

CHAPTER 156: ZONING

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GENERAL PROVISIONS

§ 156.001 PURPOSE.

The purpose of this chapter is as follows:

- (A) To promote and to protect the public health, safety, morals, comfort, convenience, and the general welfare of the people;
- (B) To divide the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing, and other specified uses;
- (C) To protect the character and maintain the stability of residential, business, commercial, manufacturing areas within the city and to promote the orderly and beneficial development of the areas;
- (D) To regulate the intensity of use of land and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and protect the public health;

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

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

(G) To provide protection against fire, explosion, and other hazards in the interest of the public health, safety, comfort, and the general welfare.

(Prior Code, § 156.001)

§ 156.002 WORD INTERPRETATION.

In the interpretation and enforcement of this chapter, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

(A) Words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular.

(B) The word **SHALL** is mandatory and not discretionary.

(C) The word **MAY** is permissive.

(D) The word **LOT** shall include the words piece and parcel; the phrase **USED FOR** shall include the phrases arranged for, designed for, intended for, maintained for, and occupied for.

(Prior Code, § 156.002)

§ 156.003 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A subordinate building, the use of which is incidental to that of the principal building on the same lot or to the use of the premises. An **ACCESSORY USE** is one which is incidental to the principal use of the premises.

ALLEY. A public right-of-way which affords only a secondary means of access to abutting property and which has a width of less than 30 feet.

ALTERATIONS. As applied to a building or structure, **ALTERATIONS** mean a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

APARTMENT. A room or suite of rooms in a multiple or two-family dwelling or where one or more dwelling units are established above nonresidential uses.

APARTMENT HOUSE. See **DWELLING, MULTIPLE.**

AREA, NET SITE. The total area within the property lines excluding external streets.

AUTO COURT. A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term **AUTO COURT** includes buildings designated as tourist courts, motor lodges, motels, and similar appellations.

BASEMENT. A story partly underground but having less than half of its clear floor-to-ceiling height below finished grade. A **BASEMENT** shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet and the **BASEMENT** is used for business or dwelling purposes.

BOARDINGHOUSE. A private dwelling in which, for compensation, lodging and meals are provided for three but not more than 20 persons.

BUILDING. Any structure having a roof designed or intended for the enclosure, shelter, or protection of persons, animals, chattels, or property and which is permanently affixed to the land. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate **BUILDING**.

BUILDING, DETACHED. A building surrounded by open space on the same lot.

BUILDING, FRONT LINE OF. The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF. The vertical distance measured from the average grade (see **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 ridge for gable, hip, and gambrel roofs.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which it is located.

CELLAR. A story partly underground and having more than one-half of its clear height below the average level of the adjoining

ground. A **CELLAR** shall not be considered in determining the permissible number of stories, nor shall it be considered as space to be used for living quarters.

COURT. An unoccupied open space other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of a building.

COVERAGE. The percentage of the plot or lot area covered by the building area.

CURB LEVEL. The officially established grade of the curb in front of the midpoint of the lot.

DEVELOPMENT PLAN. A development plan for development of real property, including construction and remodeling, in a zoning classification for which a development plan is required. All provisions of the **DEVELOPMENT PLAN** shall be in conformance with I.C. 36-7-4-1400 et seq., as may be amended from time to time.

DOG KENNEL. The keeping of more than three dogs that are more than six months old.

DISTRICT. A section or sections of the incorporated area of the city for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste materials of any kind.

DWELLING. A building or portion thereof, but not an automobile house trailer, designed or used exclusively as the living quarters for one or more families.

DWELLING, GROUP. A group of two or more one-family, two-family, or multiple-dwellings occupying a parcel or tract designed and developed as a unit and having any yard in common.

DWELLING, MULTIPLE. A building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats, and group houses.

DWELLING, ROW HOUSE. A building consisting of a series of three or more dwelling units having a common wall between two adjacent dwelling units.

DWELLING, SEMI-DETACHED. A building designed for or occupied exclusively by two families living independently of each other with the units placed side by side, each unit having one party wall and one side yard.

DWELLING, SINGLE-FAMILY. A detached building designed for and containing a one family dwelling unit only.

DWELLING, TWO-FAMILY. A building except a semi-detached dwelling designed for or occupied exclusively by two families living independently of each other.

DWELLING UNIT. A dwelling or portion thereof providing complete living facilities for one family, including complete single kitchen facilities, permanently installed.

FAMILY. One or more persons related by blood, marriage, or adoption occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, club, fraternity, or hotel.

FILLING STATION. Any area of land, including structures thereon, that is used or designed to be used for retail sale or dispensing of fuels, lubricants, tires, batteries, accessories, and minor parts, including installation, for motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing motor vehicles, but does not include welding, major repair, or body work.

FLOOD or FLOODWATER. The water of any lake or watercourse which is above the banks and/or outside the channel and banks of the watercourse.

FLOOD HAZARD AREA. Any floodplain, floodway, floodway fringe district, or any combination thereof.

FLOODPROOFED BUILDING. A commercial or industrial building designed to exclude floodwaters from the interior of that building. All floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the regulatory flood.

FLOOR PROTECTION GRADE. The elevation of the lowest floor or a building or structure. If a basement is included, the basement floor is considered the lowest floor. Exception: If a commercial or industrial building is floodproofed as hereinafter defined, the term **FLOOD PROTECTION GRADE** applies to the water surface elevation for which the building is protected.

FRONTAGE. All the property on one side of a street between two intersecting streets measured along the line of the street or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PRIVATE. An accessory building used for storage purposes only and having a capacity of not more than three automobiles or not more than one automobile per family housed in the building to which the **GARAGE** is accessory, whichever is greater. Space therein may be used for not more than one commercial vehicle and space may be rented for not more than two vehicles of others than occupants of the building to which the **GARAGE** is accessory.

GARAGE, PUBLIC. Any garage not a private garage, which is used for storage, repair, rental, servicing, or supplying of gasoline or oil to motor vehicles.

GARAGE, STORAGE. Any building or premises, used for housing only of motor driven vehicles other than truck and commercial vehicles pursuant to previous arrangements and not to transients and at which automobile fuels and oils are not sold and motor driven vehicles are not equipped, repaired, hired, or sold.

GRADE. The officially established level of the curb in front of the midpoint of the lot.

HOME OCCUPATION. An occupation or a profession which:

- (1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- (2) Is carried on by a member of the family residing in the dwelling unit;
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- (4) Which conforms to the following additional conditions:
 - (a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto;
 - (b) No person is employed other than a member of the immediate family residing on the premises;
 - (c) There shall be no exterior display, no exterior sign except a small name plate with an area no larger than one square foot and not illuminated, no exterior storage of materials of the home occupation or variation from the residential character of the principal building; and
 - (d) No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced.
- (5) In particular, a **HOME OCCUPATION** may include the following:
 - (a) Art studio;
 - (b) Dressmaking;
 - (c) Professional office of a physician, dentist, lawyer, engineer, architect, or accountant, within a dwelling occupied by the same;
 - (d) Real estate brokerage, exclusive of service for payment of bills, collection of rent, and the like; and
 - (e) Teaching with musical instruction, limited to a single pupil at a time.
- (6) A **HOME OCCUPATION** shall not be interpreted to include the following: barber shops and beauty parlors, commercial stables and kennels, restaurants, tea rooms, dancing instruction, band instrument instruction in groups, tourist home, mortuary establishments, stores, trades, or business of any kind not herein excepted.

HOSPITAL. A building used for the diagnosis, treatment, or other care of human ailments, unless otherwise specified.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

INSTITUTION. A building occupied by a nonprofit corporation of a nonprofit establishment for public use.

LODGINGHOUSE. A building where lodging only is provided for compensation to three or more but not more than 20 persons and in which no meals are provided.

LOT. A parcel of land occupied or intended for occupancy by a use permitted in this chapter including one principal building together with its accessory building and the open spaces required by this chapter, and having its principal frontage upon a dedicated public street or upon a public way.

LOT AREA. The area of a horizontal plane bounded by the front, side, and rear lot lines.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT, LINE, FRONT. In the case of an interior lot, **FRONT LOT LINE** means a line separating the lot from the dedicated public street or public way and, in the case of a corner lot, **FRONT LOT LINE** means a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the **FRONT LOT LINE** or, in the case of a corner lot where both street frontages are equal in width or where front lot lines prevail on both street frontages, then both the lines separating the lot from the dedicated public streets shall be regarded as **FRONT LOT LINES** for purposes of conforming to front yard requirements.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT OF RECORD. An area of land designated as a lot on a plat of subdivision registered or recorded in the office of the County Recorder or a parcel of land the deed of which was recorded in the office of the County Recorder prior to the adoption of this chapter.

LOT, WIDTH OF. The mean horizontal distance between the side lot lines.

MOBILE HOMES TIE-DOWNS—SCHEDULE A.

- (1) Sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home.
- (2) At a minimum, the anchorage shall consist of:
 - (a) Over-the top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side;
 - (b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
 - (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (d) Additions to the mobile home be similarly anchored.

NATURAL RESOURCES. The State Natural Resources Commission.

NONCONFORMING USE. Any use of land or buildings which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which the use is located.

PARKING LOT. In the case of nonindustrial areas, **PARKING LOT** means a permanently all-weather surfaced parcel of land devoted to unenclosed parking spaces, but not used for the commercial sale or lease of motor vehicles and, in the case of industrial areas, **PARKING LOT** means a parcel of land devoted to unenclosed parking spaces surfaced with slag, cinders, or other dustless materials.

PARKING SPACE. An area of not less than 200 square feet, to store one standard sized automobile, together with a driveway connecting the parking space with a street or alley and permitting satisfactory ingress and egress of an automobile.

PLACE. An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property

REGULATORY FLOOD. The flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

REGULATORY FLOOD PROFILE. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

ROOMINGHOUSE. See **LODGINGHOUSE**.

ROW HOUSE. See **DWELLING, ROW HOUSE**.

STORY. The 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 surface between the floor and the ceiling next above it.

STORY, HALF. The portion of a building under a sloping gable, hip, or gambrel roof; the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of the half-story.

STREET. A public right-of-way which affords a primary means of access to abutting property.

STREET LINE. A dividing line between a lot, tract, or parcel of land and a contiguous street.

STRUCTURAL ALTERATION. Any change other than incidental repairs, which would prolong the life of 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 exterior walls.

STRUCTURE. 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 including, but without limiting the generality of the foregoing, advertising signs, billboards, platforms, radio towers, sheds, bins, and fences but excluding, in M-1 and M-2 districts, mechanical or electrical equipment such as boilers, pressure vessels, pumps, blowers, turbines, motors, or other machinery, piping, electrical wiring, and the like.

SUBSTANTIAL MODIFICATION. Any alteration, repair, enlargement, or extension of an existing building. **SUBSTANTIAL MODIFICATION** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural element of the building commences. This term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing health, sanitary, or safety code specifications; or
- (2) Any alteration of a structure listed on the *National Register of Historic Places* or the *State Survey of Historic, Architectural, Archeological, and Cultural Sites, Structures, Districts, and Objects*.

YARD. An open space on a lot which is unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

YARD, FRONT. A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the nearest part of the principal building or any projection thereof, other than the projection of the usual steps or entrance way.

YARD, REAR. A yard extending across the rear of the lot measured between the side lot lines and being the minimum horizontal

distance between the rear lot line and the rear of the principal building or any projections other than steps, unenclosed balconies, or unenclosed porches. On both corner lots and interior lots, the **REAR YARD** shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE. A yard between the principal building and the side line of the lot and extending from the front line of the principal building to the rear line of the principal building. The width of the required **SIDE YARD** shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the principal building.

(Prior Code, § 156.003) (Ord. 3241, passed - -1979; Ord. 0-98-0002, passed - -1998)

§ 156.004 SCOPE.

(A) All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which the buildings, uses, or land shall be located.

(B) However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter; and provided, that construction is begun within 90 days of the effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued and may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions of § 156.081.

(Prior Code, § 156.004) Penalty, see § 156.999

§ 156.005 MINIMUM REQUIREMENTS STANDARDS.

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare.

(B) Wherever the regulations of this chapter require a greater width or size of yards, courts, or other open spaces or require a lower height of buildings or less numbers of stores or require a greater percentage of lot to be left unoccupied or require a lower density of population or require a more restricted use of land or impose other higher standards than are required in an other ordinance or regulation, private deed restrictions, or private covenants, these regulations shall govern, but if the requirements of the other ordinances, regulations, private deed restriction, or private covenant is the more restrictive, then those requirements shall govern.

(Prior Code, § 156.005) Penalty, see § 156.999

§ 156.006 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this chapter is enforced through the proper proceedings.

(Prior Code, § 156.006)

§ 156.007 COMMUNITY UNIT PLAN.

(A) The owner or owners of any tract of land comprising an area of not less than five acres may submit to the Common Council a plan for the use and development of all of the tract of land for residential purposes. The development plan shall be referred to the City Plan Commission for study and report and for public hearing. If the Commission approves the development plan, the plan, together with the recommendation of the Commission, shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the following conditions:

- (1) The property adjacent to that area included in the plan will not be adversely affected;
- (2) The plan is consistent with the intent and purpose of this chapter to promote public health, safety, morals, and general welfare;
- (3) The buildings shall be used only for single-family dwellings, two-family dwellings, or multiple-dwellings, and the usual accessory uses such as garages, storage space, and community activities, and may include churches; and
- (4) The average lot area per family contained in the site, exclusive of the area occupied by streets, will be not less than the lot area per family required in the district in which the development is located.

(B) If the Common Council approves the plan, building permits and certificate of occupancy may be issued even though the use of land, the location of the buildings to be erected in the area and yards and open spaces contemplated by the plan do not conform in some respects to the district regulations of the district in which it is located.

(Prior Code, § 156.007)

§ 156.008 AMENDMENTS; ADVERTISING COSTS.

(A) *Generally.* The regulations or districts established by this chapter may be amended by ordinance of the Common Council, but only after public notice and hearing, all in the manner provided by law.

(Prior Code, § 156.008)

(B) *Advertising costs.* Any person requesting an amendment shall file with the Secretary of the City Plan Commission a receipt showing the payment into the treasury of the city the sum necessary to cover the cost of advertisement of the proposed change in this chapter or the district zone map or, in lieu of a payment into the treasury of the city, the City Plan Commission may accept affidavits from the publishers that costs for advertisements have been paid to the publishers or otherwise secured.

(Prior Code, § 156.009)

Penalty, see § 156.999

§ 156.009 DISTRICT ZONE MAP CHANGES.

All official changes in the district zone map shall be made by or under the direction and supervision of the City Engineer.

(Prior Code, § 156.010)

§ 156.010 DEVELOPMENT PLAN REQUIREMENTS.

In each zoning classification in which the submission and approval of a development plan is required before construction or exterior remodeling, the following shall apply:

(A) Concurrent with the filing of a petition for development plan review, the petitioner shall provide the following supportive materials:

(1) A site plan, drawn to scale, showing the following:

- (a) Surrounding land uses;
- (b) Availability of water, sanitary sewer, stormwater drainage, and other utilities;
- (c) Traffic management;
- (d) Building setback lines;
- (e) Building coverage, both for existing and proposed primary and accessory structures;
- (f) Building separation;
- (g) Vehicle and pedestrian circulation;
- (h) Parking;
- (i) Landscaping;
- (j) Height, scale, materials, and style of improvements;
- (k) Signage;
- (l) Recreation space, if any; and
- (m) Outdoor lighting.

(2) Information establishing that the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development and that the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(B) The Plan Commission may waive the requirement that certain items be included in the supportive materials if it makes a written finding that the materials are unnecessary to an appropriate review of the development plan.

(C) If the cost of remodeling does not exceed an amount as set by the city from time to time, the Plan Commission may waive development requirements for approval of a development plan.

(D) (1) Application for review of a development plan shall be made in the same manner as other petitions are filed with the Plan Commission.

(2) The fee, notice requirements, hearing requirements, and other matters relevant to the review shall conform to the existing requirements for petition for rezoning.

(E) In the event that any provision in the ordinance codified in this section is in contravention to I.C. 36-7-4-1400 et seq., as amended from time to time, the provision shall not affect the validity of the remaining portions of the chapter and code as hereby adopted.

(Prior Code, § 156.011) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

BOARD OF ZONING APPEALS

§ 156.025 ESTABLISHED; COMPOSITION.

A Board of Zoning Appeals is established. The Board shall be composed of members of the City Plan Commission. The Board shall adopt from time to time rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.

(Prior Code, § 156.025)

§ 156.026 GENERAL PROVISIONS.

(A) The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision, or determination made by the Building Commissioner in the enforcement of this chapter and shall permit and authorize exceptions to and variations from the district regulations in the classes of cases or in particular situations specified in this chapter and it shall hear and try all matters referred to it or upon which it is required to pass under this chapter. Every decision of the Board shall be subject to view by certiorari. The appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the city. The Building Commissioner shall, upon the request of the Board of Zoning Appeals, forthwith transmit to the Board all documents, plans, and papers constituting the record upon which the action appealed from was taken.

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

(Prior Code, § 156.026)

§ 156.027 POWERS AND DUTIES.

The Board of Zoning Appeals shall have the following powers and duties:

(A) To hear and decide appeals where it is alleged there is error of law in any order, requirements, decision, or determination made by the Building Commissioner in the enforcement of this chapter;

(B) To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of the effective date of this chapter;

(C) To interpret the provisions of this chapter where the street layout actually on the ground varies from the street layout as shown on the district zone map fixing the several districts;

(D) To grant a variation in the regulations when a property owner can show that his or her property was acquired in good faith and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the effective date of this chapter or where, by reason of exceptional topographical conditions or other extraordinary or exceptional situations, the strict application of the terms of this chapter actually prohibits or unreasonably restricts the use of his or her property and where the Board is satisfied, under the evidence heard before it, that the granting of the variation will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the owner, provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this chapter and shall not constitute a direct and obvious amendment of any district regulations or district boundaries; and

(E) To permit the following exceptions to the district regulations set forth in this chapter by issuance of a permit maintaining conditions governing design, construction, or operation of the exception so as to adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property:

(1) The erection or use of a building or the use of a premises for public utility purposes only, which the Board finds to be reasonably necessary for the public convenience or welfare. The public utility structure may also be authorized by the Board to exceed the height and area regulations of the district in which it is located; and

(2) The reconstruction to begin within 12 months from the time of adjusted loss either by agreement or by court decree of a nonconforming building which has been damaged by explosion, fire, act of God or public enemy, to the extent of more than 50% of the cost of replacement of the entire building.

