A building or premises shall be used only for the following purposes:

### A. I-1 zone.

1. Assembly and manufacture from prefabricated parts of household appliances, electronic and similar products, or the processing or assembling of parts to produce finished small machinery or equipment.

2. The manufacture, compounding, processing, packaging or storage of such goods, materials, and products as the following:

- a. Food products, including beverage blending or bottling, bakery products, candy manufacture, ice and dairy products, fruit, and vegetable processing, and canning, packing, and processing of meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals,
- b. Articles made from previously prepared materials, such as bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals, or stone, shells, textiles, wax, wire, yarns, and the like,
- c. Musical instruments, toys, novelties, rubber or metal stamps and other small, molded products,
- d. Fabrication and repair of electric or neon signs or other commercial advertising structures, light sheet metal products and the like.
- e. Medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus,
- f. Clothing, shoes, or other wearing apparel,
- g. Any other light industrial manufacturing use of a similar character which is not specifically permitted herein, when authorized by the board of alderman after receipt of review and recommendations from the city planning and zoning commission, and only when such use is consistent with the intent and purpose of the I-1 light industrial and manufacturing district.

3. Warehouse, wholesale merchandise or distributing establishment.
  - a. Freighting, transportation storage, and trucking yard terminal.
  - b. Building material, contractor's equipment storage or lumberyard but not including mixing plants for concrete, cement, or paving materials.
  - c. Research, design, and development firms, experimental or testing laboratory.
  - d. Sheet metal, plumbing, welding or machine shops.
  - e. Cabinet making establishments and carpenter shops which use no motors larger than ten horsepower.
  - f. Farm machinery and equipment sales, storage and repair, feed, and seed mills.
  - g. Newspaper, magazine, or similar printing or publishing plant.
  - h. Petroleum product storage, with a special use permit only, and only after the location and treatment of the premises have been approved by the fire chief.
  - i. Public works buildings, public utility service yards or electrical stations.
  - j. Any nonresidential use permitted in the C-2 commercial district regulations, with a special use permit only.
  - k. Accessory buildings and accessory use customarily incidental to the above uses, subject to the restrictions established herein
    - l. All uses permitted herein shall not be obnoxious or offensive by reason of the emission of smoke, dust, fumes, gas, odors, noise, or vibrations beyond the confines of the premises.

**B. I-2 zone.**

1. Any nonresidential use permitted in the I-1 light industrial district, excluding uses allowed in C-1 commercial districts.
2. Manufacture of clay, stone, and glass products
3. Manufacture or assembly of boats, bolts, nut, screws, electrical appliances, tools, dies, machinery and hardware products, sheet metal products and vitreous-enameled metal products.
4. Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of a similar nature.
5. Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, and printing and finishing of textiles and fibers into fabric goods.
6. Central mixing plants for concrete, mortar, plaster, or paving materials
7. Grain processing or milling
8. Office and office buildings incidental to a use allowed in the I-2 districts and located within the same district
9. Farming and associated agricultural uses, with a special use permit only
10. Public works buildings, public utility service yards or electrical stations

- 11. Warehouse storage or distributing facility, including wholesale storage
- 12. Any other industrial use of a similar character which is not specifically permitted herein, when authorized by the board of alderman after receipt of review and recommendations from the city planning and zoning committee, and only when such use is consistent with the intent and purpose of the I-2 heavy industrial district.
- 13. Accessory buildings and accessory use customarily incidental to the above uses

**C. Storage of Products, materials, and equipment:** The storage of products, materials or equipment incidental to the above uses shall be permitted under the following conditions.

- 1. When a use permitted herein adjoins or is adjacent to a residential or commercial district, all products, materials, and equipment used in connection with the use shall be enclosed within a building or enclosed by a structural screen, fence, wall or planting sufficient to screen the storage area from view from the adjoining or adjacent district. Exceptions from these requirements may be granted only by a special use permit issued under the procedures set out herein.

**25-17.20 Bulk Regulations**

The minimum area, setbacks, density, and maximum height shall be as prescribed in Table 25-17.1. Off-street parking shall be as required by Section 25-18.

Table 25-17.1 Industrial (I) Zone Bulk Regulations (In Feet, Unless Noted Otherwise) a								
Zone	Minimum Lot Area (acres)	Maximum Density (units/acre)	Lot Dimensions		Setback Requirements			Maximum Building Height(a)
			Minimum Lot Width	Minimum Lot Depth	Minimum Front Yard(b)	Minimum Side Yard(c)	Minimum Rear Yard(b)	
I-1	0	N/A	0	0	0	0	0	45
I-2	0	N/A	0	0	0	0	0	45

- A. Accessory towers, satellite dishes and similar structures shall be permitted to exceed the maximum height when approved by the Code Official
- B. There shall be a minimum of fifty (30) feet when lot abuts R zone with a minimum height of eight (8) feet and a minimum of width of eight (8) feet wide, or solid fencing a minimum of eight (8) feet in height.
- C. There shall be a minimum of twelve (12) feet when lot abuts a Residential Zone and a buffer zone. The buffer zone shall consist of a planting screen of suitable shrubbery maintained at a minimum height of eight (8) feet and be a minimum of eight (8) feet deep, or solid fencing a minimum of eight (8) feet in height.

## **Section 25-18**

### **General Provisions**

#### **25-18.10 Off-Street Parking**

1. **General.** There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted, or increased in capacity minimum off-street parking space with adequate provision for ingress and egress by standard-sized vehicles in accordance with the requirements of this Code.

#### **2. Parking Space Requirements.**

A. Required number. The off-street parking spaces required for each use permitted by this Code shall not be less than that found in Table 25-18.1, provided that any fractional parking space over one-half ( $\frac{1}{2}$ ) shall be computed as a whole space.

B. Combination of uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

C. Location of lot. The parking spaces required by this Code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than one thousand (1,000) feet radially from the front door of the parking space generator and within the same or less-restrictive zoning district.

#### **3. Parking Stall Dimension.**

A. Width. A minimum width of nine (9) feet shall be provided for each parking stall as measured from the center of dividing line to center of dividing line or front edge of curb. Exceptions: Parallel parking stalls shall be permitted to be eight (8) feet wide.

B. Length. A minimum length of twenty (20) feet shall be provided for each parking stall as measured from front edge of wheel stop (or edge of pavement) to extremity of markings. Exceptions: Parallel parking stalls shall be a minimum twenty-two (22) feet in length.

#### **4. Design of Parking Facilities.**

A. Driveway width. Every parking facility shall be provided with one (1) or more access driveways, the width of which shall be the following:

1. Residential driveways shall be at least nine (9) feet in width.
2. Commercial driveway:
  - (a). Twelve (12) feet wide for one-way traffic flow.

(b). Twenty-four (24) feet wide for two-way traffic flow.

B. Driveway and ramp slopes. The maximum slope of any driveway or ramp slope shall not exceed fifteen percent (15%), except parking stalls shall not be allowed on side slopes exceeding eight percent (8%).

C. Stall accessibility. Each required parking stall shall be individually and easily accessible. No automobile shall be required to back into any public street or sidewalk to leave any parking stall when such stall serves more than two (2) dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without the use of any public street.

E. Lighting. All lights illuminating a parking area shall be designed and located to reflect away from any street and adjacent residential property. Only industrial and commercial parking areas intended for night use need to be lighted.

**25-18.20 Location of Accessory Buildings**

1. **General.** Accessory buildings shall occupy the same lot as the main use or building.

2. **Separation from Main Building.** All accessory buildings shall be separated from the main building by ten (10) feet.

3. **Private Detached Garages.** An accessory building used as a garage shall be permitted to be located within the rear yard provided that a setback of a minimum of six (6) feet is maintained from the lot line and the structures do not encroach into any recorded easements. No encroachment shall be allowed into the side yards.

4. **Storage Buildings.** All accessory buildings, permanent in nature, used for storage or other similar uses, shall be permitted to be in any portion of the rear yard, so long as a rear yard setback of at least six (6) feet is maintained. No encroachment shall be allowed into the side yard. No storage shed shall be in the front yard. See section 25-15.10 R-1 Subsection 1 (A) (9).