(Prior Code, § 156.027)

§ 156.028 AFFIRMATION, MODIFICATION, OR REPEAL OF APPEALED DECISION.

(A) In exercising the powers enumerated in this chapter the Board may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make an order, requirement, decision, or determination as ought to be made, and to that end, shall have all the powers of the Building Commissioner from whom the appeal is taken.

(B) Every variation granted or denied by the Board shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation.

(Prior Code, § 156.028)

§ 156.029 APPEAL FROM DECISION OF BOARD.

Any person dissatisfied with the decision and action of the Board of Zoning Appeals may present to the Circuit or Superior Court of the county a petition for a writ of certiorari. The procedure for making an appeal shall conform to the requirements of the laws of the state authorizing cities to adopt zoning regulations.

(Prior Code, § 156.029)

CERTIFICATES AND PERMITS

§ 156.040 OCCUPANCY AND COMPLIANCE CERTIFICATES.

(A) *Generally.* Subsequent to the effective date of this chapter no change in the use or occupancy of land, nor any change of use or occupancy in any existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling use until a certificate of occupancy and compliance has been issued by the Building Commissioner. Every certificate of occupancy and compliance shall state that the new occupancy complies with all provisions of this chapter.

(Prior Code, § 156.040)

(B) *Application; records.* Certificates of occupancy and compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten days after the lawful erection or alteration of the building is completed. A record of all certificates of occupancy and compliance shall be kept on file in the office of the Building Commissioner and copies shall be furnished on request to any person having proprietary or tenancy interest in land or a building affected by the certificate of occupancy and compliance.

(Prior Code, § 156.041)

(C) *Prerequisite for permits and occupancy.* No permit for excavation for or the erection or alteration of any building shall be issued before the application has been made for a certificate of occupancy and compliance and no building or premises shall be occupied until that certificate and permit is issued.

(Prior Code, § 156.042)

Penalty, see § 156.999

§ 156.041 PLATS ACCOMPANYING BUILDING PERMIT APPLICATIONS.

All applications for building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of the lot to be built upon, the size of the building to be erected and other information as may be necessary to provide for the enforcement of these regulations. A careful record of the application and plats shall be kept in the office of the Building Commissioner. At the time the application is made for the building permit, the lot corners of the lot to be built upon must be established on the ground to the satisfaction of the Building Commissioner.

(Prior Code, § 156.043) Penalty, see § 156.999

ZONE MAP CHANGES

§ 156.055 HEARING; NOTICE; CONTENTS.

Prior to the Plan Commission certifying a proposal to the Common Council where the subject is a zone map change, the Plan Commission shall give notice of the hearing by publication under I.C. 5-3-1. The notice must state:

- (A) The time and place of the hearing; and
- (B) The geographic area that is the subject of the zone map change.

(Prior Code, § 156.055) (Ord. 0-93-0029, passed - -1994)

§ 156.056 AREA SUBJECT OF ZONE MAP CHANGE; NOTICE TO NEARBY OCCUPANTS.

The Plan Commission shall also give due notice of the proposal to change the zone maps to all people owning, occupying, or leasing property within 300 feet of the geographic area that is the subject of the zone map change. The notice shall be in the form of registered or certified mail and shall be given at least ten days before the date set for hearing.

(Prior Code, § 156.056) (Ord. 0-93-0029, passed - -1994)

§ 156.057 HEARING; PLACE; RULES OF CONDUCT.

The hearing must be held by the Plan Commission at the place stated in the notice. The Commission shall adopt rules governing the conduct of the hearing, which rules shall include receiving oral comments by interested parties concerning the proposal.

(Prior Code, § 156.057) (Ord. 0-93-0029, passed - -1994)

§ 156.058 FILES CONCERNING PROPOSAL; AVAILABILITY.

The files of the Plan Commission concerning the proposal shall be public record and shall be kept available for inspection by any

interested party.

(Prior Code, § 156.058)

DISTRICTS GENERALLY

§ 156.070 DISTRICTS ESTABLISHED; ZONING MAP.

(A) For the purpose of classifying, regulating, and limiting the use of buildings hereafter to be erected and of regulating and determining the area of front, rear, and side yards and other open spaces about buildings and of regulating and determining, the use and intensity of use of land and of lot areas and of classifying, regulating, and restricting the location of trades, callings, industries, commercial enterprises, and the location of buildings designed for the uses herein specified, the city is hereby divided into 11 districts. The use, height, and area regulations are uniform in each class of district. The districts shall be known as:

- (1) R-1 Single-Family Dwelling District;
- (2) R-1a Single-Family or Semi-Detached Dwelling District;
- (3) R-2 Two-Family Dwelling District;
- (4) R-3 Multiple-Dwelling and/or Two- Story Row House District;
- (5) R-4 Multiple-Dwelling, Three-Story or less District;
- (6) R-5 Multiple-Dwelling, Four-Story or More District;
- (7) C-1 Neighborhood Retail District;
- (8) C-2 General Commercial District;
- (9) M-1 Light Industrial District;
- (10) M-2 Heavy Industrial District;
- (11) P-1 Park District;
- (12) FP Floodplain District;
- (13) FW Floodway District;
- (14) FF Floodway Fringe District; and
- (15) WD-1 Waterfront Development District.

(B) The boundaries of these districts are indicated upon the city district zone map, which map is made a part of this chapter. The district zone map and all notations, references, and other matters shown thereon shall be as much a part of this chapter as if the notations, references, and other matters set forth by the map were all fully described herein and the district zone map is properly attested and is on file with the City Clerk.

(Prior Code, § 156.070) (Ord. 3241, passed - -1979; Ord. 0-95-0003, passed - -1995; Ord. 0-96-0003, passed - -1996)

§ 156.071 DETERMINATION OF BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the district zone map adopted by § 156.070, the following rules apply.

(A) The district boundaries shall be the center line of either streets or alleys, unless otherwise shown, and where the districts designated on the district zone map are bounded approximately by street or alley lines, the center line of the street or alley shall be construed to be the boundary of the district.

(B) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and, where the districts designated on the map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(C) In unsubdivided property, the district boundary lines on the district zone map shall be determined by use of the scale appearing on the map.

(Prior Code, § 156.071)

§ 156.072 ANNEXED TERRITORY.

All territory which may hereafter become a part of the city by annexation, except the areas provided for in § 156.073, shall automatically be classed as lying and being in the R-1 Single-Family Dwelling District until classifications shall have been changed by an amendment to this chapter, as provided by law.

(Prior Code, § 156.072)

§ 156.073 UNDERWATER AREAS.

(A) All underwater areas in Lake Michigan not shown on the district zone map as included in any zoning district shall, when filled, be subject to the regulations of the zoning district in which the riparian land so extended by the filled area is located; provided, that all underwater areas and areas which have been filled prior to the effective date of this chapter and not shown on the district zone map and lying north on the boundary line between the Inland Area No. 2 and the Park Board Area, as defined in a certain agreement between Inland Steel Company and the city dated May 22, 1954, and recorded on March 18, 1955, in Book 633, page 348, in the County Recorder's office, shall be as so filled or when filled be subject to the regulations of the M-2 Heavy Industrial District and that all underwater areas south of the boundary line and north of the boundary line between Inland Area No. 1 and the Park Board Area, as defined in the agreement, shall, when filled, be subject solely to the regulations of the P-1 Park District.

(B) All other areas which are under water and are not shown on the district zone map as included in any district shall be subject, in the event of being filled, to all of the regulations of the district of which the filled land is an extension.

(Prior Code, § 156.073)

§ 156.074 VACATED AREAS.

Whenever any street, alley, or other public way is vacated in a manner authorized by law, the zoning district adjoining each side of the street, alley, or public way shall be automatically extended to the center of the vacation and all area included in the vacation shall then and henceforth shall be subject to all regulations of the extended districts.

(Prior Code, § 156.074)

§ 156.075 GENERAL REGULATIONS; DISTRICT USE PROVISIONS.

Except as hereinafter provided:

(A) No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this chapter for the district in which the building or land is located.

(B) The minimum yards and other open spaces, including the intensity of use provisions contained in this chapter for each and every building hereafter erected or structurally altered, shall not be encroached upon or considered as yard or open spaces requirements or intensity of use requirements for any other building, except as expressly provided by this chapter.

(C) Every building hereafter erected or structurally altered for residential purposes shall be located on a lot. In no case shall there be more than one principal building for residential purposes on one lot.

(Prior Code, § 156.075) Penalty, see § 156.999

§ 156.076 EXCEPTIONS TO USE, HEIGHT AND AREA REGULATIONS.

The district regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(A) Public, semi-public, or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is built.

(B) Single-family dwellings and two-family dwellings in the dwelling districts may be increased in height by not more than ten feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten feet, but they shall not exceed three stories in height.

(C) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, wireless towers, farm buildings, or necessary mechanical appurtenances, may be erected to any height not in conflict with other ordinances or regulations.

(D) Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing an equivalent open space in lieu of the required rear yard.

(E) Accessory buildings which are not a part of the main building may be built in a rear yard within three feet of the rear and side lot lines. An accessory building which is not a part of the main building shall not occupy more than 30% of the required rear yard.

(F) Accessory buildings which are to be used for storage purposes only may be erected upon a lot prior to the construction of the main building.

(G) Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard and except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features projecting not to exceed 12 inches. This requirement shall permit the construction of fences not exceeding ten feet in height except on that portion of lots within 30 feet of the

intersection of the street curb lines or pavement edges, where there are no curb lines, of two or more streets, where wire fences will be permitted; provided, that land use does not obstruct sight lines at elevations between two feet and six feet.

(H) Open or lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon a yard not more than five feet and the ordinary projections of chimneys and flues are permitted.

(I) For the purpose of side yard requirements, a two-family dwelling shall be considered as one building occupying a single lot.

(J) An open unenclosed or screened porch or paved terrace, may project into a front yard for a distance not exceeding ten feet.

(K) More than one industrial, commercial, multiple-dwelling, or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any buildings, nor shall there be any change in the intensity of the use regulations.

(L) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF), or Floodplain (FP) Districts; provided, the applicant offers that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of the ordinance codified in this section will constitute an exceptional hardship to the applicant; and

(3) The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(M) The Board of Zoning Appeals may issue a variance to the terms and provisions of the Floodway (FW), Floodway Fringe (FF), or Floodplain (FP) Districts subject to the following standards and conditions:

(1) No variance or exception for a residential use in a Floodway (FW) District may be granted;

(2) Any variance or exception granted in a Floodway (FW) District will require a permit from Natural Resources;

(3) Variances or exceptions to the flood protection grade requirements in a Floodway Fringe (FF) District may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to, and surrounded by lots with existing structures constructed below the flood protection elevation;

(4) Any variance or exception granted in a Floodplain (FP) District will require a permit or letter of recommendations from Natural Resources. If a letter of recommendation is received from Natural Resources, the Board of Zoning Appeals may apply the standards pertaining to a Floodway Fringe (FF) district contained in division (M)(3) above;

(5) Variance or exception may be granted for the reconstruction or restoration of any structure listed on the *National Register of Historic Places* or the *State Survey of Historic, Architectural, Archeological, and Cultural Sites, Structures, District, and Objects*;

(6) All variances shall give the minimum relief necessary, and be such that the maximum practical flood protection will be given to the proposed construction; and

(7) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

(Prior Code, § 156.076) (Ord. 3241, passed - -1979) Penalty, see § 156.999

§ 156.077 SPECIAL USES.

(A) There are occasions where following the strict letter of this code is not feasible or desired.

(1) This section provides remedy for those instances, by allowing owners of property to receive a special use permit which authorizes a use or uses in a zoning classification in which the uses are not permitted uses, after public hearing by the Advisory Board of Zoning Appeals and review by the Common Council.

(2) The establishment of any of the following uses shall require a special use permit:

(a) Any public building erected and used by any public agency;

(b) The extraction of raw materials such as rock, gravel, sand, clay, and the like;

(c) Hospitals, clinics, clubs, and institutions; provided, however, that the buildings or uses will be located upon a lot of sufficient area and shall be of a character that they will not have any serious and depreciating effects upon the value of the surrounding area; and provided, further, that the required building setback shall be established as a condition of the special use permit;

(d) Recreation field;

(e) Heliport or landing field for aircraft;

(f) Greenhouses; provided that any structures shall not be less than 75 feet from all property lines;

(g) Riding stables;

(h) Temporary and seasonal uses, including roadside stands and recreational and amusement uses;

- (i) Structures with drive-through facilities;
- (j) Public storage facilities;
- (k) Towers and/or other facilities for wireless communication, not associated with a principal use;
- (l) Waste transfer station;
- (m) Trucking company;
- (n) Storage of slag, stone, cinder, coal, explosives, fireworks, toxic materials, and/or hazardous materials;
- (o) Nonresidential uses in residential zoning classifications, other than permitted uses;
- (p) Handling, processing, and/or manufacture of acid, cement, lime, gypsum or plaster of paris, explosives, fireworks, and ammunition, toxic materials, and/or hazardous materials;
- (q) Packing plants and/or slaughter yards;
- (r) Crushing or pulverizing of slag, stone, cider, coal, or similar materials;
- (s) All steel pickling processes and other pickling processes of any nature;
- (t) 1. Floodplain (FP) District and Floodway (FW) District. The following special uses may be permitted in the Floodplain District or Floodway District only after all required permitting by other agencies with floodplain or floodway jurisdiction have been obtained. Any special use permit issued shall include all terms and conditions imposed by other permitting agencies, and additional restrictions may be imposed. All buildings, structures, and additions to existing buildings and structures shall have flood protection grades not less than two feet above the regulatory flood profile.
 - a. Water management and use facilities, such as dams, docks, Dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, flood walls, weirs, and irrigation facilities;
 - b. Transportation facilities, such as streets, bridges, roadways, fords, airports, heliports, pipe lines, railroad, and utility transmissions facilities;
 - c. Temporary or seasonal floodplain occupancy;
 - d. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities;
 - e. Other flood tolerant or open space urban uses such as floodproofed buildings, race tracks, tennis courts, park facilities, outdoor theaters, fills, truck freight terminals, radio, television, or wireless communication towers, parking lots, and mineral extractions; and
 - f. Residential structures constructed on the building site so as to minimize obstruction to the flow of floodgates.
- 2. Floodproofing of nonresidential structures, if proposed, must be in accordance with the definition of a floodproofed building as set forth in this municipal code and must be so certified by a professional engineer or a registered architect licensed to practice in the state.
- (u) Planned unit development (PUD). PUDs are special uses. In addition to review of the above-stated criteria, PUDs must have;
 - 1. Minimum site area of one acre;
 - 2. Uniform control, either by ownership or written agreement, of all uses and activities within the PUD;
 - 3. An approved concept plan set which includes a site plan, engineering plan, landscape plan, and architectural plans which depict the intent of the proposal. The plans shall be drawn at a scale, as approved by the City Planner, and shall identify proposed uses, buildings, and structures, roadways, parking, pedestrian circulation, common open spaces, and landscape areas; and shall identify the means by which the proposal will be constructed and serviced;
 - 4. A written description accompanying the concept site plan outlining the intent of the site plan, including a phasing plan if applicable;
 - 5. A written estimate of construction costs for all buildings and site improvements, with subtotals for major development features;
 - 6. Declarations and covenants, and restrictions proposed; and
 - 7. Additional information as required by the Plan Commission.
- (v) Tattoo and body piercing establishments;
- (w) Boardinghouses and lodging houses;
- (x) Heliport, accessory to a hospital;
- (y) Landfills;
- (z) Tank farms, also known as oil depots or oil terminals, defined as one or more tanks constructed or erected to store crude oil

and/or petroleum products; and

(aa) Outdoor storage of vehicles as a principal use.

(B) Upon petition to the Advisory Board of Zoning Appeals (BZA) for a special use, the BZA shall hold a public hearing in conformance with State Code and BZA Rules of Procedure. The BZA shall make findings of fact determining whether the proposed special use:

- (1) Promotes the public interest;
- (2) Promotes the public health, safety, and welfare;
- (3) Promotes public convenience;
- (4) Does not adversely affect property values in the surrounding area;
- (5) Conforms to the purpose, intent, and spirit of the zoning regulations;
- (6) Is compatible with the surrounding area;
- (7) Is not detrimental or injurious to the surrounding area; and
- (8) Does not create excessive nuisance in the surrounding area.

(C) The BZA shall forward the petition with the BZA recommendation, if any shall be made, to the Common Council of the city. The Common Council may, after review of the petition and findings of fact, issue a special use permit. The special use permit may be issued for a particular period of time, set a time for review of the use, and/or have conditions attached thereto.

(Prior Code, § 156.077) (Ord. 0-00-0016, passed 6-15-2000 Ord. 09-0015, passed 7-13-2009; Ord. 11-0009, passed - -2011; Ord. 12-0022, passed 6-25-2012; Res. 02-2016, passed 5-2-2016; Ord. 16-0002, passed 5-23-2016; Ord. 19-0001, passed 3-25-2019; Ord. 19-0010, passed 7-8-2019) Penalty, see § 156.999

§ 156.078 OFF-STREET PARKING.

(A) The following on-site parking shall be provided and satisfactorily maintained on the property by the owner of the property for each building in existence on that property, or which, after the day when this section becomes effective, is erected, enlarged, or altered for use for any of the following purposes, provided that uses already established on the effective date of this section and rendered nonconforming by the provisions thereof shall be subject to the regulations of § 156.081. The following on-site parking space requirements are exclusive of space requirements for access drives or aisles:

- (1) Single-family and two-family dwelling: one parking space per dwelling unit;
- (2) Multi-family dwellings.

<i>Number of Dwelling Units in Building</i>	<i>Number of Parking Spaces Required</i>
<i>4 to 5</i>	<i>3</i>
<i>6 to 7</i>	<i>4</i>
<i>One parking space for each two additional dwelling units</i>	

(3) Auditorium, theater, or other places of public assemblage: one parking space for each six seats provided for its patrons, based on maximum seating capacity;

(4) School, public, or parochial: one parking space for each three members of the staff plus one space for each ten seats in auditorium or gymnasium;

(5) Hotels, boardinghouses, or lodging houses: one parking space for each three sleeping rooms;

(6) Auto court or motel: one parking space for each sleeping room;

(7) Restaurant or other eating place: one parking space for each five seats;

(8) Hospital, sanitarium, or nursing home: one parking space for each five seats;

(9) Clinic, medical, or dental: three parking spaces per doctor plus one additional space for every two employees;

(10) Retail stores, commercial recreational, other than theaters, private clubs, and lodges: one parking space for each 200 square feet of ground floor area;

(11) Banks, offices, postal stations, and the like: one space for each 300 square feet of total floor area or one space for each three employees, whichever is the lesser;

(12) Wholesale establishments: one space for each three employees; and

(13) Industrial: one space for each four employees, based on average total employment.

(B) Where feasible, off-street parking facilities in industrial zones under division (A)(13) above, shall be provided for contractor's employees temporarily engaged in work in a construction project; but if not feasible, shall not be required.

(C) All parking spaces required in nonindustrial zones pursuant to this section shall all be located on-site, on the same lot or parcel as the use or proposed use which requires those parking spaces, except that the Board of Zoning Appeals may permit the required parking spaces to be on an off-site premises if:

(1) It determines that it is impractical to provide parking on-site;

(2) The off-site premises is within a reasonable distance, which, except in M-1 and M-2 Districts, shall be limited to no more than 300 feet;

(3) The total number of parking spaces on the off-site premises is, after giving effect to the number of off-site parking spaces proposed, not less than the sum of the minimum number of parking spaces required under this section for each separate use to which the off-site premises is being put; and

(4) No prior variances have been granted as to the off-site premises to reduce the number of parking spaces below the minimum number required by this section, for any of the uses on the off-site premises.

(D) Surfacing of all off-street parking areas shall be improved with an all-weather dust-proof material meeting the standard specifications of the city, except in M-1 and M-2 Districts, slag, cinder, or other dustless material shall be permitted.

(Prior Code, § 156.078) (Ord. 0-08-0011, passed 5-12-2008) Penalty, see § 156.999

§ 156.079 PARKING LOTS IN RESIDENCE DISTRICTS.

In order to meet requirement for vehicle parking space, where the space is not available on the lot occupied by a building, the Board of Zoning Appeals may, after receipt of a favorable report from the City Plan Commission on the proposal and after public notice and hearing, grant a permit for the establishment of a parking lot in a residence district; provided, that the entire area of the parking lot is within 300 feet of a C-1, C-2, M-1, or M-2 District or, in the case of a church or other place of congregation in a residence district, immediately adjacent to the church or other place of congregation; and provided further, that:

(A) There are no sales, dead storage, repair work, dismantling, or servicing of any kind on a parking lot;

(B) Entrances and exits shall be approved as to location by the Board of Public Safety;

(C) No parking shall be permitted between the front yard line and the front lot line. This shall not exclude use of front yard area for entrance or egress requirements. Side yard requirements shall be the same as those required for a single story structure;

(D) The lot shall be paved with an all-weather dustproof or hard surface meeting the standard specifications of the City Board of Public Works and Safety;

(E) No advertising signs shall be erected upon a lot except not more than one sign each street side to indicate the operator and purpose of the lot. The sign shall not exceed 20 square feet in area and shall not extend more than ten feet in overall height above the ground;

(F) Lighting facilities, if provided, shall be so arranged as to be reflected away from residentially zoned or used property; and

(G) If, at any time after the issuance of the required permits, any of the provisions of this section are not complied with, the permits shall be revoked.

(Prior Code, § 156.079) Penalty, see § 156.999

§ 156.080 OFF-STREET LOADING.

(A) On the same premises with every building, structure, or part thereof in existence or erected, established, or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, retail store, hotel, mortuary, laundry, dry cleaning, or other uses involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley. Uses already established on the effective date of this chapter and rendered nonconforming by the provisions of this section shall be subject to the regulations of § 156.081.

(B) Off-street loading or unloading space, unless otherwise adequately provided for, shall include a 12 foot by 35 foot loading space with 14 foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area used for abovementioned purposes. These requirements may upon appeal be increased, modified, or waived by the Board of Zoning Appeals where the circumstances justify the action.

(Prior Code, § 156.080) Penalty, see § 156.999

§ 156.081 NONCONFORMING USES.

The lawful use of a building or premises existing on the effective date of this chapter may be continued although the use does not conform to all the provisions of this chapter except as herein provided.

(A) Whenever a nonconforming title use has been changed to a conforming use or to a use permitted in a district of greater restrictions,

it shall not thereafter be changed to a nonconforming use or a less restricted use, except upon approval of the Board of Zoning Appeals; provided, that where a property in an M-1 or M-2 District conforms with requirements for off-street parking through the utilization of leased land on the effective date of this chapter, the use of that property shall not be considered to have changed from conforming to nonconforming use by virtue of the loss of the right to the use of leased property for off-street parking purposes, until the time or unless additional property becomes available, in which event off-street parking requirements shall be met before other uses are established.

(B) A building designed or arranged for a nonconforming use or devoted to a nonconforming use on the effective date of this chapter shall not be reconstructed, altered, or enlarged unless it is designed, arranged, and intended for a conforming use, except when the building is destroyed or damaged by fire or other casualty so that the cost of restoration to the condition in which it was before the occurrence of the fire or other casualty will not exceed 50% of the cost of replacement of the entire building.

(C) A nonconforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of the conforming building or structure nor changed except to a conforming use.

(D) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(E) The nonconforming use of land for storage purposes shall be discontinued within five years from the effective date of this chapter and the use of land for storage purposes which becomes nonconforming by reason of subsequent change in this chapter shall also be discontinued within five years from the date of change.

(F) Whenever a nonconforming use has been discontinued for a period of one year, the use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter.

(G) The Board of Zoning Appeals may authorize, by written permit, in a residential district for a period of not more than one year from the date of the permit, a temporary building for commercial or industrial use incidental to the residential construction and development of the district.

(H) Nothing herein contained shall require any change in the plans, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which has been started within 90 days of the date of the permit and diligently prosecuted to completion according to the plans as filed.

(I) (1) In a Floodway (FW) District, no nonconforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.

(2) In a Floodway Fringe (FF) District a building which constitutes a nonconforming use may undergo substantial modification provided the modification is on a one-time-only basis and further provided that the modification does not increase the value of the building, by more than 40% of its pre-improvement market value, (excluding the value of land) unless the building is permanently changed to a conforming use.

(3) A nonconforming use in a Floodplain (FP) District may be altered, enlarged, or extended, on a one-time-only basis, provided the procedures set forth in the ordinance codified in this section with respect to new construction in a Floodplain (FP) District are followed and further provided the alterations, enlargements, or extensions do not increase the value of the building structure, or other use (excluding the value of land) by more than 40% of its pre-improvement market value, unless the building, structure, or use is permanently changed to a conforming use.

(4) Any nonconforming use in the FP, FW, and FF Districts which is damaged by flood, fire explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than 40% of its predamage value.

(Prior Code, § 156.081) (Ord. 3241, passed - -1979) Penalty, see § 156.999

§ 156.082 PERFORMANCE STANDARDS.

(A) *Purpose and intent.*

(1) It is the intent of this section to provide that businesses, utilities, light industry, research, offices, residential uses, and related activities shall be constructed, maintained, and operated with a proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by controlling the emission of noise, odor, exterior lighting, vibration, smoke, particulate matter, gases, and wastes.

(2) It is further the intent of this section to state the conditions of construction and operation with which uses will be expected to comply. In many cases, the relation of a prospective use to all performance standards cannot be judged properly at the time of building permit issuance. In these cases, the recipient of the building permit should note that these standards, like all other provisions of this chapter, are continuing obligations and that all uses shall be expected to operate in compliance with these standards. The building plans shall bear the signature of a qualified professional stating that all performance standards will be complied with based upon the submitted building plans. The city retains the right to conduct its own investigation to determine compliance with the performance standards at any time.

(B) *Compliance.* The performance standards set forth in this section shall be complied with and any use which fails to comply with these standards shall be in violation of this section and shall be subject to the penalty provided for violations.

(C) *Performance standards; measurements.* Each measurable standard shall be measured at the appropriate indicated location in accordance with the provisions of this section. The following performance standards shall be applicable to all uses in all zoning districts.

(1) *Noise.* The decibels generated from a use shall not exceed the exterior noise limitations set forth in Table 1 of this section as measured at the property line of the parcel from which the noise is generated. The decibels typically generated by particular uses are given in Table 2 of this section.

(a) *Measurement of noise.* Noise shall be measured at the property line of the parcel from which the noise is generated. Noise shall be muffled so as not to become violative of applicable standards due to intermittence, beat frequency, shrillness, or intensity. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conforms to ANSI S1.4-1983 (American National Standards Institute) specifications, or any successor standard promulgated by ANSI. Preferred frequencies for acoustical measurements shall be used.

Table 1		
Land Use	7:00 a.m. to 7:00 p.m.	7:00 p.m. to 7:00 a.m.
Commercial	62 dBA	55 dBA
Industrial	80 dBA	80 dBA
Light industrial	70 dBA	70 dBA
Residential	55 dBA	50 dBA

Table 2	
Sound Environment	Typical Sound Pressure Levels Generated (dBA)
Table 2	
Sound Environment	Typical Sound Pressure Levels Generated (dBA)
Air-conditioning unit (20 feet)	60 dBA
Broadcast studio	20 dBA
Freeway traffic	70 dBA
Library	30 dBA
Light auto traffic (100 feet)	50 dBA
Quiet office	40 dBA
Threshold of hearing	0 dBA
Vacuum cleaner (5 feet)	80 dBA
Air-raid siren	140 dBA
Jet takeoff (200 feet)	130 dBA
Nightclub with band playing	120 dBA
Passing subway train at 10 feet	110 dBA
Passing bus or truck at 10 feet	100 dBA
Passing car at 10 feet	90 dBA

- (b) *Exceptions.*
- Nighttime building or construction operations.* It shall be unlawful to allow or permit any building or construction operations (including construction related noises, such as the delivery of equipment or material or the operation of tools, machinery, or apparatus) on private property between the hours of 7:00 p.m. and 7:00 a.m. within 1,000 feet of any residence and between 10:00 p.m. and 7:00 a.m. in all other districts. Work occurring in the public right-of-way, on public property, or within public utility easement areas shall be exempt from these restrictions.
 - Daytime building or construction operations.* Between the hours of 7:00 a.m. and 7:00 p.m., noises customarily resulting from construction work and from the maintenance of grounds shall be exempt from the limitations listed in Table 1 of this section.
 - Amplifiers; noise generated by an amplifier or other device for which a license has been obtained in accordance with current city ordinance for amplifier, permitting, use, and the like.* Amplifiers, of this code shall be exempt from limitations listed in Table 1 of this section.
 - Other exemptions.*
 - Valves, warning devices, aircraft, and railroads, emergency generators, snowplowing, mosquito abatement, and emergency equipment/vehicles used only during times of emergency;

- b. Church bells, chimes, and carillons;
- c. The authorized use of recreational facilities within the property of schools, colleges, and public parks between the hours of 7:00 a.m. and 10:00 p.m.; and
- d. Substations for public utilities.

(c) *External speaker systems.*

- 1. External speaker systems shall not generate noise that is heard beyond the property line.
- 2. External speakers and audible external paging systems are prohibited for businesses conducting motor vehicle sales. Existing nonconforming speakers at automotive dealerships shall be brought into compliance within six months from the date of adoption of this division.

(2) *Odors.* At a point along or outside any property line, the emission of odorous matter in a quantity as to be offensive or in excess of the odor threshold shall not be permitted.

(a) The measurement of odor threshold shall be in accordance with the American Society for Testing and Materials Method D1391-57 *Standard Method For Measurement Of Odor In Atmosphere (Dilution Method)* (Philadelphia: American Society of Testing and Materials, 1957).

(b) Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

(3) *Exterior lighting.* All public and private outdoor lighting installed in the city shall be in conformance with the requirements set forth in this division.

(a) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXTERIOR LIGHTING. The illumination of an outside area or object by any manmade device that produces light by any means.

FIXTURE. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

FLAT LENSES. A glass or plastic element used in luminaires that is flush or inside the bottom edge of the luminaire.

FOOT-CANDLE (fc). A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle.

FOOT-CANDLE HORIZONTAL MEASUREMENT (hfc). The measurement of foot-candles utilizing a direct reading, portable light meter mounted on a horizontal position.

GLARE. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

LIGHT LOSS FACTOR (LLF). A factor applied to lamps which estimates the lumen output of a lamp sometime after installation. (For example, a lamp with an initial lumen rating of 10,000 which has a light loss factor of 0.8 is estimated to put out 8,000 lumens. A lamp with an initial lumen rating of 10,000, which has a **LIGHT LOSS FACTOR** of 1.0, is estimated to put out 10,000 lumens.)

LUMINAIRE. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

SAG LENSES. A glass or plastic element used in luminaires that extends below the bottom edge of the luminaires.

UNIFORMITY RATIO. Describes the average level of illumination in relation to the lowest level of illumination for a given area.

(b) *Luminaire design factors.*

- 1. The style of the light and light standard shall be consistent with the architectural style of the principal building.
- 2. Pathways, sidewalks, and trails shall be lighted with low level fixtures not to exceed eight feet in pole height.
- 3. All building lighting for security or aesthetics shall include glare controls and shall be shielded. Floodlighting is discouraged, and if used, shall be shielded to prevent disability glare for drivers or pedestrians, light trespass beyond the property line, and light above a 90-degree horizontal plane. Wallpack type fixtures shall not be permitted.
- 4. All parking area lighting shall include glare controls and shall be shielded.
- 5. Poles supporting lights shall be no taller than 23 feet in a residential district and shall be dark-sky light fixtures, 25 feet in a commercial district, a commercial part of a residential planned unit development, or in office/business park districts, and 32 feet in any industrial district.

(c) *Standards and requirements.*

1. *Standards; exception.* Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for all uses.

<i>Table 3</i>			
<i>IESNA Parking Lot Levels of Activity</i>	<i>IESNA Maintained Horizontal Illuminance Standards (Foot-Candles)</i>		
	<i>General Parking and Pedestrian Area</i>	<i>Vehicle Use Area (Only)</i>	
	<i>Ave.</i>	<i>Min.</i>	<i>Uniformity Ratio</i>

<i>Table 3</i>			
<i>IESNA Parking Lot Levels of Activity</i>	<i>IESNA Maintained Horizontal Illuminance Standards (Foot-Candles)</i>		
	<i>General Parking and Pedestrian Area</i>	<i>Vehicle Use Area (Only)</i>	
	<i>Ave.</i>	<i>Min.</i>	<i>Uniformity Ratio</i>
High	5.0	0.9	4:1
Church parking			
Community shopping centers (space to 99,999 square feet)			
Educational facilities			
Entertainment theaters			
Fast food facilities (>40 seats)			
Hospital parking			
Industrial employee parking			
Major cultural events			
Major athletic events			
Multi-family residential complex			
Neighborhood shopping centers (retail space of less than 5,000 square feet)			
Office parks			
Regional shopping centers (space above 100,000 square feet)			

2. *Automotive dealerships.* Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for automotive dealerships:

<i>Table 4</i>

<i>Areas of Activity</i>	<i>Description</i>	<i>Standards (Foot-Candles) - Target Maintained Levels</i>
Circulation area	Includes all portions of the lot dedicated to customer parking, employee parking, site entrance areas, and inventory areas including related drive aisles. Car dealerships shall comply with this provision no later than January 1, 2010. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	10 foot-candles - average
Feature display area	The first row of vehicles adjacent to a major/minor arterial, including the area in front of the vehicle up to the property line and behind the vehicle up to the merchandise area and/or the circulation area including drive aisles. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	75 foot-candles - maximum
Merchandise area	All other rows of vehicles on a lot used for general auto sales, including all areas surrounding the vehicle up to the defined circulation area including related drive aisles. Car dealerships shall comply with this provision no later than January 1, 2010. However, compliance with the provision related to security lighting, below, is required from 10:00 p.m. until sunrise.	50 foot-candles - maximum
Security lighting, Monday - Sunday	The average amount of light found on site within each of the areas of activity, including the feature display area, average merchandise area, and circulation area from 10:00 p.m. until sunrise. Car dealerships shall comply with this provision no later than January 1, 2010.	10 foot-candles - average

a. In determining the maximum foot-candle standard provided above, all foot-candle measurements shall be taken from the ground at any point within the areas of activity or at the property line.

b. In determining the average foot-candle standard, all foot-candle measurements shall be taken from the ground at ten foot increments throughout the areas of activity.

c. Sag lenses are prohibited from use on all car dealership luminaries. All existing dealerships using sag lenses at the time of adoption date hereof, will be grandfathered and considered legal nonconforming for the sole purpose of its lens type until the dealership replaces greater than 10% of their existing fixtures on site during any 12-month period at which time full compliance shall be required. All new fixtures shall have flat lenses.

d. Light shields used by car dealerships to control light and reduce glare shall be made of nonreflective material.

3. *Exterior lighting.* Exterior lighting shall be designed at or below the following average maintained foot-candles at the property line:

<i>Table 5</i>	
<i>Location</i>	<i>Maximum Foot-Candles At Property Line - Horizontal Measurement</i>
Intensity at adjoining right-of-way	Horizontal fc: 0.50
Intensity at adjoining major/minor arterial rights-of-way	Horizontal fc: 10.0
Nonresidential to residential	Horizontal fc: 0.10
Nonresidential to nonresidential	Horizontal fc: 2.0
Residential to residential	Horizontal fc: 0.10

4. *Light loss factor.* The light loss factor (LLF) shall be a minimum of 0.75 to a maximum of 0.8 for all uses.