<b>Table 25-18.1 Off-Street Parking Schedule</b>	
<b>Use</b>	<b>Number of Parking Spaces Required</b>
One-family dwelling	Two (2) per unit

Two-family dwelling unit	Two (2) per unit with no parking closer than six (6) feet to side yard lot line.
Three or more family dwelling unit	One (1) per unit with two (2) bedrooms or less.
	Two (2) per unit with three (3) bedrooms or more.
	No spaces to be in front yard. No parking closer than six (6) feet to side or rear lot lines.
Motels	One (1) space per rental room plus two (2) spaces for first twenty (20) units plus one (1) space for each additional twenty (20) units.
Professional/Business Office	One (1) space per three hundred (300) square feet of total office area.
Medical Office/Clinic	One (1) space per two hundred (200) square feet of total office area.
Banks/Financial Institutions	One (1) space per three hundred (300) square feet of total bank area plus three (3) stacking spaces for each drive-through lane.
Retail Sales (including food shops)	One (1) space per two hundred (200) square feet of sales space.
Furniture, Appliance Stores, Home Furnishings, Hardware and Garden Supplies and Building Materials	One (1) space per four hundred (400) square feet plus one (1) space per one thousand (1,000) square feet of outside storage/sales.
Restaurants, Fast-Food Restaurants, Taverns and Bars	One (1) space per one hundred (100) square feet of dining/lounging area plus drive-through to have three (3) stacking spaces per window.
Shopping Centers	First two hundred thousand (200,000) square feet of gross floor area — one (1) space per two hundred fifty (250) square feet.
	Over two hundred thousand (200,000) square feet of gross floor area — one (1) space per four hundred (400) square feet.
Health Club/Fitness Center	One (1) space per two hundred (200) square feet of floor area.
Auditoriums/Assembly Halls and Churches	One (1) space per fifty-five (55) seats.
Day Care	One (1) space per employee plus one (1) space per ten (10) patrons or any fraction thereof.
<b>Schools</b>	
Elementary to Junior High	One (1) space per employee plus one (1) space per twenty (20) auditorium seats.
High School	One (1) space per employee plus one (1) space per five (5) auditorium seats.
<b>Service Business Uses</b>	

Barber/Beauty Shop	Two (2) spaces per operator station or chair.
Dry Cleaning/Laundry	One (1) space per three hundred (300) square feet of area.
Funeral Home	One (1) space per five (5) seats in chapel plus one (1) space per employee plus one (1) space per facility vehicle.
Animal Hospital	One (1) space per four hundred (400) square feet of receiving and treating area plus one (1) space per employee.
<b>Recreational Uses</b>	
Bowling Alley	Five (5) spaces per lane plus bar/restaurant at seventy-five percent (75%) of regular requirement.
Miniature Golf	One (1) space per hole.
All Other Recreational Uses	One (1) space per three hundred (300) square feet of area or one (1) space per four (4) seats, whichever may apply.
<b>Industrial Uses</b>	
Warehouses	One (1) space per two thousand (2,000) square feet of floor area.
Industrial Uses	One (1) space per six hundred (600) square feet of floor area.

### 27-18.30 Allowable Projections into Yards for residential Zones

1. **General.** Eaves, cornices, windows, or other similar architectural features shall be permitted to project into a required front or side yard no more than twelve (12) inches. Foundation footings or wingwalls shall not be allowed to protrude into the required yards. Chimneys shall be permitted to project no more than two (2) feet, provided the width of any side yard is not reduced to less than eight (8) feet with the total area of encroachment not exceeding twelve (12) square feet.
2. **Front Yards.** Open, unenclosed ramps, porches, platforms, or landings not covered by a roof shall be permitted to extend no more than six (6) feet into the required front yard, provided such porch does not extend above the first (1st) level and is no more than six (6) feet above grade at any point.

### 25-18.40 Maximum Lot Coverage

#### 1. Definitions:

A. **Lot Coverage:** The percentage determined by dividing (a) the area of a lot covered by the total (in square feet) of: (1) the footprint of the main



building; and (2) the footprints of accessory buildings (counting only buildings with footprints larger than one hundred fifty (150) square feet, or with two stories or more); and (3) parking pads and driveways; by (b) the gross area of the that lot.

**B. Main Building Footprint Coverage:** The percentage determined by dividing that area covered by a main building footprint by the gross area of the lot on which the main building is located. The main building footprint includes all parts of a main building that rest, directly or indirectly, on the ground, including, by way of illustration and not by limitation, bay-windows with floor area, chimneys, porches, decks supported by posts and with floor heights that are four (4) feet or higher above grade, cantilevered decks with horizontal projections that are four (4) feet or more, and covered breezeways connected to a main building.

**2. Coverage:** Maximum lot coverage applies to any residential dwelling lot in the “R” and “C-1” zones for all existing structures and new construction, except as provided below.

- A. When a detached garage is provided in the rear yard, the maximum lot coverage may be increased
- B. When a porch is attached to the front elevation of the residential dwelling and has an area of at least sixty (60) square feet on the front of the building (exclusive of any wrap-around or side porch), the maximum coverage may be increased
- C. Existing main and accessory structures that are not in conformance with these coverage requirements on the date of passage, are permitted to be rebuilt within the building footprint as it existed on the date of passage, if the structures are damaged or partially destroyed by fire, wind, earthquake, or other force majeure and if construction commences within two (2) years from the date of the calamity.
- D. Multi-family dwellings are exempt from the lot coverage requirements.

### **25-18.50 Landscaping Requirements**

1. **General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Section. Said landscaping shall be completed before the occupancy of the building.

2. **Front Yards.** Front yards required by this Code shall be completely landscaped, except for those areas occupied by access driveways, walls, and structures.

3. **StreetSide Side Yards.** All flanking StreetSide side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls, and structures. The site triangle on the intersection corner having a size to be determined by the Code Official shall not be landscaped such that the vehicular line-of-site is obscured.

4. **Maintenance.** All live landscaping required by this Code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all areas which have sod mowed on a regular basis.

### **25-18.60 Loading Spaces**

1. **General.** Loading spaces shall be provided on the same lot for every building in the C or I zone. No loading space is required if prevented by an existing lawful building. The Code Official shall be authorized to waive this requirement on unusual lots.

2. **Size.** Each loading space shall have a clear height of fourteen (14) feet and shall be directly accessible through a useable door not less than three (3) feet in width and six (6) feet, eight (8) inches high. The minimum area of a loading space shall be four hundred (400) square feet and the minimum dimensions shall be twenty (20) feet long and ten (10) feet wide.

### **25-18.70 Grading and Excavation Regulations**

1. **General.** This Section is intended to provide the community with fair and equitable grading practices and shall not supersede the requirements of any other ordinance.

#### **2. Grading Responsibilities.**

A. **Protection of utilities.** Public utilities or services shall be protected from damage due to grading or excavation operations.

B. **Protection of adjacent property.** Adjacent properties shall be protected from damage due to grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public or private property without supporting and protecting such property from any damage that might result or as may be agreed with the public entity or adjoining property owner.

C. **Inspection notice.** The Code Official shall be notified at least twenty-four (24) hours prior to the start of work.

**D. Temporary erosion control.** Precautionary measures necessary to protect adjacent watercourses and public or private property from damage by soil erosion, flooding or disposition of mud or debris originating from the site shall be in effect. Precautionary measures shall include properly designed and installed/constructed sediment control facilities so that downstream properties are not affected by upstream erosion. Developers must obtain all State and Federal permits.

**E. Traffic control and protection of streets.** Flaggers, signs, barricades, and other safety devices to ensure adequate safety when working in or near public streets shall be provided.

**F. Hazard from existing grading.** Whenever any existing excavation, embankment or fill has become a hazard to life, which endangers structures or which may adversely affect the safety, use or stability of a public way or drainage channel, such excavation, embankment, or fill shall be changed or adjusted to address or correct the undesirable situation.

**G. Tracking of dirt onto public streets.** Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided. The offender shall remove any material tracked onto the public streets. Failure to properly address the situation immediately shall be considered a nuisance and will be treated as a nuisance condition by enforcement officials.

**H. Maintenance of waterway.** Precautionary measures to protect and maintain the flow of waterways shall be taken.

**I. Revegetation.** The loss of trees, ground cover and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, planting grass or ground cover plants and/or trees shall protect graded areas to the extent practical from damage. Such plantings shall provide for rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided when required by the Code Official.

**J. Additional yard requirements.** In all districts, a triangular space shall be maintained at the street corner of a corner lot, free from any kind of obstruction to vision, between the heights of two (2) feet and twelve (12) feet above the established street grade. The street grade is measured at the intersection of the centerlines of the intersecting street pavements. The triangular space is determined by measuring twenty (20) feet along the point of intersection of the limits of the street pavements.

## **25-18.80 Passageways**

**1. Residential Entrances.** There shall be a passageway (sidewalk) leading from the public way to the exterior entrance of each dwelling unit in every residential building of not less than four

(4) feet in width. The passageway shall be increased by two (2) feet when the number of living units equals four (4) or more.

**2. Separation Between Buildings.** There shall be at least ten (10) feet of clear space between every main building and accessory building having one hundred (100) square feet or more of floor area on a lot. There shall be at least twenty (20) feet of clear space between every residential building and another main building on the same lot.

**3. Location of Passageways.** Passageways shall be permitted to be in that space set aside for required yards. Passageways shall be open and unobstructed to the sky and shall be permitted to have such projections as allowed for yards, provided that the users of said passageways have a clear walkway to the public way. Any space between buildings or passageways that has less than that prescribed herein shall not be further reduced.

### **25-18.90 Approval for and Availability of Essential Services**

**1. General.** All projects that require the additional use of new facilities or essential services such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting and similar services shall be approved by the agency providing such services prior to project approvals. These approvals may be required in written form by the Code Official. If this is the case, these approvals shall be submitted with the application for building permits.

**2. Non-availability of essential services** shall be permitted to be grounds for denying permits for additional development until such services are available. The jurisdiction is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the jurisdiction agrees otherwise. All services shall be designed and installed in full conformance with this jurisdiction's minimum standards for such service and shall be subject to review, permit and inspections as required by other policies or ordinances of this jurisdiction.

## **Section 25-19**

### **Special Regulations**

#### **25-19.10 Home Occupation**

Means any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on wholly within the main building or an accessory building by an immediate member of the family residing on the premises; provided that no person not a resident on the premises is employed, not stock in trade is kept, or commodities sold, upon the premises, Further, no external alterations or major internal

alterations of the premises may be involved; no equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television instruments; and no generation of substantial volumes of vehicular or pedestrian traffic or substantial parking demand shall be created. Further, there shall be no advertising sign displayed, other than a nameplate not exceeding one square foot in areas, and there is no other exterior indication that the building is being used for any purpose other than a dwelling. When within the above requirements home occupations permitted without special permits include the following.