(d) *Measuring light levels.*

1. *Metering equipment.* Light levels of both direct and indirect light shall be measured in foot-candles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading.

2. *Method of measurement.* Foot-candle horizontal measurements shall be taken at a height of three and one-half feet aboveground.

(e) *Exceptions and variances.*

1. Because of their unique requirement for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, tennis courts, and other outdoor recreational facilities shall be exempted from the general standards of this division. Lighting for outdoor recreational facilities shall be shielded to minimize light and glare from spilling onto adjacent residential properties. The maximum permitted illumination at adjoining residential property lines shall be one foot-candle. The maximum permitted illumination at adjoining nonresidential property lines shall be two foot-candles.

2. Luminaires used for public roadway illumination by a public transportation agency shall be exempt from the requirements of this section but may be subject to the regulations of federal or state agencies or by intergovernmental agreements.

3. Decorative seasonal lighting shall be limited to a power rating of less than or equal to 75 watts.

4. Temporary emergency lighting used by police, firefighters, and other emergency services, as well as all vehicular luminaires shall be exempt.

5. Hazard warning lights that are required by local or federal regulatory agencies shall be exempt.

6. Transportation facilities shall be exempt.

7. Public walkways shall be exempt.

8. When site characteristics are unique and the requirements of this section cannot be met, the City Planner has the authority to approve nonconforming lighting designs if the illumination levels and/or uniformity ratios are within 20% of the values set forth in this division. All other nonconforming designs shall be subject to approval of the City Council through the variance procedure or development agreement.

(f) *Nonconforming luminaires.*

1. Exterior lighting luminaires in existence on the effective date of this division shall be exempt from the standards of this division and shall be considered legally nonconforming. The fixtures may be repaired and maintained. However, if any legal nonconforming luminaire is moved or damaged by any means to an extent that its total replacement is necessary, the luminaire, or replacement, shall comply with this division.

2. For development activity involving improved property, luminaires shall be required to comply with this division when the floor area of any building or structure, or parking areas, or any combination thereof, is increased by 10% or greater.

(g) *Exterior lighting plan required.*

1. A lighting plan shall be required any time exterior lighting is proposed, or modified, that is associated with a residential use of greater density than a one- or two-family dwelling or with any commercial, office, industrial, or other use. The lighting plan shall be submitted with the site plan information as required in this section.

2. The lighting plan shall include a site plan indicating location of light fixtures and intensity of foot-candles at various points on the site, catalog cuts of the proposed fixtures, and a summary table containing average foot-candles, minimum foot-candles, maximum foot-candles, uniformity ratio (average/minimum), foot-candles at the property line, pole height, and light loss factor (LLF). The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this chapter. Once the plan is approved, the exterior lighting of the property shall conform to the plan.

(4) *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. Vibration at any time shall not produce at any time an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 United States Bureau of Mines Bulletin No. 442 *Seismic Effects Of Quarry Blasting*, on any structure. The methods and equations of Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.

(5) *Smoke and particulate matter.* Measurement of smoke and particulate matter shall be taken from the point of emission.

(a) The emission of particulate matter containing more than 5% by weight, of particles having a particle diameter larger than 44 microns, is prohibited.

(b) The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one-half pound per acre of lot size during any one hour.

(c) Smoke not darker or more opaque than No. 0 on the Ringelmann smoke chart (as published by the United States Bureau of Mines) may be emitted except that smoke not darker or more opaque than No. 1 on the chart may be emitted for periods not longer than four minutes in any 30 minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

(d) Dust or other types of air pollution borne by the wind from sources such as storage areas, trash enclosures, and yards within

the boundaries of any lot shall be kept to a minimum by appropriate landscaping, screening, paving, oiling, wetting, or other acceptable means.

(6) *Gases.*

(a) Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table I (industrial hygiene standards - maximum allowable concentration for eight hour day, five days per week), Table III (odor thresholds), Table IV (concentrations of substances causing pain in the eyes) and Table V (exposures to substances causing injury to vegetation) in the latest revision of Chapter 5, *Physiological Effect*, that contains the tables, in the *Air Pollution Abatement Manual*, by the Manufacturing Chemists' Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration or amounts.

(b) Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.

(7) *Hazard.* Any operation of an industrial nature shall be carried on with reasonable precautions against fire and explosion hazards.

(8) *Waste.*

(a) All sewage and industrial wastes shall be treated and disposed of in a manner as to comply with the water quality standards applicable to the classification assigned to the receiving waters by the city, the state, and IDEM.

(b) Approval of the State Environmental Protection Agency of all plans for waste disposal facilities shall be required before issuance of any building permit.

(Prior Code, § 156.082) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.083 DUMPSTER SCREENING.

Trash dumpsters and other waste/recycling containers serving multi-family or nonresidential uses shall be screened in accordance with the following standards.

(A) Dumpsters or other trash receptacles shall be screened from public view on three sides by a solid wall at least six feet in height and on the fourth side by a solid gate at least five feet in height.

(B) The wall and gate shall be architecturally compatible with other buildings and structures on the site.

(C) Applications for new development shall be reviewed by the Plan Commission.

(D) The gate and wall shall be maintained in good working order and shall remain closed except when trash pick-ups occur.

(E) No dumpsters or other trash enclosures shall be located within a parking structure.

(Ord. 21-0071, passed 10-15-2021) Penalty, see § 156.999

R-1 SINGLE-FAMILY DWELLING DISTRICT

§ 156.095 USE REGULATIONS.

A building or premises in an R-1 Single-Family Dwelling District shall be used only for the following purposes:

(A) One-family dwellings;

(B) Churches or similar places of worship, including parish house and convent;

(C) Nursery schools;

(D) Public elementary schools, high schools, and institutions for higher education;

(E) Private elementary or parochial schools and private institutions for higher education; provided, that site areas corresponding to public school requirements are met;

(F) Public parks and playgrounds and other municipal recreation uses;

(G) Public libraries;

(H) Fences; and

(I) (1) Customary accessory uses and buildings; provided, that the uses are incidental to the principal use and do not include any activity commonly conducted for gain.

(2) Any accessory building that is not part of the principal building shall not project beyond the average front yard line as defined in § 156.097 and no accessory building shall be used for dwelling purposes.

(Prior Code, § 156.095) Penalty, see § 156.999

§ 156.096 HEIGHT REGULATIONS.

No building in an R-1 Single-Family Dwelling District shall exceed two and one-half stories or 35 feet in height as provided in § 156.076.

(Prior Code, § 156.096) Penalty, see § 156.999

§ 156.097 AREA REGULATIONS.

The following shall apply in R-1 Single-Family Dwelling Districts.

(A) *Intensity of use.* Every lot shall have an area of not less than 6,000 square feet and lot width of not less than 50 feet; except, that if a lot has less area than herein required and was of record at the time of the effective date of this subchapter, that lot may be used for any of the uses permitted by this section and §§ 156.095 and 156.096 inclusive.

(B) *Front yard.*

(1) There shall be a front yard for any of the uses permitted by § 156.095 of not less than 25 feet, unless 40% or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a front yard line having a variation in depth of not more than ten feet, in which case no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than 50 feet.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(C) *Side yard.*

(1) Except as hereinafter provided, there shall be a side yard having a width of not less than five feet on each side of the building for any of the uses permitted by § 156.095.

(2) Wherever a lot of record existing at the time of the effective date of this subchapter has a width of 40 feet or less, the side yard on each side of a building may be reduced to a width of not less than 10% of the width of the lot, but in no instance shall there be a side yard of less than three feet.

(3) On a corner lot, the side yard on the street side of the lot shall not be less than eight feet in width; except, that the buildable width of the lot shall not be reduced to less than 26 feet.

(D) *Rear yard.* Except as otherwise provided, there shall be a rear yard for any of the uses permitted by § 156.095 having a depth of not less than 30 feet unless the lot has a depth of less than 100 feet, in which event the depth of the rear yard shall not be less than 20% of the depth of the lot.

(Prior Code, § 156.097) Penalty, see § 156.999

§ 156.098 DEVELOPMENT PLAN.

Any construction, remodeling, and/or renovation which expands, enlarges, or adds on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds an amount as set by the city from time to time; and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Ord. 11-0007, passed 8-8-2011)

R-1A SINGLE-FAMILY OR SEMI-DETACHED DWELLING DISTRICT

§ 156.110 USE REGULATIONS.

A building or premises in an R-1a Single-Family or Semi-Detached Dwelling District shall be used only for the following purposes:

- (A) Any use permitted in the R-1 Single-Family District;
- (B) Semi-detached dwelling; and
- (C) Customary home occupation, as defined by § 156.003.

(Prior Code, § 156.110) Penalty, see § 156.999

§ 156.111 HEIGHT REGULATIONS.

No building in an R-1a Single-Family or Semi-Detached Dwelling District shall exceed two and one-half stories or 35 feet in height, except as provided in § 156.076.

(Prior Code, § 156.111) Penalty, see § 156.999

§ 156.112 AREA REGULATIONS.

The following shall apply in R-1a Single-Family or Semi-Detached Dwelling Districts.

(A) *Intensity of use.* Every lot shall have an area of not less than 4,500 square feet per dwelling unit and to width of not less than 37.5

feet for a single-family dwelling or for each unit of a semi-detached dwelling; except, that if a contiguous parcel in any single ownership of record at the effective date of this subchapter has less than 4,500 square feet or less width than 37.5 feet, that parcel may be used for a single-family dwelling only.

(B) *Front, side, and rear yards.* Each lot shall have front, side, and rear yards not less than those specified for R-1 Districts.

(Prior Code, § 156.112) Penalty, see § 156.999

§ 156.113 DEVELOPMENT PLAN.

Any construction, remodeling, and/or renovation which expands, enlarges, or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds an amount as set by the city from time to time; and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010

(Ord. 11-0007, passed 8-8-2011)

R-2 TWO-FAMILY DWELLING DISTRICT

§ 156.125 USE REGULATIONS.

A building or premises in an R-2 Two-Family Dwelling District shall be used only for the following purposes:

(A) Any use and accessory use permitted in the R-1 Single-Family District and the R-1a Single-Family or Semi-Detached Dwelling District; and

(B) Two-family dwellings.

(Prior Code, § 156.125) (Ord. 11-0009, passed - -2011) Penalty, see § 156.999

§ 156.126 HEIGHT REGULATIONS.

No building in any R-2 Two-Family Dwelling District shall exceed two and one-half stories or 35 feet in height, except as provided in § 156.076.

(Prior Code, § 156.126) Penalty, see § 156.999

§ 156.127 AREA REGULATIONS.

The following shall apply in R-2 Two-Family Dwelling Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 4,500 square feet and a lot width of not less than 37 and one-half feet.

(2) A lot on which there is erected a semi-detached dwelling or a two-family dwelling shall contain an area of not less than 2,250 square feet per dwelling unit and a lot width of not less than 37 and one-half feet.

(3) If a contiguous parcel in any single ownership of record at the time of the effective date of this subchapter has less than 4,500 square feet or less width than 37 and one-half feet, that parcel may be used for a single-family dwelling only.

(B) *Front, side, and rear yards.* Each lot shall have front, side, and rear yards not less than those specified for R-1 Districts.

(Prior Code, § 156.127) Penalty, see § 156.999

§ 156.128 DEVELOPMENT PLAN.

Any construction, remodeling, and/or renovation which expands, enlarges, or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds an amount as set by the city from time to time; and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010

(Ord. 11-0007, passed 8-8-2011)

R-3 MULTIPLE-DWELLING AND/OR TWO-STORY ROW HOUSE DISTRICT

§ 156.140 USE REGULATIONS.

A building or premises in an R-3 Multiple- Dwelling and/or Two-story Row House District shall be used only for the following purposes:

(A) Any use and accessory use permitted in the R-1 Single-Family District, R-1a Single-Family or Semi-Detached Dwelling District and the R-2 Two-Family District;

- (B) Two-story row houses;
- (C) Two-story multiple-dwelling; and
- (D) Group dwellings.

(Prior Code, § 156.140) Penalty, see § 156.999

§ 156.141 HEIGHT REGULATIONS.

No building in an R-3 Multiple-Dwelling and/or Two-Story Row House District shall exceed two and one-half stories or 35 feet in height, except as provided in § 156.076.

(Prior Code, § 156.141) Penalty, see § 156.999

§ 156.142 AREA REGULATIONS.

The following shall apply in R-3 Multiple-Dwelling and/or Two-Story Row House Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than four square feet and a lot width of not less than 35 feet.

(2) A lot on which there is erected a two-family dwelling or semi-detached dwelling shall contain an area of not less than 2,000 feet per dwelling unit and a lot width of not less than 35 feet.

(3) A lot on which there is erected a two-story row house, two-story multiple-dwelling, or group dwellings shall contain an area of not less than 1,500 square feet per dwelling unit.

(4) There shall be no exceptions to the standards in divisions (A)(1) through (3) above except where a contiguous parcel in any single ownership of record on the effective date of this chapter has less than 4,000 square feet or a width of less than 35 feet that parcel may be used for single-family dwelling purposes only.

(B) *Front yard.* The front yard regulations are the same as those in the R-1 Single-Family District except on lots with less than 100 feet depth where two-story row house dwellings are erected perpendicular to the front lot line, in which case the front yard may be decreased to 20% of the lot depth but in no case shall the front yard be less than 20 feet.

(C) *Side yard.* The side yard regulations for single-family and two-family dwellings are the same as those in the R-1 Single-Family Dwelling District.

(1) There shall be a side yard which shall have a width of not less than ten feet on each side of a two-story multiple-dwelling or a two-story row house dwelling.

(2) Where a lot is used for group dwellings every building or part thereof shall be located not less than ten feet from either side lot line.

(D) *Rear yard.* The rear yard regulations are the same as those in the R-1 Single-Family Dwelling District.

(Prior Code, § 156.142) Penalty, see § 156.999

§ 156.143 DEVELOPMENT PLAN.

Any construction, remodeling, and/or renovation which expands, enlarges, or adds on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds an amount as set by the city from time to time; and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010

(Ord. 11-0007, passed 8-8-2011)

R-4 MULTIPLE-DWELLING, THREE-STORY OR LESS DISTRICT

§ 156.155 USE REGULATIONS.

A building or premises in an R-4 Multiple- Dwelling, Three-Story or Less District shall be used only for the following purposes:

(A) Any use permitted in the R-1 Single-Family District, R-1a Single-Family or Semi-Detached Dwelling District, R-2 Two-Family District and the R-3 Multiple-Dwelling and/or Two-Story Row House District;

(B) Multiple-family dwellings;

(C) Multiple-family group dwellings;

(D) Hospitals and clinics, excepting animal hospitals and clinics;

(E) (1) Dormitories, clubs, and lodges, excepting the clubs or lodges the chief activity of which is a service customarily carried on as

a business or primarily for gain.

(2) In conjunction with a dormitory, club or lodge, a dining room may be operated; provided, that it is incidental to the activities of the dormitory, club or lodge and is conducted for the benefit of the residents or members thereof only; provided further, that no sign is displayed advertising the activity;

(F) Apartment hotels;

(G) Restaurants, drugstores, newsstands, and personal service shops located in a hotel or apartment house and accessible to the public only through the lobby and with no advertising or display visible from outside the building;

(H) Institutions of a religious, educational, eleemosynary, or philanthropic nature; and

(I) Any accessory building or use customarily incident to the above uses which is not a part of the principal building shall be located not less than 60 feet from the front lot line and not less than five feet from any side street line.

(Prior Code, § 156.155) Penalty, see § 156.999

§ 156.156 HEIGHT REGULATIONS.

No building in an R-4 Multiple-Dwelling, Three-Story or Less District shall exceed three stories or 35 feet in height.

(Prior Code, § 156.156) Penalty, see § 156.999

§ 156.157 AREA REGULATIONS.

The following shall apply in R-4 Multiple-Dwelling, Three-Story or Less Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 4,000 square feet and a lot width of not less than 35 feet.

(2) A lot on which there is erected a two-family or a semi-detached dwelling shall contain an area of not less than 2,000 square feet per dwelling unit, and a lot width of not less than 35 feet.

(3) A lot on which there is erected two-story row houses or two-story group dwellings shall contain an area of not less than 1,500 square feet per dwelling unit and a lot width of not less than 35 feet.

(4) A lot on which there is erected a three-story multiple-dwelling structure or three-story multiple-family group dwelling structures shall contain an area of not less than 750 square feet per dwelling and a lot width of not less than 35 feet.

(5) There shall be no exceptions to the standards in divisions (A)(1) through (4) above except where a contiguous parcel in any single ownership of record on the effective date of this chapter has less than 4,000 square feet or a width of less than 35 feet that parcel may be used for single-family dwelling purposes only.

(B) *Front yard.*

(1) The front yard regulations for single-family, two-family, and two-story row house dwellings shall be the same as those in the R-3 Multiple-Dwelling District.

(2) A lot on which there is erected a multiple-dwelling structure or multiple-family group dwelling structure shall have a front yard of not less than 20 feet.

(C) *Side yard.*

(1) The side yard regulations for single-family and two-family dwellings shall be the same as those in the R-1 Single-Family District.

(2) The side yard regulations for two-story row house dwellings, two-story multiple-dwellings, and two-story group dwellings shall be the same as those in the R-3 Multiple-Dwelling and/or Two-Story Row House District.

(3) A lot on which there is erected a three-story multiple-dwelling shall have side yards of not less than 20 feet.

(4) Where a lot or parcel is used for three-story multiple-family group dwellings, every building or part thereof shall be located not less than 20 feet from either side lot line.

(D) *Rear yard.*

(1) The rear yard regulations for single-family, two-family, two-story row house dwellings, and two-story multiple-dwellings or group dwellings are the same as those in the R-1 Single-Family District.