1. Art Studio.
2. Babysitting limited to no more than four children under the age of seventeen (17) at one time.
3. Dressmaking or tailoring.
4. Home crafts provided that no machinery or equipment is used other than that customarily used for household purposes.
5. Office of a physician, dentist or similar profession for consultation or emergency treatment but not for general professional practice or normal treatment of patients.
6. Professional office of a real estate agency, insurance agent, engineer attorneys or similar occupation.
7. Teaching, including music instruction, limited to not more than two pupils at one time.
8. Internet business

When the above home occupations are not within the above requirements, a special use permit shall be required. Additional home occupations other than those listed above may be allowed, provided that a special use permit for such use is granted under the provisions of this title. However, permitted home occupations shall not be interpreted to include nursery schools, auto repairing, antique shops, restaurants, plumbing and electrical appliance shops, stables, kennels or animal hospitals, or any light manufacturing or assembling operation.

### **25-19.20 Adult Uses**

Adult businesses shall be in I-1 zones only.

## **Section 25-20**

### **Sign Regulations**

#### **25-20.10 Non-conforming Uses**

The lawful use of land and advertising signs and bulletin boards which do not conform to the provisions of the Code shall be discontinued within one (1) year from the date of the approval of any zoning ordinance and the use of land and advertising signs and bulletin boards which

become non-conforming by reason of a subsequent change in that ordinance shall also be discontinued within one (1) year from the date of the change.

### **25-20.20 Statement of Purpose**

1. It is the purpose of this Article to protect and promote the health, safety, and general welfare of the community; to regulate signs such that they will not, by reason of their size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety.
2. It is further the intent of this Article to protect property values and to promote the preservation of Houston's character and natural scenic beauty to create a more aesthetically pleasing environment while allowing our community's businesses the opportunity to market their services and products.
3. Finally, it is the intent of this Article to promote the attractive use and placement of signs as an integral part of our Comprehensive Plan for municipal development and consistent with the property rights guaranteed to all persons by the Constitutions of the United States and the State of Missouri.

### **25-20.30 Definitions**

For this Article, the following words and phrases shall have the meaning ascribed to them in this Section. If any terms defined in this Section differentiates from definitions elsewhere in the Zoning Regulations, the definition herein shall control for the purposes of enforcing, applying, and interpreting the sign regulations set forth in this Article.

#### **ANIMATED SIGN**

A sign employing actual motion or the illusion of motion. Animated signs which are differentiated from changeable signs as defined and regulated by this Article include the following types:

##### **1. ELECTRICALLY ACTIVATED**

Animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one (1) or both classifications noted below:

##### **A. FLASHING**

Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For this Article, flashing will not be defined as occurring if the cyclical period between on/off phases of illumination exceeds four (4) seconds.

## **B. PATTERNED ILLUSIONARY MOVEMENT**

Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

### **2. ENVIRONMENTALLY ACTIVATED**

Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings and/or other devices or displays that respond to naturally occurring external motivation.

### **3. MECHANICALLY ACTIVATED**

Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

## **APPLICANT**

A person for whom a sign is proposed to be erected, requesting that a sign permit be issued.

## **ATTACHED SIGN**

A sign attached to a building or other structure.

## **AWNING SIGN**

A sign displayed on or attached flat against the surface or surfaces of an awning. See also WALL SIGN.

## **BILLBOARD**

A detached or freestanding sign having one (1) or more panels designed to contain informative messages of advertisement which are changed from time to time, not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

## **CHANGEABLE SIGN**

A sign with the capability of content change by means of manual or remote input including signs that are:

### **A. MANUALLY ACTIVATED**

Changeable sign whose message copy or content can be changed manually.

**B. ELECTRICALLY ACTIVATED**

Changeable sign whose message, copy or content can be changed by means of remote electrically energized on/off switching combinations of alphabetical or pictographic components arranged on a display surface. Illumination may be integral to the components such as characterized by lamps or other light-emitting devices or it may be from an external light source designed to reflect off the changeable component display.

**DETACHED OR FREESTANDING SIGN**

A sign principally supported by a structure affixed to the ground and not supported by a building, including signs supported by one (1) or more columns, poles or braces placed in or upon the ground.

**DEVELOPMENT COMPLEX SIGN**

A monument sign identifying the name of a subdivision or other residential development approved as a single development.

**DIRECTIONAL SIGN**

Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**ERECT**

To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish. It shall not include any of the above-mentioned activities when performed as an incident to the change of advertising.

**ELECTRONIC MESSAGE SIGN OR CENTER**

An electrically activated changeable sign whose variable message capability can be electronically programmed.

**ILLUMINATED SIGN**

A sign characterized using artificial light, either projecting through its surface(s) (internally illuminated) or reflecting off its surface(s) (externally illuminated).

**INDIRECTLY ILLUMINATED SIGN**

An illuminated non-flashing signs whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into public streets.



**INTERIOR SIGNS**

Any sign placed within a building but not including "window signs" as defined by this Article. This Article does not regulate interior signs, apart from window signs.

**MARQUEE SIGN**

Any sign attached flat against the marquee or permanent sidewalk canopy of a building.

**MENU BOARD**

A freestanding sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window and which has no more than twenty percent (20%) of the total area for such a sign utilized for business identification.

**MONUMENT SIGN**

A freestanding, ground-mounted sign with a height no greater than eight (8) feet and a width no greater than twelve (12) feet which identifies a particular subdivision or establishment. A monument sign must be located on the subdivision sight or establishment premise and must conform to setback requirements as presented in future Sections of this Article and must be placed in a position so as not to hinder sight triangle for access onto intersecting roads.

**NON-FUNCTIONAL SIGN**

A sign displayed after the business or product advertised is no longer located, operating or available on the premises to which the sign pertains.

**OFF-PREMISES SIGN**

A sign which directs attention to a business, profession, product, service, entertainment, merchandise, or goods not conducted, sold, present or offered upon the premise or land where such sign is located.

**ON-PREMISES SIGN**

A sign erected, maintained, or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on or the sale or lease of the property on which it is displayed.

**PERMANENT SIGN**

A name, identification, description, display, illustration, or device which is intended for a period of display more than thirty (30) days. Any sign that is not considered a temporary sign within this Article shall be considered permanent.

### **PERSON**

A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership, or corporation, it is or their successors or assigns, or the agent of any of the aforesaid.

### **POLITICAL SIGN**

A temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted outdoor advertising sign shall not be a political sign.

### **PORTABLE SIGN**

Any sign that is not permanently affixed to a building, structure, or the ground and/or is designed to be moved from place to place, with or without wheels. Specifically included for purposes of description, but not without limitations, are signs mounted on trailers, with or without wheels, A-shaped "sandwich board signs" and inverted T-shaped signs.

### **PREMISES**

The lot or parcel of land used in the active conduct of business, service, profession, or activity, including but not limited to, structures, driveways, parking lots, storage areas, landscaping and loading areas.

### **PRIMARY HIGHWAY**

That State highway to which a building fronts and therefore is the highway that services that establishment. For the parcels of land that lie within the primary highway will be that portion of Highway 63 and Highway 17 that would front the premise if the establishment faced these Highways.

### **PROJECTING SIGN**

A sign other than a wall sign that is attached to or projects more than eighteen (18) inches from a building face or from a structure whose purpose is other than the support of a sign.

### **REAL ESTATE SIGN**

A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

### **REVOLVING SIGN**

A sign that revolves three hundred sixty degrees (360°) about an axis. See also *ANIMATED SIGN, MECHANICALLY ACTIVATED*.

## **SETBACK**

The minimum required distance between property line and the building line.

## **SHOPPING CENTER**

Any commercial establishment consisting of wholesale business, retail business or office, or any combination thereof, having a combined leasable floor area of fifty thousand (50,000) square feet or more. The floor area may be either under one ownership or multiple ownership.

## **SIGN**

Any name, identification, description, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the public and which directs attention to a product, place, activity, person, institution, or business. A sign shall include writing, representation, or other fixture of similar character within a building only when permanently installed, illuminated, and located in a window. The following shall not be considered signs within the meaning of this definition:

1. Flags or insignia of any government.
2. Legal notices, identifications, information, traffic-related or directional signs erected or required by governmental bodies.
3. Signs, measuring not more than four (4) square feet, designed to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment and containing no advertising matter.

## **SIGN AREA MEASUREMENTS**

1. If the sign copy is mounted or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy; then the sign area is measured as that area that is contained within the outside dimensions of the background panel or surface.
2. If the sign copy is mounted as individual letters and/or graphics against a wall or fascia of a building or other structure that has not painted, textured, or otherwise altered to provide a distinctive background for the sign copy; then the sign area is measured as the area enclosed by the smallest single rectangle that will enclose all sign copy.
3. If the sign copy is mounted or painted on an illuminated sign or illuminated architectural element of a building; then the entire illuminated surface or illuminated architectural element containing sign copy will be counted as the sign area.

4. If the sign copy is mounted as individual letters and/or graphics on a canvas or likewise materials covering a structure that will produce shade or protection from the elements of nature for a building (an awning) and the entire awning structure is illuminated or non-illuminated; then the sign area is measured as the area enclosed by the smallest single rectangle that will enclose all sign copy. The names or physical address of the establishment owning the awning shall be allowed on the front facing of all awnings.