(2) A lot on which a three-story multiple-dwelling or three-story multiple-family group dwellings are erected shall have a rear yard of not less than 20 feet.

(Prior Code, § 156.157) Penalty, see § 156.999

§ 156.158 DEVELOPMENT PLAN

§ 156.158 DEVELOPMENT PLAN.

Any construction, remodeling, and/or renovation which expands, enlarges, or adds-on to an existing structure or makes a material change to the facade thereof, the cost of which exceeds an amount as set by the city from time to time; and is undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Ord. 11-0007, passed 8-8-2011)

R-5 DWELLING FOUR-STORY OR MORE DISTRICT

§ 156.170 GENERALLY.

Areas suitable for the location of an R-5 Multiple-Dwelling District shall include the following:

(A) Residential areas in which typical existing land uses are established and stabilized with dwellings at more than 25 families per net acre;

(B) Areas which are subject to redevelopment or rebuilding by reason of advanced obsolescence of typical existing structures and are suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation, and other community services; or

(C) Undeveloped or vacant areas which are suitable for residential use at more than 25 families per net acre by reason of market demand for additional land for high density use and proximity of good facilities for shopping, transportation, and other community services.

(Prior Code, § 156.170) Penalty, see § 156.999

§ 156.171 USE REGULATIONS.

A building or premises in an R-5 Multiple-Dwelling District shall be used only for the following purposes:

(A) Multiple-family dwellings;

(B) Apartment hotels;

(C) Restaurants, drugstores, newsstands, and personal service shops in a hotel or apartment house and accessible to the public only through the lobby and with no advertising or display visible from outside the building; and

(D) Accessory buildings and uses customarily incident to any of the above uses.

(Prior Code, § 156.171) Penalty, see § 156.999

§ 156.172 HEIGHT REGULATIONS.

No building in an R-5 Multiple-Dwelling Four-Story or More District shall exceed 12 stories or 130 feet in height.

(Prior Code, § 156.172) Penalty, see § 156.999

§ 156.173 AREA REGULATIONS.

The following shall apply in R-5 Multiple-Dwelling Four-Story or More Districts.

(A) *Intensity of use.*

(1) A lot on which there is erected a special multiple-dwelling of not less than four stories but not over 12 stories shall contain, except as provided in division (A)(2) below, an area of not less than 400 square feet per dwelling unit.

(2) Modification of the minimum lot area per dwelling unit set forth in division (A)(1) above will be considered by the Board of Zoning Appeals for property located in an area subject to redevelopment or rebuilding by reason of advanced obsolescence of typical existing structures and suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation, and other community service when:

(a) The dwelling units to be constructed are to be used for relocation families or individuals to be replaced by redevelopment operations and it is demonstrated that adequate provisions will be made for off-street parking, refuse storage, and removal and, in the case of family housing, for play space for children under ten years of age and laundry drying facilities where mechanical dryers are not to be available within the structure; and

(b) The building site will become part of a neighborhood redevelopment plan providing for satisfactory density and coverage when completed.

(B) *Front yard.* A lot on which there is erected a special multiple-dwelling of nine stories or less shall have, except as provided in division (E) below, a front yard of not less than 20 feet.

(C) *Side yard.* A lot on which there is erected a special multiple-dwelling shall have, except as provided in division (E) below, side

yards of not less than one foot width for each two feet of building height.

(D) *Rear yard.* A lot on which there is erected a special multiple-dwelling shall have, except as provided in division (E) below, a rear yard of not less than 30 feet for buildings six stories and less plus five additional feet for each story over six stories.

(E) *Yard modifications.* Modification of the minimum yard regulations set in divisions (B), (C), and (D) above will be considered by the Board of Zoning Appeals for a property located in an area subject to redevelopment or rebuilding by reason of obsolescence of typical existing structures and suitable for residential use at more than 25 families per net acre by reason of proximity to good facilities for shopping, transportation, and other community services when:

(1) The dwelling units to be constructed are to be used for relocating families or individuals to be replaced by redevelopment operations and it is demonstrated that adequate provisions will be made for off-street parking, refuse storage and removal, and, in the case of family housing, for play space for children under ten years of age and laundry drying facilities where mechanical dryers are not to be available in the structure; and

(2) The building site will become part of a neighborhood redevelopment plan providing for satisfactory yard dimensions when completed.

(Prior Code, § 156.173) Penalty, see § 156.999

§ 156.174 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Prior Code, § 156.174) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

C-1 NEIGHBORHOOD RETAIL DISTRICT

§ 156.185 GENERALLY.

The C-1 Neighborhood Retail District is designed primarily for the convenience shopping of persons residing in the adjacent residential areas. Retail commercial establishments, except food marts, are restricted to a maximum floor area of 12,500 square feet each so as to limit the volume of vehicular and pedestrian traffic in and about a local retail center to a level consistent with its function and location.

(Prior Code, § 156.185)

§ 156.186 USE REGULATIONS.

(A) Uses permitted in a C-1 Neighborhood Retail District shall be subject to the following conditions:

(1) Dwelling units and lodging rooms are not permitted below the second floor and commercial establishments are not permitted on any floor above the ground floor;

(2) All commercial establishments shall be retail or service establishments dealing directly with consumers; and

(3) Except for food marts, all commercial establishments shall be restricted to a maximum gross floor area of 12,500 square feet each, exclusive of any floor area developed to off-street parking or loading facilities.

(B) A building or premises in a C-1 Neighborhood Retail District shall be used only for the following purposes:

(1) Dwelling units and lodging rooms;

(2) Stores and shops for the conducting of any retail business;

(3) Offices, photographic studios;

(4) Branch office facilities designed for neighborhood banking service;

(5) Restaurants, tea rooms, cafés, and other places serving food or beverage;

(6) Personal service shops such as barber, shoe shine, beauty parlor;

(7) Filling stations;

(8) Advertising signs and advertising structures, but only related to the one use conducted in the building or on the immediate premises thereof; and

(9) Accessory buildings and accessory uses.

(Prior Code, § 156.186) (Ord. 0-00-0016, passed 6-15-2000) Penalty, see § 156.999

§ 156.187 HEIGHT REGULATIONS.

No building in a C-1 Neighborhood Retail District shall exceed two and one-half stories or 35 feet in height.

(Prior Code, § 156.187) Penalty, see § 156.999

§ 156.188 AREA REGULATIONS.

No yards are required in a C-1 Neighborhood Retail District, except in § 156.080 and as follows.

(A) *Front yard transition.* Where a C-1 District abuts a residence district along a street line, there shall be provided, for a distance of 50 feet from the district boundary line into a C-1 District, a front yard equal to one-half of the required front yard depth for the residence district.

(B) *Side and rear yard transition.* On every lot in a C-1 District that abuts directly a residence district, there shall be provided a side and rear yard of at least six feet on a lot along the line or lines where it abuts the residence district.

(C) *Side yard on corner lot.* On a corner lot which borders on a residence district, there shall be provided a side yard on the side street equal in depth to the required front yard on a side street.

(Prior Code, § 156.188) Penalty, see § 156.999

§ 156.189 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Prior Code, § 156.189) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

C-2 GENERAL COMMERCIAL DISTRICT

§ 156.200 USE REGULATIONS.

A building or premises located in a C-2 General Commercial District shall be used only for the following purposes; provided, that where a proposed use requires drive-in facilities, satisfactory ingress and egress and capacity for the use intended shall be determined to be available by the Board of Public Safety after studies by the Traffic Department:

(A) Dwelling units and lodging rooms; provided, that they are not below the second floor;

(B) Any use permitted in the C-1 Neighborhood Retail District; provided, that the gross floor area restrictions set forth in the C-1 Neighborhood Retail District shall not apply to the C-2 General Commercial District;

(C) Banks;

(D) Hotels;

(E) Theaters, billiard or pool parlors, bowling alleys, skating rinks, or similar recreational uses or places of assembly;

(F) Private schools conducted for gain;

(G) Caterer;

(H) Undertaker;

(I) Telegraph office, telephone, and express office;

(J) Baking, confectionery, dressmaking, dyeing, laundry, printing, tailoring, upholstering, and similar establishments and businesses of a similar and no more objectionable character subject to the following provisions:

(1) All goods or products manufactured or processed shall be sold at retail on the premises; and

(2) All manufacturing or processing shall be done on the premises and not more than five persons shall be so employed at any one time; except, that the limitation on number of employees shall not apply to dry cleaning establishments, laundries, or bakeries.

(K) Automobile parking lots, used car lots, and commercial garages for storage purposes;

(L) Automobile showroom, agency, and repair services; provided, that the repair or storage portion of the building shall not be less than 20 feet from the front of the building;

(M) Wholesale storage and warehouse facilities except lumber, wood, feed, coal, salvage, or junk storage yards;

(N) Other uses similar in character to those enumerated above and which, in the opinion of the Board of Appeals will not be injurious to the district; and

(O) Accessory buildings and accessory uses.

(Prior Code, § 156.200) Penalty, see § 156.999

§ 156.201 HEIGHT REGULATIONS

No building in a C-2 General Commercial District shall exceed six stories or 75 feet in height.
(Prior Code, § 156.201) Penalty, see § 156.999

All area regulations in a C-2 General Commercial District are the same as those required in the C-1 Neighborhood Retail District.
(Prior Code, § 156.202) Penalty, see § 156.999

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Prior Code, § 156.203) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

It is the intent of this new C-3 District to accommodate the retail, service, and office uses which are characteristic of the major retail area of the city that is the central core of the State North Harbor Central Business District. This central core is intended to contain intensive retail business activities. In accord with the zoning regulations, the boundaries of this C-3 District have been defined by the City Engineer.

(F) *P-I Park District*. Broadway right-of-way to north alley and Deodar St. and Elm St. to the east and west.
(Prior Code, § 156.215) (Ord. 0-08-0020, passed 9-22-2008)

(A) The permitted uses for each C-3 North Harbor Business District and C-3 North Harbor Business District Special Uses 01, 02, and 03 not specifically listed shall not be permitted unless use variance is petitioned for.

(B) No building, structure, or parcel of land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the following uses.

<i>Table 6 - C-3 North Harbor Business District Permitted Uses</i>						
<i>Land Use Category</i>	<i>C-3 Bus. Distr.</i>	<i>Special Use 01</i>	<i>Special Use 02</i>	<i>Special Use 03</i>	<i>Special Use 04</i>	<i>Development Requirements</i>
<i>P = Permitted Use; S = Special Use; C = Conditional Use</i>						
<i>Table 6 - C-3 North Harbor Business District Permitted Uses</i>						

<i>Land Use Category</i>	<i>C-3 Bus. Distr.</i>	<i>Special Use 01</i>	<i>Special Use 02</i>	<i>Special Use 03</i>	<i>Special Use 04</i>	<i>Development Requirements</i>
<i>P = Permitted Use; S = Special Use; C = Conditional Use</i>						
Bank without drive-through	P					C-3, C
Barbershops	P					C-3, C
Carryout establishments	P					
Antenna towers-television(in rear of business)	P					
Business incubators	P					C-3, C
Civil buildings	P					
Clinical massage with state license	P					
Clubs/lodges						
Coffee shops	P					
Commercial studios						
Community centers	P					C-3, C
Dry cleaners	P					C-3, C
Eating/drinking establishments	P					C-3
Farmers market	P					C-3, C
General retail	P					
Grocery stores (min 10,000 sq. ft. max: 17,000 sq. ft.)				P		C-3, S
Gymnasium	P					
Health spa without lodging	P					
Health club	P					
Home healthcare services	P					C-3, C
Indoor theaters (no adult entertainment)	P					C-3, C
Internet cafés	P					
Music school	P					
Parking garages (principle use)	P					C-3, C
Photography studio	P					C-3, C
Public/private utility facilities	P					
Public plaza (principle use)	P					C-3, C
Radio and television stations/studios	P					
Residential units at all levels		P			P	C-3, S
Second level or above: residential units	P					C-3, S
Second level or above: medical building	P					C-3, C
Second level or above: office/professional building	P					C-3, C
Senior community centers	P	P				C-3, C
Senior dwelling units	P	P				C-3, C
Shoe repair shops	P					C-3, C
Tailor shops	P					C-3, C
Training studios	P					

Notes to table: Other uses which are of the same general character as the above permitted uses, as determined by the zoning administrator, but specifically prohibiting those uses which are first permitted in the C-1 Neighborhood Retail District and C-2 General Commercial District

- (A) Civil buildings;
 - (B) Commercial studios;
 - (C) Residential units on the upper floors of commercial buildings;
 - (D) Residential units on the first floor in designated blocks, per the following design requirements:
 - (1) A minimum of two stories;
 - (2) A building frontage set at ten feet from the sidewalk. All residential structures shall conform to the area, lot width, yard, height, and bulk regulations of the zoning district in which the structure is located, or for those uses which are not allowed in that zoning;
 - (3) An entry level of a minimum height of five feet zero inches above finish grade; and
 - (4) A minimum of 65% masonry on all exposed facades.
 - (E) Eating and drinking establishments, including carryout establishments and coffee shops;
 - (F) General retail;
 - (G) Health spa without lodging accommodation/ clinical massage establishments. All massages must be performed by an individual with a State Board of Professional Regulations License for a massage therapist;
 - (H) Internet cafés;
 - (I) Community grocery stores (10,000 square feet minimum and 17,000 square feet maximum);
 - (J) Offices including business or professional and medical or dental, second floor or above;
 - (K) Photography studios, including the developing of film and pictures when conducted as part of the retail business on the premises. The development and sale of pornographic material is prohibited in the C-3 District;
 - (L) Services, including, but not limited to, barbershops, beauty shops/salons, dry cleaning, shoe repair, tailor shops, banks, and financial institutions without drive-through facilities, and similar stores or shops which sell services on site; excluding business related services which have a primary business office component;
 - (M) Home healthcare services;
 - (N) Theaters—indoor. Adult entertainment theaters are prohibited in the C-3 District;
 - (O) Business incubators; and
 - (P) Other uses which are of the same general character as the above permitted uses, as determined by the Zoning Administrator, but specifically prohibiting those uses which are first permitted in the C-1 Neighborhood Retail District and C-2 General Commercial District.
- (Prior Code, § 156.216) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.217 CONDITIONAL USES.

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined below as conditional uses and Chapter 55 and Chapter 91 through Chapter 94 of the of the municipal code.

- (A) Community centers;
- (B) Cultural institutions;
- (C) Farmers' markets;
- (D) Public plazas and parking garages as a principal use;
- (E) Health clubs/gymnasiums, music, and dance schools;
- (F) Public and private utility facilities;
- (G) Antenna towers for television and radio broadcast only in accordance with tower specifications and uses stated in §§ 156.350 through 156.354. Antenna towers must be placed in rear of business;
- (H) Radio and television stations and studios;
- (I) Clubs, lodges. An application for these conditional uses shall be processed in accordance with the requirements of § 156.218 of this subchapter;

(J) Religious buildings constructed prior to January 1, 2008; and

(K) Training studios.

(Prior Code, § 156.217) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.218 CONDITIONAL USE PROCEDURES.

(A) *Authority.* The development and execution of this subchapter is based upon the division of the city into zoning districts within which districts the use of buildings, structures, and land, and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon adjacent land and of the public need for the particular use in the particular location. Upon receiving the finding of the City Board of Zoning Appeals (BZA), the Plan Commission shall evaluate the BZA's findings and recommendation for the preparation of a report to the City Council. The City Council, after receiving a report from the Plan Commission, containing its findings and recommendations, may allow a conditional use and any variance requested in connection therewith in a particular zoning district or districts.

(B) *Standards for conditional uses.* The Commission shall not recommend nor the City Council grant a conditional use in a particular zoning district or districts unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, and general welfare;

(2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and

(3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the District.

(C) *Procedures for and effective period of applications for conditional uses.*

(1) An application for a conditional use shall be processed in accordance with the provisions of division (D) below.

(2) An application for a conditional use shall be valid for a period of two years from the date on which the application is filed with the Department of Redevelopment.

(3) Any application for a conditional use which is not processed completely in accordance with city ordinances and regulations, including the preparation and approval of required ordinances, within the two-year period, shall automatically lapse and become null and void without further action by the city.

(4) The Department of Community Development shall send written notice to the last known property owner of record at least 30 days before any application for a conditional use shall lapse.

(5) Upon the applicant's request, the City Council may grant a one-year extension to the application period.

(6) After an application for a conditional use has lapsed, all fees paid by the applicant shall be forfeited, and any subsequent application for a conditional use shall be accompanied by the fees required by this code.

(D) *Initiation of conditional use.* A conditional use may be proposed by a person being the owner, lessee, or contract purchaser of the subject property.

(1) The following conditions shall be required.

(2) Except as provided in this division, offices, training studios, health spas (established after July 1, 2008), and health clubs/gymnasiums shall not be permitted below the second floor of any building or structure.

(a) Office uses and health spas (established after July 1, 2008) shall be permitted in single-story buildings adjoining the C-3 North Harbor Business District, less than 3,000 square feet, which are set back at least 12 feet from the right-of-way.

(b) Office uses, training studios, health spas (established after July 1, 2008), and health clubs/gymnasiums will not be continued where a building is remodeled in a manner that does not conform to the requirements of this division.

(c) If granted the conditional use, training studios and health clubs/gymnasiums shall be permitted in single-story buildings adjoining the C-3 North Harbor Business District, less than 3,000 square feet, which are set back at least 12 feet from the right-of-way.

(E) *Generally.*

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

(2) All new buildings within a C-3 zoned classification shall be a minimum of two stories and a maximum of three stories. All new building located on a corner lot shall be a minimum of three stories and a maximum of five stories.

(3) Acceptable facade wall base materials shall be pre-cast concrete.

(Prior Code, § 156.218) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.219 LOT WIDTH REQUIREMENTS.

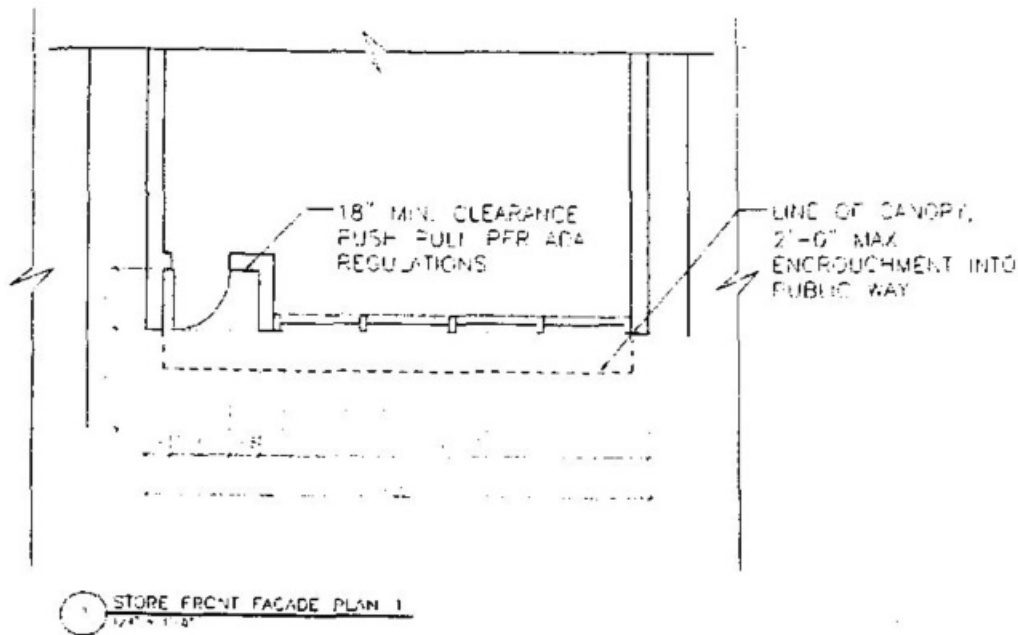
The minimum lot width requirements in the C-3 Downtown Core District shall be 30 feet.

(A) Setback requirements.

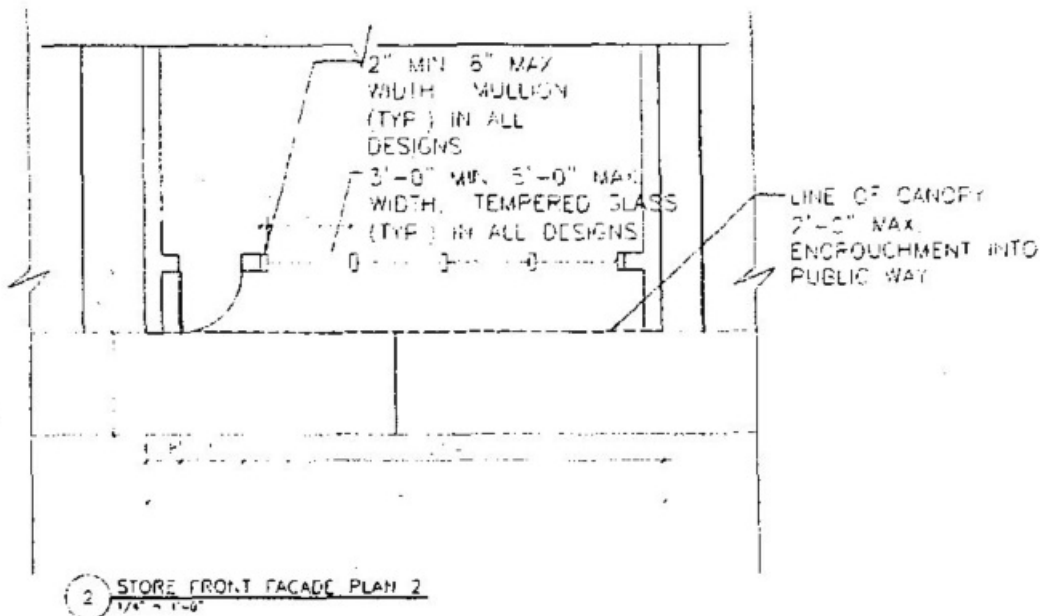
- (1) No commercial building shall be set back more than three feet zero inches from the sidewalk. See Figures 1, 2, 3, and 4.
- (2) No residential building shall be set back more than 15 feet zero inches from the property line.
- (3) No commercial building at the corners of Main Street and Broadway shall be setback more than three feet zero inches from the sidewalk and three feet zero inches from the alley. See Figure 4.

(B) Figures.

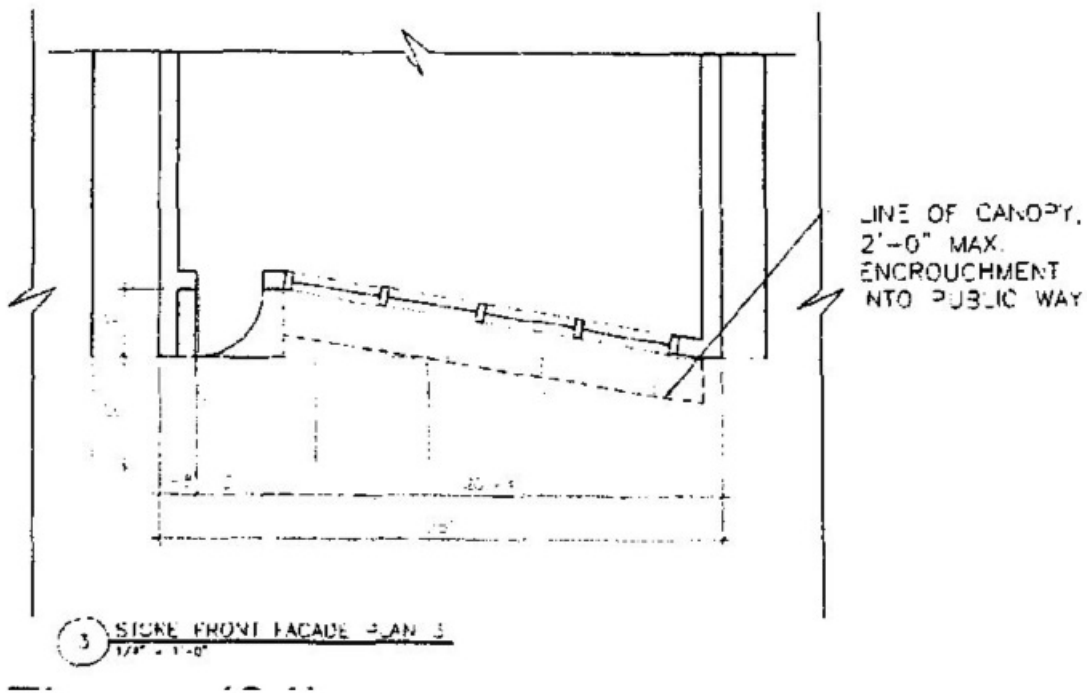
(1) Figure 1.



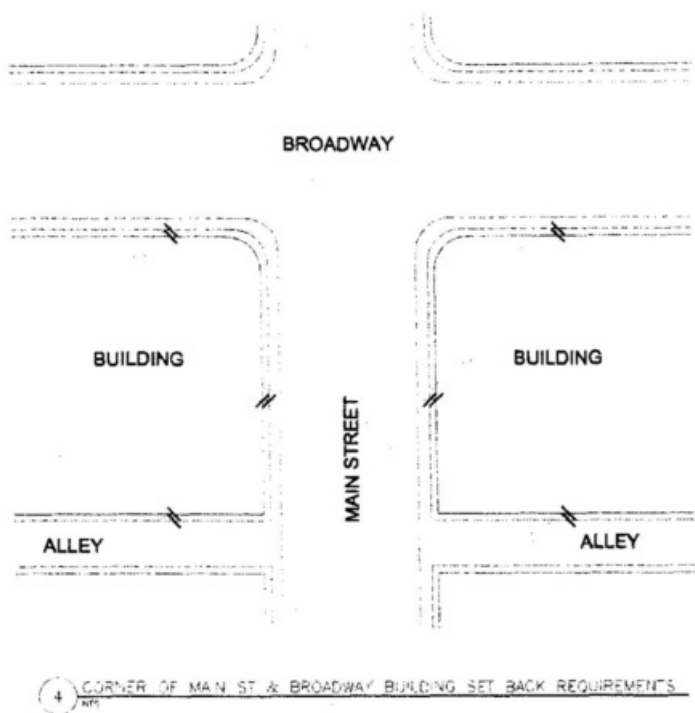
(2) Figure 2.



(3) Figure 3.



(4) Figure 4.



(Prior Code, § 156.219) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.220 BUILDING SIZE REQUIREMENTS.

(A) The minimum building sizes required in the C-3 district shall be as follows.

- (1) Facade width minimum is 30 feet, zero inches.
- (2) The exception to division (A)(1) above is the corner of Broadway and Main St.

(B) All new structures not located at the corners of Main St. and Broadway shall be a minimum of 1,000 square feet in net floor area. All new structures located at the corners of Main St. and Broadway shall be a minimum of 3,375 square feet.

(C) Facade width minimum for buildings facing Main St. and located at the corners of Main St. and Broadway shall be in compliance

with Figure 4.

(Prior Code, § 156.220) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.221 YARD REQUIREMENTS.

The minimum yards required in the C-3 district shall be as follows.

Corner side yard	0 feet, 3 feet maximum
Front yard	0 feet, 3 feet maximum
Interior side yard	None
Rear yard:	
If the rear lot line abuts property located in a business district	None
If the rear lot line of the C-3 district coincides with a side or rear lot line of property that is residentially zoned and intended for residential use	12 feet

(Prior Code, § 156.221) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.222 HEIGHT LIMITATIONS/BULK REGULATIONS.

(A) The maximum floor area ratio for all buildings and structures in the C-3 district shall be two to five.

(B) All new buildings within a C-3 zoned classification shall be a minimum of two stories and a maximum of three stories. All new buildings located on a corner lot shall be a minimum of three stories and a maximum of five stories for a minimum distance of 60 feet from the corner.

(C) The building heights per floor shall be a minimum of nine feet, zero inches high. The exterior building wall base shall be no less than 30 inches high and shall be a form of masonry block (see Figure 10). The building facade requirements shall be as indicated in Figure 10 as well as the requirements stated in this subchapter. The overall building height per story shall be as follows:

- (1) Two story: 24 feet, zero inches minimum and 35 feet, zero inches maximum;
- (2) Three story: 35 feet, zero inches minimum and 46 feet, zero inches maximum;
- (3) Four story: 48 feet, zero inches minimum and 55 feet, zero inches maximum; and
- (4) Five story: 55 feet, zero inches minimum and 60 feet, zero inches maximum.

(Prior Code, § 156.222) (Ord. 0-08-0020, passed 9-22-2008)

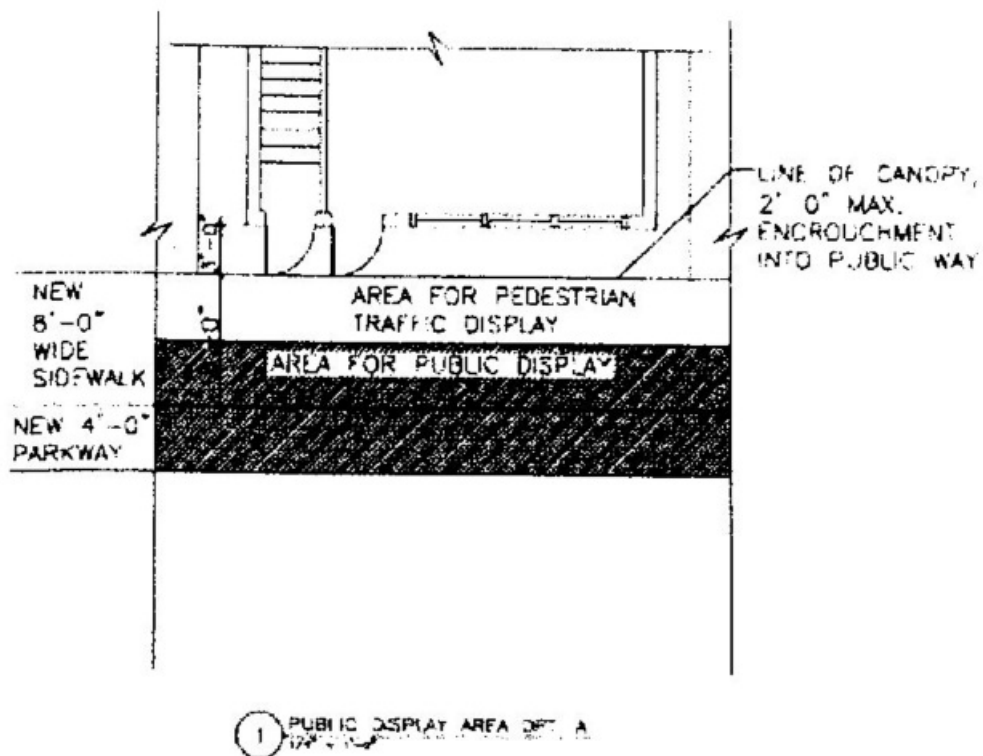
§ 156.223 PUBLIC DISPLAY AREA REQUIREMENTS.

(A) The figures below indicate locations for public displays and pedestrian rights-of-way.

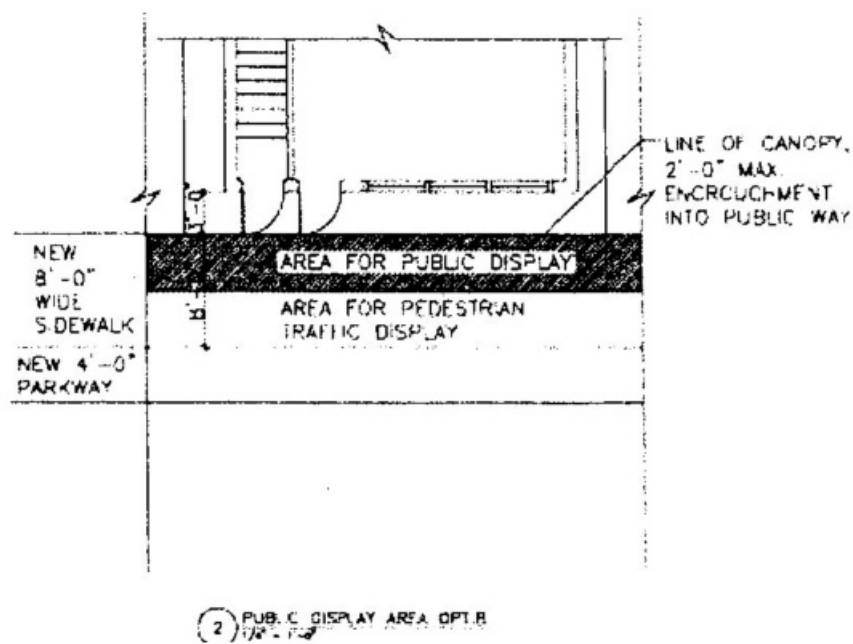
(B) Public displays can be placed as shown.

(C) The four feet zero inches parkway can not be used as a means for pedestrian traffic.

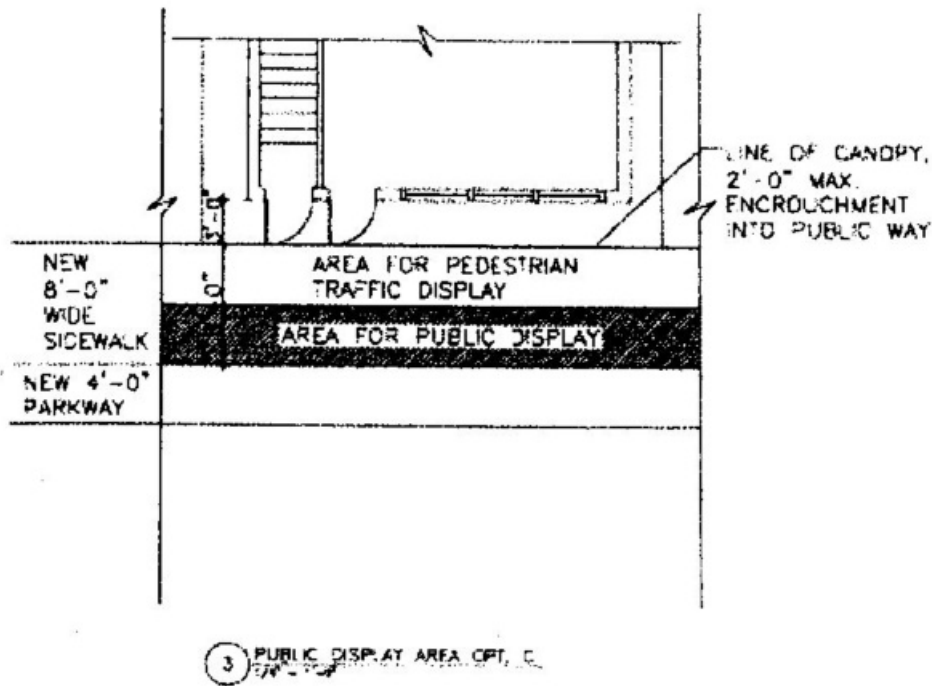
(D) (1) *Figure 5.*



(2) Figure 6.



(3) Figure 7.



(Prior Code, § 156.223) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.224 COMMERCIAL SIGNS.

Commercial signs are permitted for lawfully established and maintained businesses, including retail, services, and office locations as provided herein. Commercial signs shall be limited to the business, product, and/or activity available or conducted on the property. In particular, and billboards, are expressly prohibited. Provided, these provisions shall not apply to nonconforming uses nor to home occupations. All existing buildings' signage and associated lighting to conform to the city code requirements. All new signage has to be reviewed and approved by the Planning Director prior to erection.

(A) *Wall signs.* Each commercial business is allowed to display one wall sign per each frontage along a public roadway or expressway. Wall signs may also be displayed adjacent to an off-street parking area provided customer access is also available.

(1) For every linear foot of store frontage, ten inches, up to a maximum of 90 square feet of signage is allowed and a minimum height of two feet zero inches is required. See Figure 8 in division (G)(1) below.