#### **5. Number of sign faces.**

A. One. The area of the single face only.

B. Two. If the interior angle between the two (2) sign faces is forty-five degrees ( $45^\circ$ ) or less, the area will be the area of one (1) face only; if the angle between the two (2) sign faces is greater than forty-five degrees ( $45^\circ$ ), the sign area will be the sum of the areas of the two (2) faces.

C. Three or more. The sign area will be the sum of the area of the three (3) or more faces.

D. Spherical, free form, sculptural, other non-planar signs. The sign area will be the sum of the areas of the four (4) vertical sides of the smallest polyhedron that will encompass the sign structure.

E. If a sign has more than one (1) component (e.g., a service stations identification/price sign combination mounted on the same surface); then the sign area will be the area of the smallest rectangle that will encompass the several components of the sign.

### **STRIP MALL**

Any commercial establishment consisting of wholesale business, retail business or office, or any combination thereof, where the total leased area is less than fifty thousand (50,000) square feet.

### **TEMPORARY SIGN**

A sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground or not permanently affixed to a building or sign structure that is permanently embedded in the ground are considered temporary signs.

### **WALL SIGN**

A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen (18) inches from the building or structure wall including signs affixed to architectural projections from a building, provided the copy area of such sign remain on a parallel plane to the face of the building facade or to the face of the architectural projection to which it is affixed.

## WINDOW SIGN

A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from an adjacent property.

### 25-20.40 General Provisions

A. This Article shall be known and may be cited as the Houston, Missouri, Sign Ordinance.

B. All New Work Shall Conform. All signs erected, constructed, or altered in the City of Houston shall comply with the requirements set forth in this Article.

C. Maintenance. It shall be unlawful to maintain a sign that has been erected or altered in violation of this Article. Maintenance of signs that were erected prior to the adoption of this Article is lawful.

### 25-20.50 Permits

1. **Permit Required.** No person shall erect any sign as defined in this Article without first obtaining a permit from the Code Official, except for those signs that are exempted from the requirement by Section 25-20.60.

2. **Filing of Permit.** All applications for permits as specified above shall be filed with the Codes Official upon forms furnished by him, and shall be accompanied by plans, to scale, showing the sign area, the position of the sign in relation to the lot lines and street, the position of the sign in relation to adjoining buildings or structures, the location of the building, structure or lot to which the sign is to be erected, the method of illumination, if any, and such other information as the Codes Official may require to assure full compliance with this Article.

3. **Fee Schedule.** The permit fee shall be calculated and distributed to the applicant at the time of the application. The permit fee shall not be collected unless the sign has been approved.

A. The fee structure for all ground signs and pole sign requests shall be calculated by use of the following formula:

Height in Feet X Square Feet X Fee = Permit Fee

A fee for services shall be charged. All fees shall be set by the jurisdiction and schedules shall be available at the office of the Code Official.

B. The fee structure for wall signs for which a variance is requested shall be calculated by use of the following formula:

Fee X Square Feet = Permit Fee

A fee for services shall be charged. All fees shall be set by the jurisdiction and schedules shall be available at the office of the Code Official.

C. Limitations. The permit shall become null and void for the following reasons:

1. The work authorized by a permit granted under this Article has not commenced in a six (6) month period.
2. The work authorized by a permit granted under this Article has been abandoned for a six (6) month period after beginning.
3. Upon occurrence of either of the above-named incidents, a new permit with all applicable fees will be required before any work may continue.

### **25-20.60 Restrictions**

1. **Illuminated Signs.** All erected or maintained illuminated signs shall be illuminated with only non-flashing and non-intermittent light or lights. No flashing or intermittent lamps shall be allowed. Furthermore, no illuminated sign shall be of the intensity or brilliance to cause glare or to impair the vision of the operator of any motor vehicle or to otherwise interfere with such operator.

2. **Off-Premises Signs.** All off-premises signs as defined in this Article are prohibited without a proper permit from the Missouri Department of Transportation. This provision does not apply to Official Business Directional as provided by the State of Missouri Department of Transportation.

3. **Attached Signs.** No attached sign shall obstruct any window, door, stairway, or other opening intended for ingress or for necessary ventilation or light. No sign shall be attached to any tree or public utility pole.

4. **Signs Erected on Natural Features.** No on-premises sign may be permitted which is erected or maintained upon trees or painted or drawn upon rocks or other natural features.

5. **Signs Painted on Buildings.** Any existing sign that is painted directly on the surface of a building may remain and may be repainted even though it may exceed the total allowable surface area of signs. However, any new sign that is to be painted directly on the surface of a building must comply to the total allowable surface area of signs as defined in this Article.

6. **Revolving Signs.** Revolving signs shall be prohibited in the City of Houston, Missouri, except for barbershop poles, which shall not exceed four (4) feet in height.

7. **Projecting Signs.** No signs shall project over any lot line. No sign shall project over any street or street right-of-way. No projecting sign shall be less than eight (8) feet above grade level at its lowest point nor shall extend to a height greater than twenty-five (25) feet.

#### **8. Setbacks.**

A. **Setback from State right-of-way.** No sign except those Official Business Directional signs of the Missouri Department of Transportation shall be erected inside of the public right-of-way. In addition, if the paved surface of the road extends to the edge of the right-of-way, the structure supporting the sign must be located a minimum of five (5) feet from such paved roads

when measuring from the right-of-way to supporting wall or structure. At no time shall the nearest part of a sign, whether it be at ground level or in the air, be erected within the public right-of-way.

**B. Setbacks from City side street lines.** All signs shall be set back at least ten (10) feet from all side street lines. The setback shall be determined from street lines to that part of the sign that extends nearest to said line whether it be at ground level or above ground level. Regardless of these setbacks, no sign shall be located such that it interferes with or impairs the vision of the operator of any motor vehicle.

## **9. Non-functional Signs.**

A. Non-functional, non-conforming signs. It shall be unlawful for any non-conforming sign to remain on display after it ceases to be functional. If a non-conforming sign is found to be non-functional for a period of ninety (90) days, the owner shall be given written notice to remove such sign in ten (10) days after the receipt of said notice. Should the owner refuse or neglect to comply with the order, the Board of Aldermen may order such sign to be removed by whatever means practical and all expenses therefor shall be repaid to the City of Houston by the owner within thirty (30) days after demand.

B. Non-functional, conforming signs. If a sign that is otherwise considered to be a conforming sign according to this Article becomes non-functional for a period of ninety (90) days, this sign will be considered a non-functioning, conforming sign. Non-functioning, conforming signs may remain in place for an indefinite period but must be painted or otherwise colored a solid white, beige, blue, brown, or black color and may bear no advertising material.

## **10. Portable Signs.**

A. Portable signs that bear a message to advertise or promote a product or service shall be allowed in the C-1 Commercial Zone, the C-2 Commercial Zone, and the I-1 and I-2 Industrial Zones. Use shall be limited to one (1) such sign per lot or parcel. Furthermore, the area of such signs shall not exceed thirty-two (32) square feet. These signs must be held in place by stakes, guy wires or other adequate means. These signs, as defined in this Article, will not be considered as detached or freestanding signs. A permit is required for these signs; however, no fees shall be charged.

B. Portable signs that bear a message other than advertisement or promotion of a product or service may be placed on private property in any zone. The sign area shall be limited to four (4) square feet in size. These signs as defined in this Article will not be considered as detached or freestanding signs. A permit is required for these signs; however, no fees shall be charged.

**11. Temporary Signs.** Temporary signs as defined in this Article shall be classified as one of the following categories and may be placed in the right-of-way and shall be subject to the regulations that pertain thereto.

**A. Real Estate, Sale, Rental or Lease Signs.** Temporary signs which pertain to the use, sale or lease of real estate shall be permitted but must not exceed thirty-two (32) square feet in the C-1 Commercial, the C-2 Commercial and the I-1 and I-2 Industrial Zones. Temporary signs which pertain to the use, sale or lease of real estate shall be permitted in the R-1, R-2 and R-3 Zones but must not exceed eight (8) square feet. One (1) sign shall be allowed for each two hundred (200) square feet.

**B. Signs on motor vehicles.** Temporary signs pertaining to the sale of motor vehicles, boats and/or trailers shall be permitted by this Article with no permit or fee required. However, signs on motor vehicles, boats and/or trailers which are determined by the Code Official to be circumventing the intent of this Article are prohibited. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width, or length of the vehicle.

## 12. Special event and/or announcement signs.

A. Temporary signs pertaining to campaigns, drives or events of a political, civic, philanthropic, educational, or religious organization shall be allowed by this Article with no permit or fee required. Such signs must be removed not later than thirty (30) days after they are erected. Temporary window signs measuring no more than four (4) square feet shall be allowed in all windows and public bulletin board areas so long as said sign follows this Article.

B. Freestanding temporary signs totaling no more than ten (10) square feet in total area on any one lot is allowed. The total square feet may constitute an individual sign or a combination of signs, however, placement of said signs shall comply with Subsection (H)(1) and (2).

**13. Political signs.** Signs bearing a political message relating to an election, primary or referendum shall be permitted without the need of acquiring a permit and may be placed in the City right-of-way upon consent of adjoining property owner and provided they are removed by the candidate or political committee not later than one (1) week following the election, primary or referendum to which they relate. The Code Official of the City of Houston, or his agent, shall remove any signs that have not been removed within this timeframe. The removal costs shall be sent to the candidate or committee responsible for the placement of such signs. Any such sign placed on private property shall also be removed within one (1) week following the election, primary or referendum to which they relate. The Code Official shall notify any property owner on whose property such signs have been placed if the signs are not removed within the time set forth.

**14. Signs for Home Occupations.** Signs for home occupations shall be limited to one (1) nameplate which may display the name of the occupant and/or the name of the home occupation(s). Such sign shall not exceed four (4) square feet in area and shall be non-illuminated.

**15. Affixed Signs.** Signs affixed to any wall or roof of a building or signs composed of individual letters without a background may be located on the edge of a roof or parapet wall on a flat roof or



at the line of the eaves on other types of roofs. A sign affixed to any of the above locations shall not project more than three (3) feet above the area to which it is affixed as follows:

- A. Edge of roof.
- B. Parapet wall on a flat roof
- C. The eave line on other types of roofs.
- D. Top of wall at roof edge.

**16. Height of Signs.** No sign that is attached or affixed to any wall of a building or roof shall extend to a height greater than twenty-five (25) feet above the level of the ground upon which it is erected.

**17. Freestanding or Detached On-Premises Signs.** No freestanding or detached sign in the C-1, C-2, I-1, or I-2 zones shall have a maximum area of greater than two hundred (200) square feet. Freestanding on-premises signs shall have a height no greater than forty-five (45) feet above the finished grade of the primary highway it services.

**18. Shopping Center and Strip Malls Excepted.** Section 25-20.60 of this Article shall govern the placement of signs in shopping centers and strip malls.

## **25-20.70 Zone Restrictions**

### **1. Sign in Zones C-1 and C-2.**

A. In C-1 and C-2 zones, signs may be located and may be window, attached, detached or projecting signs. These signs may be single-faced or double-faced, identifying uses, goods sold, or services rendered on the premises.

B. No lot or parcel in these zones may have more than one (1) detached sign except as provided in Subsection (3) of this Section.

C. Lots or parcels located in these zones with more than three hundred (300) linear feet of frontage along the public way may have two (2) freestanding signs. Lots or parcels with more than five hundred (500) linear feet of frontage along the public way may have up to three (3) freestanding or detached signs. All detached signs on any one lot or parcel shall maintain a minimum separation of one hundred (100) linear feet.

D. Golf courses and other outdoor recreational facilities may have non-advertising signs appropriate to their use, i.e., driving range distance markers and hole numbers.

E. In no case shall the aggregate area of all signs located on any parcel located in these zones exceed six hundred (600) square feet.

F. All signs must follow Section 25-20.60 of this Article.

## **2. Signs in the Industrial Zones.**

A. In the I-1 and I-2 Zones signs may be attached, detached or projection signs, single- or double-faced, identifying goods sold or manufactured on the premises, or services rendered on the premises.

B. Lots or parcels located in these zones with more than three hundred (300) linear feet of frontage along the public way may have two (2) freestanding signs. Lots or parcels with more than five hundred (500) linear feet of frontage along the public way may have up to three (3) freestanding or detached signs. All detached signs (see Portable Signs, Section 25-20.60(10)) on any one lot or parcel shall maintain a minimum separation of one hundred (100) linear feet.

C. In no case shall the aggregate area of all freestanding signs located on lots or parcels in this zone exceed six hundred (600) linear feet.

D. All signs must follow Section 25-20.60 of this Article.

## **3. Signs in the R-1, R-2 And R-3 Residential Zones.**

A. The following signs are permitted in R-1 Residential Zones:

1. Monument signs which identify a particular residential subdivision to be located on the subdivision site. No more than two (2) signs at each entrance may be located on any subdivision. Such sign, if illuminated, must comply with Section 25-20.60(1) of this Article. The placement of such sign must follow the manner set forth in Section 25-20.60(8)(A) and (B) of this Article.

2. Signs, including but not limited to, home occupation signs with an aggregate area not exceeding four (4) square feet directing and guiding traffic on private property but not bearing advertisement matter.

B. The following signs are permitted in R-2 Residential Zones:

1. All signs permitted in R-1 Residential Zones.

2. Detached signs, either single- or double-faced, one to a property, which identifies the property management and does not measure more than eight (8) square feet in size. Such sign, if illuminated, must comply with Section 25-20.60(1) of this Article. The placement of such sign must follow the manner set forth in Section 25-20.60(8)(A) and (B) of this Article.

C. The following signs are permitted in R-3 Residential Zones:

1. All signs in the R-1 and R-2 Residential Zones.

### **25-20.80 Shopping Centers and Strip Malls**

1. **Applicability.** This Section regulates the placement of signs in all shopping centers and strip malls as defined in this Article.

2. **Attached Signs.** In shopping centers or strip malls each store or shop front may have an attached sign aggregating four (4) square feet of area for every running foot of frontage. However, no attached sign or supporting structure shall extend more than three (3) feet above the level of a flat roof or the level of the eaves on other types of roofs. (See Section 25-20.60(15) Affixed Signs.)

### **3. Detached Signs.**

A. Each shopping center may have one (1) detached sign directing the public to the shopping center and identifying use of services rendered on the premises. These signs shall have a total area of not greater than four hundred (400) square feet. These signs shall not extend to a height of greater than forty-five (45) feet above the finished grade of the primary highway it services. Directional signs measuring not more than four (4) square feet in area, designed to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment and containing no advertising matter shall not be considered detached signs within the meaning of this Article.

B. Each strip mall center may have one (1) detached sign directing the public to the shopping center and identifying use of services rendered on the premises. These signs shall not extend to a height of greater than forty-five (45) feet above the finished grade of the primary highway it services. The strip mall may choose to have multiple detached signs in lieu of the single sign located throughout the establishment identifying use of services rendered on the premises. The aggregate sign area shall not exceed six hundred (600) square feet and shall have a height of not greater than twelve (12) feet above the level of the ground upon which they are erected. Directional signs, measuring not more than four (4) square feet in area, designed to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment and containing no advertising matter shall not be considered detached signs within the meaning of this Article.

### **25-20.90 Permit Fees**

1. The permit fee shall be calculated and distributed to the applicant at the time of the application. The permit fee shall not be collected unless the sign has been approved.

A. The fee structure for all ground signs and pole sign variance requests shall be calculated by use of the following formula:

$$\text{Height in feet X Square Feet X Fee} = \text{Permit Fee}$$

The following fees shall be assigned to the height of ground or pole signs for which a permit is requested:

- 0 feet to 8 feet = \$ 0.15
- over 8 feet to 15 feet = \$ 0.25
- over 15 feet to 25 feet = \$ 0.35
- over 25 feet to 35 feet = \$ 0.45
- over 35 feet = \$ 0.50

B. The fee structure for wall signs for which a variance is requested shall be calculated by use of the following formula:

Fee X Square Feet = Permit Fee: The following fee shall be assigned to all wall signs for which a permit is requested: \$1.00 per square foot

## **25-20.100 Structure and Design**

### **1. Structure.**

A. All freestanding detached and monument signs, except those which are less than thirty-two (32) square feet in size and having an overall height of less than eight (8) feet, or those that are temporary signs as defined by this Article shall have a frame adequately designed and constructed for support of signage material and shall always comply with the City of Houston Property Maintenance Ordinance.

B. The applicant shall bear the burden of proving that the frame is adequately constructed. The City reserves the right to require a certification from a registered professional engineer of the State of Missouri.

2. **Welding.** Qualified welders, whether done in the shop or field, must do all welding of structural frames.

3. **Guys.** Guys shall be required on the following signs:

- a. Project signs of horizontal length of twenty-five (25) feet or greater.
- b. Freestanding signs that cannot be sufficiently anchored or supported.

A. Signs without guys shall be figured as cantilevers and extra care shall be taken with the effectiveness at the anchor or supporting end.

B. Guys, together with the supports on the buildings, establish certain frame members as simple beams.

C. When there is not sufficient room for cable guys at both sides of a sign, angle or side guys may be used. All angle or side guys shall form an angle of no less than forty-five degrees (45°) with the face of the sign and the wall of the building.

4. **Wind Loads.** All projecting signs, roof signs, detached signs, rectangular signs, and freestanding signs shall be designed and erected to withstand wind load experienced in this area by a registered, professional engineer of the State of Missouri.

5. **Foundations.** A base that provides protection against frost movement shall adequately support permanent signs. Material used in the construction of the sign base shall be of a non-deteriorating or relatively low-deteriorating nature. All foundations must be designed by a registered, professional engineer of the State of Missouri.

#### **25-20.110 Non-Conforming Signs**

1. Non-Conforming Flashing And/or Revolving Signs. All flashing and/or revolving signs are prohibited.

2. Non-conforming signs, if destroyed or damaged beyond fifty percent (50%) of replacement cost as determined by the Code Official must be removed.

## **Section 25-21**

### **Non-Conforming Structures and Uses**

#### **25-21.10 General**

1. **Continuance.** Except as otherwise required by law, a structure or use legally established prior to the adoption date of this Code may be maintained unchanged. In other than criminal proceedings, the owner, occupant, or user shall have the burden to show us that the structure, lot, or use was lawfully established.

2. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

3. Whenever the use of a building becomes non-conforming through a change in zoning requirements or district boundaries, such use may be continued and if no structural alterations are

made, it may be changed to another non-conforming use of the same or of a more restricted classification.