(2) The area of wall sign shall be determined by enclosing the elements of the graphic in an imaginary box(es). The sum total area of the graphic within the box(es) is deducted from the permitted wall signage available.

(3) If a raceway is visible it shall match the color of the exterior of the building.

(4) No signs other than those identifying the property where they are installed or identifying the use conducted therein shall be permitted. Advertising by material or product manufacturers and suppliers other than the primary use of property shall not be permitted. All lighting elements such as wires, conduits, junction boxes shall be concealed from view as much as possible.

(B) *Changeable copy.* Changeable copy is allowed. Changeable copy cannot exceed 50% of the surface of the sign.

(C) *Awning signs.*

(1) Awning signs are allowed to a maximum of 12 square feet of text size per frontage facing a public or private roadway.

(2) When an awning covers multiple storefronts, each store is allowed up to 30 square feet of copy space. See Figure 9 in division (G)(2) below.

(3) Canopies and awnings are limited to two colors. Logos are exempt from this provision. Striping may only be vertical or horizontal.

(4) Canopies may be illuminated per § 156.226.

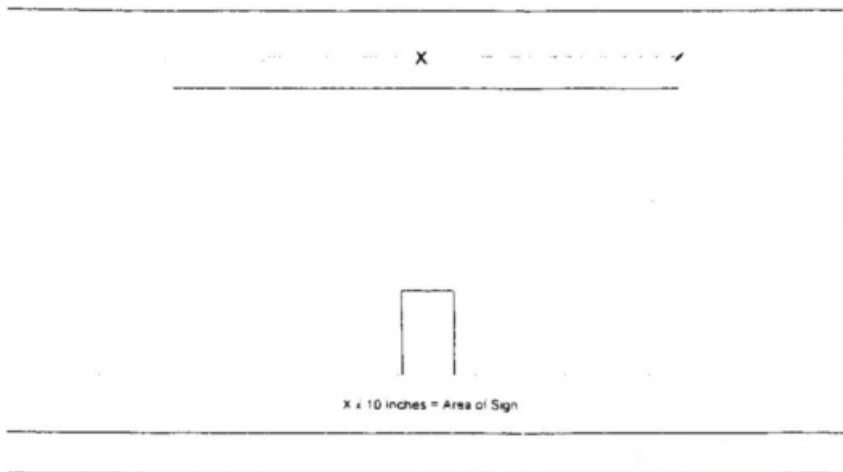
(D) *Window signs.* Window signs are allowed up to 25% of each window. Temporary windows signs are exempt from permit.

(E) *Real estate signs.* Real estate signs in commercial districts are limited to one sign not to exceed 32 square feet with a maximum height of ten feet.

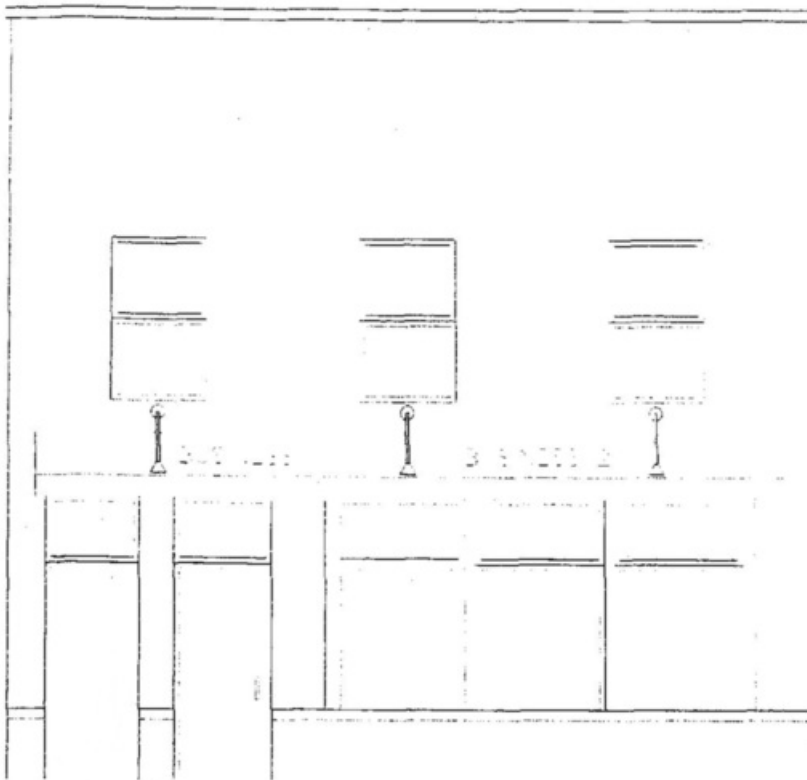
(F) *Permits.* LED and LCD signage permitted based upon Planning Committee approval.

(G) *Figures.*

(1) Figure 8.



(2) Figure 9.



(Prior Code, § 156.224) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.225 SIGNAGE LOCATION.

(A) *Requirements.* All signage shall meet the following requirements for location unless stated otherwise in this subchapter.

(1) Signage shall be mounted at minimum height of nine feet zero inches and a maximum height of 12 feet zero inches. Signage height shall be no less than two feet zero inches and must match all awning dimensions as shown in Figure 10 in division (B) below. Lettering for signage shall be a minimum of six inches and a maximum of 24 inches.

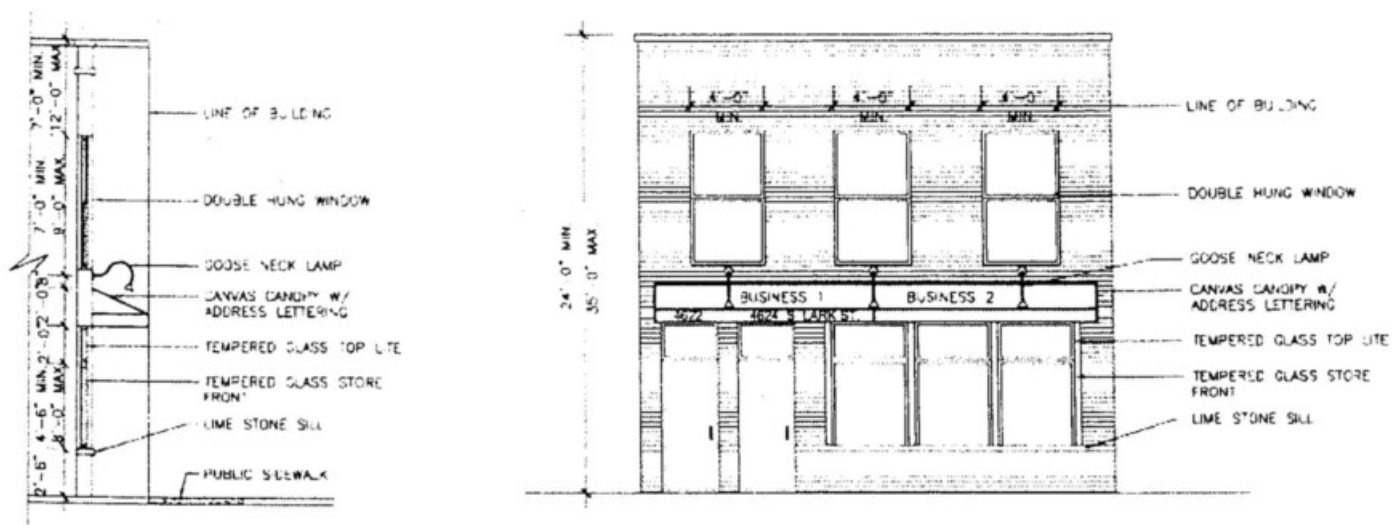
(2) Acceptable types of building signage are as follows, no other forms of signage or signage materials will be accepted:

- (1) Illuminated glass signage;
- (2) Surface mounted metal letters;
- (3) Neon;

(4) LED; and

(5) LCD.

(B) Figure 10.



(Prior Code, § 156.225) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.226 SIGNAGE ILLUMINATION.

Internally or externally illuminated signs shall be permitted, per the regulations of this chapter, provided they meet the following requirements.

(A) Signs shall be illuminated only by steady, stationary, shielded, or shaded light sources directed solely at the sign, or internal to it so that the light intensity or brightness does not create either a nuisance to adjacent property or a traffic hazard for motorists or pedestrians.

(B) Individual letters or logos may be internally illuminated. All other portions of the sign shall be opaque.

(C) No exposed reflective type bulb and no strobe light shall be used. All bulbs to be metal halide.

(D) Illuminated signs shall produce no more than 30 foot-candles of illumination, four feet from the sign.

(E) Whenever external illumination is used for a sign, the source of light shall be located, shielded, and directed in a manner that the light source is not visible from a public street or private residence.

(F) See the Appendix for awning light fixture specifications or any approved equal.

(Prior Code, § 156.226) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.227 FENCES.

(A) *C-3 Business District.* The establishment of fences in the C-3 Downtown Core District shall be regulated as follows.

(1) Acceptable open fences include, without limitation, wrought iron. Fences may be constructed and maintained in the side yard with a setback of three feet and in the rear yard with a setback of one foot.

(2) Fences shall be permitted in the required interior side yard or rear yard; provided, that the fence does not extend nearer to a lot line adjoining a street than the longest distance between the lot line and the nearest wall of the principal building or structure; in the case of corner lots, not beyond the front or street side line of the building or structure; and does not exceed a height of three feet for front yard and ten feet for rear yard.

(3) Fences must be positioned so that the finished side faces away from the lot on which constructed.

(4) Walls which enclose outside storage shall be a minimum of six feet and a maximum of ten feet in height.

(B) *Public utility minimum standards.* All fences shall be constructed and maintained in accordance with the following Department of Public Utilities minimum standards construction to allow for safe access to equipment.

(1) Five feet of clearance shall be maintained between any fence and all sides of an electrical transformer, except the side of the transformer which is padlocked, which shall have a ten-foot clearance.

(a) If it is impossible to maintain ten feet of clearance between the padlocked side of an electrical transformer and the fence, a

removable section of fence or a gate with a padlock shall be installed.

(b) All padlocks shall be issued by the city.

(2) Five feet of clearance shall be maintained between any fence and all sides of an electrical pedestal.

(a) If it is impossible to maintain five feet of clearance between an electrical pedestal and the fence, a removable section of fence or a gate with a padlock shall be installed.

(b) All padlocks shall be issued by the city.

(Prior Code, § 156.227) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.228 SPECIAL USE-01.

The Special Use-01 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) All new residential buildings within a C-3-zoned classification shall have minimum first floor elevation of five feet zero inches above finish grade. All methods of elevation such as stairs, ramps, and the like shall be concrete or masonry clad. All elevation materials and their composition are to be reviewed by the Plan Commission prior the approval from the BZA and the City Council.

(B) All new residential buildings within a C-3-zoned classification shall have a minimum floor to ceiling height of nine feet zero inches. The exterior building wall base shall be no less than 30 inches high and shall be a form of masonry block. All facade materials (above the required base material) and their composition are to be reviewed by the Plan Commission prior the approval from the BZA and the City Council. When a facade consists of all brick material, the accent color of brick or masonry material shall cover no more than 15% of total surface area. Glazing shall be provided for no less than 30% of the total surface area. See Figure 10 in § 156.225.

(C) All new residential buildings within a C-3-zoned classification shall have a minimum facade height of 20 feet zero inches and a maximum facade height of no more than five feet zero inches above the top of the roof line of a three-story structure.

(1) A minimum of two stories;

(2) A building frontage set at ten feet from the sidewalk. All residential structures shall conform to the area, lot width, yard, height, and bulk regulations of the zoning district in which the structure is located or, for those uses which are not allowed in that zoning;

(3) A minimum of 65% masonry on all exposed facades; and

(4) For residences located in the C-3 district, the rear setback requirement for a garage shall be a three feet zero inches minimum and 20 feet zero inches maximum. Rear setbacks for residences shall be 23 feet zero inches.

(D) Special Use-01 fence requirements. The establishment of all fences in residential districts shall be regulated as follows.

(1) Open fences, as described in this section, not exceeding six feet in height may be constructed and maintained at the front or corner side yard lot line. The minimum fence height requirement shall be four feet.

(2) (a) An open fence shall be designed so that an area equal to 30% of the width of each upright remains unobstructed.

(b) Acceptable open fences include, without limitation, wrought iron.

(3) Fences not exceeding six feet in height may be constructed and maintained at any point behind the corner side yard line, provided they do not extend forward of the wall of the principal building facing the front yard.

(4) Fences up to six feet in height shall be permitted in the required interior side yard or rear yard; provided, that the fence does not extend nearer to a front lot line than the longest distance between the lot line and the nearest wall of the principal building or structure; and the fence does not extend nearer than ten feet to the corner side property line.

(5) Fences must be positioned so that the finished side faces away from the lot on which it is constructed.

(6) Every fence fronting onto an existing or proposed road right-of-way, except for corner lots, must include a gate giving access to the right-of-way.

(7) (a) In order to maintain the urban character the C-3 Downtown Core District, no stockade fences located within the C-3 Downtown Core District shall be permitted.

(b) All fencing within this district shall be wrought iron.

(8) A fence permit fee and approval by the City Planning Department shall be paid for all fences to be erected in the C-3 Downtown Core District before a fence is erected on any property within the city.

(Prior Code, § 156.228) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.229 SPECIAL USE-02.

The Special Use-02 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) The permitted uses and design requirements for senior housing in this area shall be determined by the Department of Redevelopment.

(B) The following permitted uses are allowed:

- (1) Senior housing;
- (2) Parking garages;
- (3) Multi-level residential dwellings (minimum two stories and maximum six stories);
- (4) Medical service businesses; and
- (5) Commercial retail stores.

(C) All elevations materials and their composition are to be reviewed by the Redevelopment Commission prior to approval from the BZA and the City Council.

(Prior Code, § 156.229) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.230 SPECIAL USE-03.

The Special Use-03 design requirements for construction within the C-3 North Harbor Business District shall be as follows.

(A) All new Special Use-03 Commercial Buildings within a C-3-zoned classification shall have minimum square footage of 10,000 square feet and a maximum square footage of 17,000 square feet.

(B) All elevation materials and their composition are to be reviewed by Plan Commission prior the approval from the BZA and the City Council.

(Prior Code, § 156.230) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.231 SPECIAL USE-04.

(A) All new residential buildings within the C-3 North Harbor Business District: Special Use-04 boundaries shall conform to the design requirements, area, lot width, yard, height bulk regulations, and fence requirements of the zoning district C-3 North Harbor Business District: Special Use-01 of this subchapter.

(B) No new commercial buildings shall be allowed within the Special Use-04 boundaries.

(C) Existing commercial buildings located within the Special Use-04 boundaries shall have 24 months from the date of approval of this chapter to be relocated within the C-3 North Harbor Business District.

(Prior Code, § 156.231) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

M-1 LIGHT INDUSTRIAL DISTRICT

§ 156.245 GENERALLY.

(A) The M-1 Light Industrial District is established as a district in which the principal use of land is for light manufacturing and industrial uses, and these regulations are specifically intended to prohibit the use of land in this district for residences.

(B) Uses already established on the effective date of this chapter and rendered nonconforming by the provisions thereof shall be subject to the regulations of § 156.081.

(Prior Code, § 156.245)

§ 156.246 USE REGULATIONS.

A building or premises in an M-1 Light Industrial District shall be used only for the following purposes.

(A) No restrictions: Filling stations.

(B) The following uses are permitted; provided, that where they are within 100 feet of a lot in a more restricted zone they shall be conducted wholly within a building except for off-street loading of delivery vehicles which are incidental thereto as required in § 156.080:

- (1) The manufacture, compounding, processing, packaging, or treatment of food products;
- (2) Automobile storage, assembly, painting, upholstering, rebuilding, reconditioning, truck repair or overhauling, tire repair or recapping;
- (3) Blacksmith shops, manufacturing of machine tools, manufacturing of machinery, including agricultural, electrical machinery or equipment, office or store machines, equipment or supplies, and the like, machine shops, excluding punch presses over 100 tons ready capacity, and drop forges;
- (4) Foundries casting lightweight, nonferrous metals not causing noxious fumes or odors;
- (5) Animal hospitals or kennels;

(6) The compounding, processing, packing, or treatment of products such as bakery goods, candy, cosmetics, drugs, perfumed toilet soap, pharmaceuticals, and toiletries;

(7) The manufacture or repair of electric or neon signs, billboards, excluding commercial advertising structures, light sheet metal production, heating or ventilating ducts or equipment, cornices or edges, and the like;

(8) The manufacture of musical instruments, clocks, watches, toys, novelties, and rubber or metal stamps;

(9) Assembly of electrical appliances, electronic instruments, and devices, radio and phonograph, and including the manufacture of small parts only, such as coils, condensers, transformers, crystals, and crystal holder;

(10) Wholesale warehouses and storage buildings; and

(11) Storage yards for lumber, wood, feed, or other similar storage related to and required by any other permitted uses.

(C) The following uses are permitted; provided, that the operations are carried on completely within the building:

(1) Bleaching or dyeing;

(2) Body and fender works;

(3) Breweries and liquor distilleries; and

(4) Stone cutting.

(D) The following uses, not directly related to the foregoing uses, are permitted; provided, that the operations are conducted completely within the building or hidden from view by a fence not less than six feet in height and in which the openings or cracks are less than 15% of the total area:

(1) Auto wrecking;

(2) Storage, sorting, collection of baling of rags, paper, metal, or junk; and

(3) In general, those uses, except residential, which are not obnoxious or offensive by reasons of emission of odor, dust, smoke, gas, or noise.

(Prior Code, § 156.246) Penalty, see § 156.999

§ 156.247 HEIGHT REGULATIONS.

A building in the M-1 Light Industrial District may be erected to any height not in conflict with other provisions of this chapter or other city ordinances and regulations.

(Prior Code, § 156.247) Penalty, see § 156.999

§ 156.248 AREA REGULATIONS.

Where any yard in an M-1 Light Industrial District adjoins a district or districts of another classification, the highest yard requirements of the adjoining district or districts, including transition provisions along a common street line, shall apply. In all cases, the following shall apply.