### **25-21.20 Discontinuance**

1. **Vacancy.** Any lot or structure or portion thereof occupied by a non-conforming use which is or hereafter becomes vacant and remains unoccupied by a non-conforming use for a period of twelve (12) months shall not thereafter be occupied, except by a use that conforms to this Code.

2. **Damage.** Any building or structure containing a non-conforming use which is damaged by fire, flood, wind or other act of God or man to the extent of fifty percent (50%) or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this Title. If the Code Official's estimate of the extent of damage of fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Board of Adjustment.

### **25-21.30 Enlargements and Modifications**

1. **Maintenance and Repair.** Maintenance, repairs, and structural alterations shall be permitted to be made to non-conforming structures or to a building housing a non-conforming use with valid permits.

2. **Changes in Non-Conforming Use.** A change of use of a non-conforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a non-conforming use.

3. **Additions.** All additions to non-conforming structures shall conform to the requirements of this Code. Additions to structures housing non-conforming uses that increase the area of a non-conforming use shall not be made.

## **Section 25-22**

### **Conditional Uses**

#### **25-22.10 General**

A conditional use permit shall be obtained for certain uses, which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions and located in specific locations within a zone but shall not be allowed under the general conditions of the zone as stated in this Code.

#### **25-22.20 Applications**

All conditional use permit applications shall be submitted to the Code Official as provided in this Code. Maps, drawings, statements, or other documents in accordance with the provisions of

Section 25-4.100 shall accompany all applications. An appropriate fee to cover out-of-pocket expenses for advertising the public hearing in the paper shall be collected at the time of submittal, as determined by the City.

### **25-22.30 Public Hearing**

Prior to the approval, amending or denial of a conditional use permit, a public hearing shall be held in accordance with the provisions of Section 25-9.10. Upon the completion of said public hearing, the Commission shall render a recommendation within thirty (30) days to be forwarded to the Board of Aldermen for final consideration.

### **25-22.40 Determination**

1. **Authorization.** The Commission on appeal shall impose conditions and safeguards as deemed necessary to protect and enhance the health, safety, and welfare of the surrounding area. The authorization of a conditional use permit shall not be made unless the evidence presented is such to establish:

A. That such use will not, under the specific circumstances of the case, be detrimental to the health, safety, or general welfare of the surrounding area and that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area.

B. That such use will comply with the regulations and conditions specified in this Code for such use.

C. The Planning Commission shall itemize, describe, or justify the conditions imposed on the use. All conditional use permits shall have an expiration date.

2. The Board of Aldermen shall accept or reject the conditions recommended by the Commission. The final approved conditions shall be recorded in the Texas County records.

### **25-22.50 Expiration and Revocation**

1. **General.** A conditional use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. The Code Official shall advise the permittee by registered mail that the conditional use permit has expired, and that the permittee is not to pursue the permitted uses or construction without procuring the needed permits.

2. At any point when documented activity related to the permitted use and/or construction thereof has been abandoned or discontinued for a period of at least one (1) year, the conditional use permit shall be considered to have expired. The conditional use permit, as previously granted, shall not be re-established without approval by the Commission, following the procedures prescribed by Section 25-22 as stated immediately above.

**3. Revocation Procedure.** A conditional use permits maybe revoked when the permittee fails to comply with the conditions imposed by the Commission and accepted by the Board of Aldermen and the following procedure has been initiated:

A. The Code Official has determined and documented that non-compliance conditions of the permit do exist.

B. The Code Official presents to the permittee and the Mayor, in written form, simultaneously, a list of the conditions that are not being complied with and a clear and precise determination of the impact to the area. The Mayor may then mark the item on the agenda for the next regular meeting of the Board of Aldermen or, if needed in his/her judgment, schedule a special meeting of the Board of Aldermen to discuss the non-compliance. The permittee shall be kept advised of the proposed actions of the Mayor and the Board of Aldermen and shall be invited to discuss all non-compliance with the City representatives.

C. The Board of Aldermen, utilizing the recommendation of the Code Official and the City Attorney, shall determine the period to allow the permittee to increase efforts or change procedures to meet all conditions of the original permit. The Board of Aldermen shall establish a date and time for a public meeting to receive data and public input for consideration of the revocation of this conditional use permit.

D. Following the public meeting held by the Board of Aldermen, the Code Official shall notify the permittee by registered mail of the exact conditions which are not in compliance with the original conditions and the exact length of time for the permittee to become in compliance with the original conditions, along with a photocopy of the original conditions, as accepted by the Board of Aldermen.

E. Should the permittee fail to comply with the original permit conditions and the Board of Aldermen's later directives within the Board's exact, stated time frame for compliance, a public hearing shall be held in accordance with the provisions of 25-9.10. The sole purpose for this hearing shall be clearly stated as follows:

A public hearing for the purpose of revoking the following conditional use permit and the name of permittee and the permit clearly printed on the public notices.

**4. Expiration and Revocation Cost and Expense.** If a conditional use permit expires on the permittee as outlined above, then all costs related to the notification of such expiration shall be the responsibility of the City. If the permittee fails to comply with the permit conditions and the revocation procedure is commenced, then all expenses related to the scheduling of a specially called meeting of the Board of Aldermen, as outlined in paragraph (2) and all expenses related to paragraphs (3), (4) and (5) of the above Subsection (C) shall be incurred by the permittee. The costs shall be tabulated and itemized by the City and billed to the



permittee. Non-payment of expenses identified could result in a lien assessed against real property, based on the recommendations, and advise of the City's legal representative.

### **25-22.60 Amendments**

An amendment to an approved conditional use permit shall be submitted to the Code Official accompanied by supporting information. The Commission shall review the amendment to grant, deny or amend such amendment and impose conditions deemed necessary without further action of the Board. Only amendment denial may be appealed to the Board.

### **25-22.70 Conditional Use Review Criteria**

1. A request for a conditional use shall be permitted to be approved, approved with conditions, or denied. Each request for a conditional use approval shall be consistent with the criteria listed below:

- A. The request is consistent with all applicable provisions of the Comprehensive Plan.
- B. The request shall not adversely affect adjacent properties.
- C. The request is compatible with the existing or allowable uses of adjacent properties.
- D. The request can demonstrate adequate public facilities, including roads, drainage, potable water, sanitary sewers and that police and fire protection exists or will exist to serve the requested use at the time such facilities are needed.
- E. The request can demonstrate adequate provision for maintenance of the use and associated structures.
- F. The request has minimized, to the degree possible, adverse effects on the natural environment.
- G. The request will not create undue traffic congestion.
- H. The request will not adversely affect the public health, safety, or welfare.
- I. The request conforms to all applicable provisions of this Code.

## **Section 25-23**

### **Enforcement**

#### **25-23.10 Enforcement**

1. It is the duty of the person designated by the mayor as a building official to administer and enforce the regulations contained in this title.

2. It is unlawful to commence or proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, raising or moving of any building or structure, or of any portion thereof, without first having applied in writing to the building official for a building permit, and until a building permit has been granted therefor.

3. A building permit application form, available at the city hall, must be completed in full and approved before any construction can begin. The building permit application is required for all new construction or construction/remodeling of a primary structure and shall be completed and delivered to the Code Official. On the issuance of a permit, one (1) set of said plans shall be retained by the Code Official as a permanent record and one (1) set shall be returned to the applicant.

A. Blank forms shall be provided by the Code Official for the use of those applying for permits as provided for in this chapter. Any permits issued by the Code Official shall be on standard forms for such purpose and furnished by the city.

B. A careful record of all such applications, plans, and permits shall be kept in the office of the City Clerk.

4. The fees to be charged for building permits from and after the passage of this chapter shall be based on the applicable International Codes.

A. Any building permit, under which no construction work has been commenced within six (6) months after the date of issue of said permit or under which the proposed construction has not been completed within two (2) years of the date of issue shall expire by limitation; and no work or operation shall take place under such permit after such expiration. Upon payment of ten cents (\$0.10) per month for each one thousand dollars (\$1,000) of the construction cost on which the original permit was issued, but not less than one dollar (\$1.00) per month, in any case, a building permit may be once extended for a period not exceeding six (6) months by the city code official.

5. After the effective date of the ordinance from which this chapter is derived, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied until a certificate of occupancy shall state that the new occupancy complies with all provisions of this ordinance. No permit for excavation or the erection or alteration of any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and a permit is issued. A record of all certificates of occupancy shall be kept on file in the office of the city

clerk, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy.

### **25-23.20 Penalty**

- A. The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10) and not more than one hundred dollars (\$100) for each and every day that such violation continues, but if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) for each and every day that such violation shall continue or by both such fine and imprisonment, in the discretion of the court. Any such person, having been served with an order to remove any such violation, failing to comply with said order within ten (10) days after such notice or continuing to violate any provision of the regulations made under authority of this chapter in the respect named in such order, shall be subject to a civil penalty of two hundred fifty dollars (\$250).

## **Section 25-24**

### **Fencing**

#### **25-24.10 Statement of Purpose**

The purpose of these regulations is to regulate the materials, locations, height, and maintenance of fencing and decorative posts to prevent the creation of nuisances and to promote the general welfare of the public.

#### **25-24.20 Standards of Requirements**

1. All fences and decorative posts to be constructed within the City limits that are taller than seventy-two (72) inches in height or in the front yard need to have a permit issued prior to construction. The property owner or his/her authorized agent shall obtain a fence permit from the City. The Code Official is hereby authorized to make periodic final checks to assure compliance with this Section during and after construction or erection of the fence.

2. The permit is not valid until a completed application is submitted and approved and all applicable fees are paid in full.

3. Construction shall be initiated within six (6) months of the date of permit issuance and be completed within one (1) year or the permit will expire by limitation. Renewal of any expired permit is subject to review by the Building Official.

4. Fences erected after passage of this Section that do not comply with all applicable provisions of this Section shall be considered illegal and shall be dismantled and removed by the property owner(s) at their expense. Violation of any provision of this Section shall subject the property owner to a fine of up to five hundred dollars (\$500.00) upon conviction of any such offence, with each violation constituting a separate offence.

5. Issuance of a permit by the City of Houston, Missouri, is verification that all the provisions of this Section have been met.

### **25-24.30 Design and Placement**

1. The maximum height for fencing, accompanying structures and decorative posts is six (6) feet, except as approved by permit.

2. Fences/decorative posts must be constructed on or within the property lines; may not be placed in the State right-of-way without a State permit; and if they are constructed within the easement on the subject property, are subject to removal by the property owner, or other authorized party, without compensation or remuneration. A ten (10) foot wide access gate shall be provided if the fence covers or surrounds an easement.

3. Fences/decorative posts may be located on any side or rear yard property line that does not abut a street.

4. Installation of the fence may not obstruct any manhole or inlet covers and must not impede/ disturb the existing drainage patterns/swales or natural water flows on the subject property or adjacent properties.

5. Fencing built forward of the required lot setback line is prohibited in residential and commercial zoned areas. Can be built in Industrial areas with a conditional use permit.

6. Decorative posts less than thirty (30) inches in height may be placed in the front yard, provided they are no closer than two (2) feet to the property line. For purposes of this Section, "decorative posts" are defined as ornamental poles or stakes with attached chains, rope or other material that serve only aesthetic purposes.

7. Fencing/decorative posts may not be placed within the designated twenty-five (25) foot sight triangle or be erected or constructed in any manner that otherwise impedes vehicular vision.

8. All fences are required to have a minimum three (3) foot wide gate/opening on any side adjacent to a street.

9. The finished side of the fence must face outward. All visible supports and other structural components shall face in toward the subject property.

10. All fencing materials must be contiguous; any fencing that is installed on a piece of property must be of the same material and design. A property owner shall be allowed to erect a fence of differing material or design with approval of the Building Official.

#### **25-24.40 Maintenance and Materials (All Zoning Districts)**

1. Acceptable materials for fencing and decorative posts include, but are not limited to, brick, stone and other masonry, synthetic materials, natural and treated woods, wrought iron, decorative aluminum, and chain link.

2. PVC and other synthetic materials used for both residential and commercial fencing applications shall meet the minimum standards set forth in this Section.

3. Chain link shall only be permitted in residential and industrial zoning; it cannot be used in commercially zoned areas.

4. Prohibited materials for fencing and decorative posts include, but are not limited to, razor wire, hardware cloth, and wire mesh. Barbed wire and electrified fencing are only allowed in Agricultural zoned areas.

5. Barbed wire can be used on top of security fences in industrially zoned areas, provided the fence has a minimum height of five (5) feet, six (6) inches and the property owner has applied for and received a conditional use permit as outlined in Chapter 25-22.

6. The property owner shall repair, paint, remove or otherwise attend to any fencing that has become unsightly or a menace to public safety, health, or welfare.

7. The Building Official is hereby empowered to issue notices to property owners to comply with all provisions of this Section. Lot owners will be given fifteen (15) days to comply with all requests. However, a longer response time may be granted at the discretion of the Building Official in cases when such compliance would cause an undue hardship.

#### **25-24.50 Non-Conforming Fencing**

1. All fencing in place prior to the effective date of this Section shall be considered legal non-conforming structures.

2. If a legal non-conforming fence is not replaced or relocated or the frame or structural supports are not altered in any manner that extends, enlarges, or intensifies the non-conformity,

the fence will be allowed to remain. If the fence is altered, then the fence must be brought into compliance with all applicable provisions of this Section.

### **25-24.60 Special Fencing Requirements (Buffer Areas)**

1. **Base material.** The base material used to construct the fence must be rigid polyvinyl chloride (PVC) and the extruded product must adhere to the ASTM (American Society for Testing Materials) standards. The PVC used must be impact tested for durability and must be formulated to be stable in ultraviolet (UV) light. The material must also be "self-extinguishing", non-flammable with a flash temperature of not less than nine hundred degrees Fahrenheit (900°F).

2. **Brackets and fasteners.** Brackets and fasteners can be made of stainless steel, galvanized steel, brass, or any other material fashioned for outdoor use. This is to provide better weathering and rust protection. This includes all nuts, bolts, screws, and washers, as well as all hinge assemblies and latching mechanisms.

3. **Internal dimensions.** The PVC used must be of a weight and thickness that can support itself. The walls of each component of the fence must be thick enough to ensure that the piece will not bend or warp because of heat, cold, strong winds or any other external force. The wall thickness of each component should be matched to the size of the component used.

4. **Posts.** All line posts should be fully reinforced and set the minimum depth required to support a fence of the stated height. These details should be stated on the fence diagram. All posts should be topped with molded PVC caps that are complimentary to the style of the fence. Posts should be routed to receive rails.

5. **Rails.** Bottom rails should contain a stiffener channel for added strength and stability. A steel or aluminum channel may be used. Rails should be routed to receive pickets.

6. **Pickets.** The pickets used in the fence can be either ribbed or hollow and can be either flat sided or tongue and groove interlocking.

7. **Gates.** Should be fully reinforced so that the gate retains its shape and fit and can be fully opened and closed without difficulty.

8. **Design.** The design and color of the fence should be complimentary to the other structures located on and around the site. Although chemical pigment may be added to some PVC compounds to give the fence color, any additives to the PVC material should not supersede the material standards previously stated in this document.

9. **Configuration.** The sizes and shapes of the pickets, rails and posts should not deviate from the standard sizes previously listed, unless necessary for a custom fence installation. For any deviation, a review of the fence schematic and prior approval will be required.

10. **Aesthetic.** All fencing materials must be contiguous; any fencing that is installed on a piece of property must be of the same material and design as the existing fence. If this is not possible, for instance, the material used to make the existing fence is no longer available, all existing fencing must be removed or altered so that it is the same as the new fence. Mixing of fence elements is not permitted i.e., connecting the twenty (20) foot span between two (2) sections of wood fencing with a chain link fence.

### **25-24.70 Enclosures for Pools, Spas, and Hot Tubs**

1. All swimming pools, hot tubs, spas, and other water features shall be fully enclosed by a continuous fence with a minimum height of forty-two (42) inch at its lowest point when measured from finished grade to the top of the fence. The maximum clearance between the finished grade and the bottom edge of the fence is two (2) inches.

2. All fencing used around pools, hot tubs, spas, or water features are required to have gates that open away from the pool structure and are self-closing and self-latching.

3. For all above ground pools and water features that have a wall height of forty-two (42) inches or greater, the pool structure will be accepted as the barrier. For an above ground pool that has a wall height of less than forty-two (42) inches, the use of additional constructs (such as fencing, railing, etc.) may be used to attain the required forty-two (42) inch minimum barrier height.

4. If the pool comes equipped with a removable ladder, the ladder alone shall not constitute an acceptable alternative to the fencing requirements. When the pool structure qualifies as the barrier, the ladder access area must be enclosed with a fence at a minimum height of forty-two (42) inches and have a self-closing, self-latching gate.

5. In addition to the requirements listed, all fencing used around any pool or water feature must comply with all applicable provisions of the current building codes.

### **25-24.80 Exceptions**

1. Temporary protective fencing that is used to secure an area during active earth work (excavation, construction, grading) is permitted without the issuance of a fence permit.

2. Swimming pools, hot tubs, spas, and other water features less than twenty-four (24) inches deep and less than two hundred fifty (250) square feet of surface area are not required to have fencing or protective barrier.

3. Hot tubs or spas with an approved safety cover.

4. Fencing that is installed as a structural construct or as a safety device (i.e., batting cages, backstops on ball fields, fencing on the top a retaining wall or similar structure, etc.) is permitted without the issuance of a permit, however, it shall be shown as an improvement and is subject to review and approval by City staff.

5. The maximum height limit for fencing/decorative posts may be exceeded either:

A. With the approval of a conditional use permit per Chapter 25-22, provided the following conditions apply: The increase in height shall in no way further obstruct vision for intersecting streets, driveways, sidewalks, or other traffic areas. The fence shall be screened on its external side with adequate plants to maintain an attractive appearance to said side, or.

B. Without a conditional use permit, if a fence with a height of greater than six (6) feet is required to maintain compliance with any current City ordinance.

## 25-25

### Communications Tower

#### Regulations

**Purpose:** The regulations set forth in this chapter or set forth elsewhere in this title and referred to in this chapter are the regulations of communications towers. The purpose of this chapter is to provide an orderly system for the regulation of communications towers and related appurtenances and facilities.

**Definitions:** For the purpose of this chapter, certain terms and words are defined. Words used in the present tense shall include the future tense, the singular number shall include the plural and the plural the singular, and the word “shall” is mandatory and not a directory:

“Alternative structure” means a structure that is not primarily constructed for the purpose of holding antennas, but on which, one or more antennas may be mounted. Alternative structures include, but are not limited to, buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.

“Amateur radio tower” means any tower used for amateur radio transmissions consistent with the Complete FCC U.S. Amateur Part 97 Rules and Regulations for amateur radio towers.

“Antenna” means any exterior transmitting or receiving device which radiates or captures electromagnetic waves.



“Communications tower (tower)” means any structure that is designed and built for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, and cellular telephone towers.

“Replacement Towers” means a new communication tower or part of a communication tower intended to replace an existing tower meeting the requirements of this chapter.

“Structure” means anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

“Tower Base” means the foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the power.

“Tower Height” means the vertical distance measured from the tower base to the highest point of the tower, including any antenna, lighting, or other equipment affixed thereto, unless the tower is free-standing and in that event the tower height shall be measured from the ground.

“Tower site” means the land area that contains, or will contain, a proposed tower, support structures, and other related buildings and improvements.

**Communications towers in industrial districts:** Communications towers shall be allowed in all industrial districts (I-1 light industrial manufacturing district and I-2 heavy industrial manufacturing district) and a building permit shall be issued therefore provided the following special conditions are met.

- A. If the proposed tower is located within one-half mile of an existing tower(s), the evidence must be submitted demonstrating conclusively that the existing tower(s) is not suitable or available for co-use.
- B. The tower shall be designed to accommodate the co-use of at least two other providers and made available to other providers for co-use for reasonable terms. A notarized statement shall be provided as to the ability of the tower for co-use.
- C. The design of the tower and tower site shall maximize the use of building materials, colors, textures, screening and landscaping that effectively blend the facilities within the surrounding natural setting and environment, and an adequate easement for ingress and egress from the tower site to a public street shall be provided.
- D. Any exterior tower shall be set back from the right-of-way line of any public street at least a distance equal to the height of the tower.
- E. The tower shall be set back from the nearest zoning district boundary of any district not zoned industrial (I-1 light industrial manufacturing and I-2 heavy industrial

- manufacturing) at least a distance equal to the height of the tower unless all property owners within an area with a radius equal to the height of the tower consent to the location.
- F. The tower and antennas shall meet all federal regulations, including, but not limited to, Federal Communications Commission (FCC) emission standards and Federal Aviation Administration (FAA) lighting requirements.
  - G. Any tower that is no longer in use for a telecommunications purpose shall be removed at the owner's expense. The owner of the tower shall provide the city with a copy of the notice to the FCC of intent to cease operations. All obsolete and abandoned towers and accessory facilities shall be removed within six months of cessation of use. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations. The applicant shall submit an executed agreement to ensure compliance with this requirement if the owner fails to remove an obsolete tower, the city may cause the tower to be removed and issue a special assessment tax bill for the cost of such removal, which shall be a lien against the real property affected.
  - H. All tower designs shall be certified under the seal of an engineer licensed in the state of Missouri, and all towers will be designs and constructed in accordance with current standards for steel towers.

**Communications towers in a C-2 commercial district constructed on alternative structures:**

Communications towers shall be allowed in a C-2 commercial district on or in an alternative structure and a building permit shall be issued therefor provided that the following special conditions are met.

- A. If the proposed tower is located within one-half mile of an existing tower(s), the evidence must be submitted demonstrating conclusively that the existing tower(s) is not suitable or available for co-use.
- B. The tower shall be designed to accommodate the co-use of at least two other providers and made available to other providers for co-use for reasonable terms. A notarized statement shall be provided as to the ability of the tower for co-use.
- C. Any exterior tower shall be set back from the property boundary of all adjacent property at least a distance equal to the height of the tower unless all property owners within an area with a radius equal to the height of the tower consent to the location.
- D. The tower and antennas shall meet all federal regulations, including but not limited to, the Federal Communications Commission (FCC) emission standards and Federal Aviation Administration (FAA) lighting requirements.
- E. Any tower that is no longer in use for a telecommunications purpose shall be removed at the owner's expense. The owner of the tower shall provide the city with a copy of the notice to the FCC of intent to cease operations. All obsolete and abandoned towers and accessory facilities shall be removed with six months of cessation of use.

In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations. The applicant shall submit an executed agreement to ensure compliance with this requirement. If an owner fails to remove an obsolete tower, the city may cause the tower to be removed and issue a special assessment tax bill for the cost of such removal, which shall be a lien against the real property affected.

- F. All tower designs shall be certified under the seal of an engineer licensed in the state of Missouri, and all towers will be designed and constructed in accordance with current standards for steel towers.

**Communications towers in a C-2 commercial district with special use permit:**

Communications towers may be allowed in a C-2 commercial district by special use permit issued under the procedures set forth in the code of ordinances of the city provided that

- A. An engineering report is certified under the seal of an engineer licensed in the state of Missouri showing that a significant portion of the city is not served by a telecommunications signal and that tower will provide such service.
- B. If the proposed tower is located within two miles of an existing tower(s), the evidence must be submitted demonstrating conclusively that the existing tower(s) is not suitable or available for co-use
- C. The tower shall be designed to accommodate the co-use of at least two other providers and made available to other providers for co-use for reasonable terms. A notarized statement shall be provided as to the ability of the tower for co-use.
- D. The design of the tower and tower site shall maximize the use of building materials, colors, textures, screening and landscaping that effectively blend the facilities within the surrounding natural setting and environment, and an adequate easement for ingress and egress from the tower site to a public street shall be provided.
- E. The tower shall be set back from the right-of-way line of any public street at least a distance equal to the height of the tower.
- F. The tower shall be set back from the property boundary of all adjacent property at least a distance equal to the height of the tower unless the property owners within an area with a radius equal to the height of the tower consent to the location.
- G. The tower and antennas shall meet all federal regulations, including, but not limited to, Federal Communications Commission (FCC) emission standards and Federal Aviation Administration (FAA) lighting requirements.
- H. Any tower that is no longer in use for a telecommunications purpose shall be removed at the owner's expense. The owner of the tower shall provide the city with a copy of the notice to the FCC of intent to cease operations. All obsolete and abandoned towers and accessory facilities shall be removed within six months of cessation of use. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations. The applicant shall submit

an executed agreement to ensure compliance with this requirement if the owner fails to remove an obsolete tower, the city may cause the tower to be removed and issue a special assessment tax bill for the cost of such removal, which shall be a lien against the real property affected.

- I. All tower designs shall be certified under the seal of an engineer licensed in the state of Missouri, and all towers will be designs and constructed in accordance with current standards for steel towers.

**Communications towers in C-1 commercial districts constructed on alternative structures with a special permit:** Communications towers may be allowed in C-1 commercial districts on or in an alternative structure by special use permit issued under the procedures set forth in the code of ordinances of the city of Houston, Missouri provided that:

- A. An engineering report is certified under the seal of an engineer licensed in the state of Missouri showing that a significant portion of the city is not served by a telecommunications signal and that tower will provide such service.
- B. If the proposed tower is located within two miles of an existing tower(s), the evidence must be submitted demonstrating conclusively that the existing tower(s) is not suitable or available for co-use
- C. The tower shall be designed to accommodate the co-use of at least two other providers and made available to other providers for co-use for reasonable terms. A notarized statement shall be provided as to the ability of the tower for co-use.
- D. All antennas shall be constructed in or upon an existing alternative structure. Any towers or antennas located on structures shall not extend more than thirty (30) feet above the highest point of the structure.
- E. Any exterior tower shall be set back from the right-of-way line of any public street at least the distance equal to the height of the tower.
- F. Any exterior tower shall be set back from the property boundary of all adjacent property at least a distance equal to the height of the tower unless all property owners within an area with a radius equal to the height of the tower consent to the location.
- G. The tower and antennas shall meet all federal regulations, including but not limited to, the Federal Communications Commission (FCC) emission standards and Federal Aviation Administration (FAA) lighting requirements.
- H. Any tower that is no longer in use for a telecommunications purpose shall be removed at the owner's expense. The owner of the tower shall provide the city with a copy of the notice to the FCC of intent to cease operations. All obsolete and abandoned towers and accessory facilities shall be removed within six months of cessation of use. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations. The applicant shall submit an executed agreement to ensure compliance with this requirement if the owner fails to remove an obsolete tower, the city may cause the

tower to be removed and issue a special assessment tax bill for the cost of such removal, which shall be a lien against the real property affected.

- I. All tower designs shall be certified under the seal of an engineer licensed in the state of Missouri, and all towers will be designs and constructed in accordance with current standards for steel towers.

**Communications towers prohibited in residential districts:** No communications towers shall be allowed in residential districts or any other district not specifically mentioned in this chapter within the city.

**Security fencing required:** All communications towers not attached to an alternative structure or with the tower base on the ground shall be enclosed by security fencing at least eight feet in height and such enclosed area shall be locked against entry by unauthorized personnel.

**Proof of licensure:** The owner of any communications tower shall submit to the city prior to December 31<sup>st</sup> of each year, a proof that the tower is still in use and still licensed by the Federal Communications Commission (FCC).

**Amateur radios towers:** This chapter shall not govern any amateur radio tower used by one individual, not for commercial purposes.

**Existing and replacement towers:** This chapter shall not govern towers existing prior to passage of this chapter, but any replacement tower erected after passage, shall be governed by this chapter.

**Compliance with city codes:** All construction, modification, or repair of communications towers and tower sites shall comply with all city codes in effect at the time of construction, modification, or repair.