(A) *Front yard.*

(1) Where a front yard abuts or adjoins a residence district at the street line and the building is to exceed a height of six stories or 75 feet, the minimum front yard shall be increased by a distance of at least one foot for each three feet of building height in excess of 75 feet.

(2) Where a filling station is established in an M-1 District, service driveways and outdoor dispensing equipment, lighting facilities, and not more than one pole-supported business identification sign for each street frontage may occupy the otherwise required front yard area; provided, that all dispensing equipment shall be at least 15 feet from the front lot line.

(B) *Side yards.* Where a yard adjoins a residence district, ten feet minimum each.

(C) *Rear yard.* Where a rear yard abuts or adjoins a residence district and the building is to exceed a height of six stories or 75 feet, the minimum rear yard shall be increased a distance of at least one foot for each three feet of building height in excess of 75 feet.

(Prior Code, § 156.248) Penalty, see § 156.999

§ 156.249 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Prior Code, § 156.249) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

M-2 HEAVY INDUSTRIAL DISTRICT

§ 156.260 USE REGULATIONS.

(A) In the M-2 Heavy Industrial District, no building shall be converted, erected, or used for stockyards or for dwelling purposes, except for use during temporary emergency such as strikes, acts of God, or national emergencies; provided, that dwelling quarters may be established in connection with any industrial establishment for watchmen and caretakers employed upon the premises.

(B) A building or premises may be used for any other purpose whatsoever not in conflict with any ordinance of the city; provided, that the use and storage of products which produce flammable or explosive vapor or gases shall be in conformity with existing standards prescribed by the National Fire Protection Association and the requirements of ordinances embodied in this code; except, that for installations in petroleum refineries compliance with Division IV of the *State Rules and Regulations of the State Fire Marshal Regulating the Use, Handling, Storage, and Sale of Flammable Liquids in the state* shall be deemed to satisfy the requirements of this section.

(Prior Code, § 156.260) (Ord. 0-00-0016, passed 6-15-2000) Penalty, see § 156.999

§ 156.261 HEIGHT REGULATIONS.

A building in an M-2 Heavy Industrial District may be erected to any height not in conflict with other provisions of this chapter or other city ordinances and regulations.

(Prior Code, § 156.261) Penalty, see § 156.999

§ 156.262 AREA REGULATIONS.

(A) *Front yard.* Where all the frontage on one side of the street between two intersecting streets is not located in an M-2 Heavy Industrial District, no front yard shall be required. Also in an M-2 District where the district adjoins a residential, commercial, or M-1 Light Industrial District, without separation by a street, then the front yard requirements in the M-2 District shall be the same as in the adjoining residential, commercial, or M-1 Light Industrial District for either the remainder of the frontage on that street within the same block or for a distance of not less than 500 feet measured along the front lot line on that street within the same block from the boundary line between the M-2 District and the adjoining residential, commercial, or M-1 Light Industrial District, whichever is the lesser.

(B) *Side yard.* No side yards shall be required where a lot adjoins another lot in the M-2 District classification; in all other cases, the side yard regulations are the same as in the M-1 District.

(C) *Rear yard.* No rear yard shall be required where a lot adjoins another lot in the M-2 District classification; in all other cases, the rear yard regulations are the same as in the M-1 District.

(D) *Intensity of use.* No dwellings are permitted in the M-2 District, except as determined by § 156.260.

(Prior Code, § 156.262) Penalty, see § 156.999

§ 156.263 DEVELOPMENT PLAN.

Any construction or remodeling undertaken within this zoning classification shall require the prior submission and approval of a development plan, as provided for in § 156.010.

(Prior Code, § 156.263) (Ord. 0-98-0002, passed - -1998) Penalty, see § 156.999

P-1 PARK DISTRICT

§ 156.275 GENERALLY.

The P-1 Park District is established as a district in which the predominant use of land is for parks, open spaces, beaches, and outdoor recreation facilities and is specifically intended to:

(A) Encourage the continued use of land for community recreation facilities and parks; and

(B) Prohibit residential commercial and industrial use of land.

(Prior Code, § 156.275) Penalty, see § 156.999

§ 156.276 USE REGULATIONS.

The following shall apply in the P-1 Park Districts.

(A) All uses usually associated with park and recreational areas as determined by the City Park Board shall be permitted.

(B) Only those buildings and structures associated with park and recreational facilities, as determined by the City Park Board or other buildings and structures for public purposes as authorized by the Board of Zoning Appeals by § 156.027.

(Prior Code, § 156.276) Penalty, see § 156.999

GROW-OL OVERLAY ZONING DISTRICT

§ 156.290 PURPOSE.

The purpose of this subchapter is to establish an overlay zoning district and the provisions thereof to provide for sensible and reasonable land use standards to:

- (A) Allow for the provision of adequate reliable public and private telecommunications;
- (B) Provide for and serve the needs of the city through the use of small cell facilities for telecommunications; and
- (C) Minimize the adverse and undesirable visual effects of said provisions for said facilities within the city.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.291 ESTABLISHMENT OF DISTRICT.

The Greater Rights-of-Way Overlay Zoning District (GROW-OL) shall apply to all public rights-of-way lying wholly or partially within the city limits including, but not limited to: streets, avenues, alleys, and the like and as may be amended from time to time.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.292 LIMITATIONS OR EXCLUSIONS OF PROVISIONS.

(A) The provisions of this section shall not apply to: private streets, private access easements, internal drives in a commercial development, railroad rights-of-way, or interstate highways under the jurisdiction of INDOT.

(B) Small cell facilities for telecommunications are not permitted within GROW-OL right-of-way having “Local” functional classification as defined in the city’s Transportation Plan.

(C) In accordance with I.C. 8-1-32.3-17(a), the city may not discriminate among communications service providers or public utilities with respect to:

- (1) Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities;
- (2) Authorizing or approving tax incentives for wireless or wireline communications facilities; and
- (3) Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the city.

(D) Further in accordance with I.C. 8-1-32.3-17(a), the city may not require an applicant to submit information about, and may not evaluate an applicant’s business decisions with respect to, the applicant’s designed service, customer demand, service quality, or desired signal strength to a particular location.

(E) Plan Commission review of a development plan as provided for in T/S 29.03 is not applicable to applications provided for in the GROW-OL.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.293 DEFINITIONS.

For the purpose of this subchapter and consistent with I.C. 8-1-32.3 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

BASE STATION. A station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

COLLOCATION or CO-LOCATION. The placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

CONSTRUCTION PLAN. A written plan (minimum size 11 by 17, based on a standard engineering or architectural scale, dimensioned in feet and inches) that describes the proposed wireless support structure, and all equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment. The **PLAN** shall also include information that demonstrates that the aesthetics of the wireless support structure is substantially similar to the street lights located nearest the proposed location; includes the total height and width of the wireless facility and wireless support structure, including cross-section and elevation, footing, foundation, and wind speed details; a structural analysis indicating the capacity for future and existing antennas, and calculations for the foundation’s capacity. All drawings shall be sealed, signed, and dated by a registered professional engineer, licensed in the state.

ELECTRICAL TRANSMISSION TOWER. A structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

EQUIPMENT COMPOUND. The area that:

- (1) Surrounds or is near the base of a wireless support structure; and
- (2) Encloses wireless facilities.

EXISTING STRUCTURE. Excludes a utility pole or an electrical transmission tower.

PERMIT AUTHORITY. The staff of the city, City Board of Public Works, and the City Board of Zoning Appeals.

SMALL CELL FACILITY.

(1) A personal wireless service facility as defined by the Federal Telecommunications Act of 1996, being Pub. L. No. 104-104, as in effect on July 1, 2015; or

(2) A wireless service facility that satisfies the following requirements:

- (a) Each antenna, including exposed elements, has a volume of three cubic feet or less;
- (b) All antennas, including exposed elements, have a total volume of six cubic feet or less; and
- (c) The primary equipment enclosure located with the facility has a volume of 17 cubic feet or less.

(3) For purposes of division (2)(c) above, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

- (a) Electric meters;
- (b) Concealment equipment;
- (c) Telecommunications demarcation boxes;
- (d) Ground-based enclosures;
- (e) Back-up power systems;
- (f) Grounding equipment;
- (g) Power transfer switches; or
- (h) Cut-off switches.

SMALL CELL NETWORK. A collection of interrelated small cell facilities designed to deliver wireless service.

SUBSTANTIAL MODIFICATION OF A WIRELESS SUPPORT STRUCTURE.

(1) The mounting of a wireless facility on a wireless support structure in a manner that:

- (a) Increases the height of the wireless support structure by the greater of:
 1. Ten percent of the original height of the wireless support structure; or
 2. Twenty feet;

(b) Adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:

1. Twenty feet; or
2. The width of the wireless support structure at the location of the appurtenance; or

(c) Increases the square footage of the equipment compound in which the wireless facility is located by more than 2,500 square feet.

(2) The term **SUBSTANTIAL MODIFICATION** does not include the following:

- (a) Increasing the height of a wireless support structure to avoid interfering with an existing antenna;
- (b) Increasing the diameter or area of a wireless support structure to:
 1. Shelter an antenna from inclement weather; or
 2. Connect an antenna to the wireless support structure by cable.

UTILITY PLAN. A plan (minimum size 11 by 17, based on a standard engineering or architectural scale, dimensions shown in feet and inches) demonstrating the location and relationship to existing utilities within the vicinity of the proposed wireless support structure. The **PLAN** includes drawings of:

- (1) The project area showing location and all dimensions;

- (2) The wireless support structure dimensions (size, height, and the like);
- (3) Vicinity map showing the location of the proposed wireless facility and the surrounding street;
- (4) Proximity map showing distance and dimensions from public facilities (curb, sidewalk, street landscape area, street centerline, right-of-way line, and the like) and adjacent buildings;
- (5) Ground disturbance plan showing depth and dimensions of disturbance and excavation parameters;
- (6) Adjacent utility plan, showing location and distances of all adjacent above ground and below ground utility facilities; and
- (7) Documentation of coordination with utilities including a conflict analysis and work plan which documents that there are no conflicts with existing utilities and a restoration plan if there are conflicts with the existing utilities.

UTILITY POLE.

- (1) A structure that is:
 - (a) Owned or operated by:
 1. A public utility;
 2. A communications service provider;
 3. A municipality;
 4. An electric membership corporation; or
 5. A rural electric cooperative;
 - (b) Designed and used to:
 1. Carry lines, cables, or wires for telephone, cable television, or electricity; or
 2. Provide lighting.
- (2) The term does not include a wireless support structure or an electrical transmission tower.

WIRELESS FACILITY. The set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

WIRELESS SUPPORT STRUCTURE. A freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.294 PERMITS.

(A) An applicant that provides wireless communications service or otherwise makes available infrastructure for wireless communications services may apply for a permit to:

- (1) Locate a new wireless facility or wireless support structure;
- (2) Perform a substantial modification; or
- (3) Collocate wireless facilities on existing structures in the GROW-OL to the City Planner.

(B) An applicant shall demonstrate that the proposed wireless facility, wireless support structure, or substantial modification thereof complies with the requirements of the GROW-OL.

(C) Upon determination of a complete application and initial review by the Zoning Administrator, the application shall be forwarded to the City Board of Public Works and Safety for review by the City Engineering Department. The application shall also include a utility plan. The City Engineering Department shall submit a report determining technical compliance and whether there are any conflicts with existing utilities, construction plans, or other applicable regulations including, but not limited to, East Chicago Board of Public Works.

(D) The Board of Public Works shall make its recommendation and determination and forward it to the City Planner with the report from the City Engineering Department for a determination of the issuance of permits.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.295 COLLOCATION PREFERENCE.

(A) At a minimum, new wireless facilities shall be a monopole constructed to support the initial user plus the anticipated loading of one additional user.

(B) The site of the initial wireless facility at any location shall be of sufficient area to allow for the location of one additional wireless facility.

(C) Any proposed wireless support structure shall be designed, and engineered structurally, electrically, and in all other respects, to

accommodate both the initial wireless facility and one additional wireless facility support structure shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon said structure and to accept cellular communication equipment and antennas mounted at varying heights.

(D) A proposal for a new wireless support structure shall not be approved unless the applicant submits an affidavit that the telecommunication equipment planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other structure due to one or more of the following reasons:

(1) The planned telecommunication equipment would exceed the structural capacity of the existing or approved utility pole or electrical transmission tower or structure as documented by a qualified and licensed professional engineer, and the existing or approved utility pole or electrical transmission tower or structure cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost;

(2) The planned telecommunication equipment would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing structures. Supportive documentation by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost;

(3) The existing or approved utility pole or electrical transmission tower, or buildings/structure within the search radius cannot accommodate the planned telecommunication equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;

(4) Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunication equipment upon an existing or approved utility pole or electrical transmission tower, building, or structure; or

(5) The applicant has been unable to enter a commonly reasonable lease term with the owners of existing utility pole or electrical transmission tower, buildings, or structures.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.296 DEVELOPMENTAL PROVISIONS AND REQUIREMENTS.

New wireless facilities and wireless support structures shall meet the following developmental provisions and requirements.

(A) Overall maximum antenna and wireless support structure height: 44 feet from grade or equal to or less than the height of existing streetlights or traffic signals structures, whichever is greater, located on the same street for which the wireless facility is proposed within a 600 foot radius.

(B) Minimum separation: No other wireless support structure shall be located within 1,000 foot radius of any other support structure primarily used for telecommunications.

(C) Support structures shall be metal or fiberglass poles. The color shall be black or any other color and finish determined by the City Board of Public Works that is similar to the color and finish of the streetlights within the same block. Any antenna equipment mounted to the support structures (antenna or other permitted equipment) shall also be matching in color to the support structure.

(D) (1) All facility equipment at a single facility, with the exception of the antenna itself, shall be ground mounted in a cabinet having an area not to exceed 17 cubic feet and no greater than 48 inches overall height.

(2) A pole mounted cabinet with dimensions not exceeding 20 inches by 20 inches by six inches including or excluding a corresponding ground mounted cabinet not to exceed two feet by two feet by one foot may be approved as an alternative by the Board of Public Works.

(3) The Board of Public may also approved minor adjustments of these dimensions but not greater than a 25% difference as long as these adjustment do not cause any conflict with public safety, access, or visual clearance.

(E) All support structures shall have a plaque identifying the structure, the owner, and the owner's contact information, said plaque shall not exceed 0.25 square feet. All support structures shall have all public safety/warning signs as required by law, OSHA, State Building Code, and/or National Electrical Code. No other signs are permitted.

(F) All wiring and fiber shall be concealed within the support structure and all conduit, wiring, and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure shall also be buried.

(G) Where practical, landscaping shall be provided to mitigate the visual impact of the ground mounted equipment.

(H) No wireless facility or wireless support structure may be located or constructed in a manner that would unreasonably interfere with the use of city property or the public right-of-way by the city, by the general public, or by other persons authorized to use or be present in or upon the public right-of-way. Unreasonable interference includes disruption to vehicular or pedestrian traffic or parking on city property or within the public right-of-way, interference with public utilities, interference with visibility along the public right-of-way, and such other activities that would present a hazard to public health, safety, or welfare when alternative locations or methods of construction would result in less disruption.

(I) Wireless facilities shall be setback:

(1) Fifteen feet (4.572 m.) from the intersection of the nearest right-of-way lines (street and/or alley);

(2) Fifteen feet (4.572 m.) from the intersection of a drive-way curb cut and a right-of-way line; and

(3) Two feet (0.61 m.) from the back of curb to the side of the wireless support structure facing the back of the curb.

(J) Wireless facilities shall comply with the Americans with Disabilities Act (ADA), being 42 U.S.C. §§ 12101 et seq., not impede handicapped accessibility, and not be located in a required ADA path of travel.

(K) Continued operation: An applicant receiving a permit for a new construction of a new wireless support structure; substantial modification of a wireless support structure; or collocation of wireless facilities on an existing structure inherently agrees that if the wireless support structure or wireless facilities are not used for a period of six consecutive months, they will be removed by the facilities owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after 30 business days from the date a notice of violation is issued by the city, the city may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site. The owner of any facility shall annually file a copy of any inspections completed on such wireless support structure or wireless facilities with the permit authority for continued operation and use of the wireless support structure or wireless facilities.

(L) Confidential information. All confidential information submitted by an applicant shall be maintained to the extent authorized by I.C. 5-14-3 et seq.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.297 NEW WIRELESS SUPPORT STRUCTURES.

(A) *Contents of application.* An application for a permit shall include the following:

- (1) The name, business address, and point of contact for the applicant.
- (2) The location address, and latitude and longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within 1,000 feet (304.8 m.) of the proposed new support structure.
- (3) A construction plan, as defined herein, that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
- (4) Evidence supporting the choice of location, including, without limitation:
 - (a) Maps or plats showing the proposed locations) of applicant's proposed wireless support structure; and
 - (b) A sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
 1. Would not result in the same wireless service functionality, coverage, and capacity;
 2. Is technically infeasible; or
 3. Is an economic burden to the applicant.

(B) *Single application.* An applicant may submit one application for multiple wireless service facilities that are located within the GROW-OL. The permit authority may issue a single permit for all wireless support structures and service facilities included in the application rather than individual permits for each wireless support structure and service facility.

(C) *Variances.* If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, the applicant shall additionally submit evidence showing that the application complies with the criteria for a developmental variance or variance of use from the terms of the zoning ordinance.

(D) *Completion.* An application that contains the required information of T/S 29.10.07 A, B, and C is considered complete.

(E) *Procedure.*

(1) *Determination of completion/defects.* Within ten business days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the applicant is not notified in writing of all defects in the application, the application is considered complete. An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within 30 calendar days of receiving the notice. If an applicant is unable to cure the defects within the 30-day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(2) *Decision by permit authority.* Not more than 90 calendar days after the permit authority makes an initial determination of completeness, the permit authority shall:

- (a) Review the application to determine if it complies with applicable requirements of this section;
- (b) Review the application to determine if it complies with standards required as established by the permit authority; and
- (c) Notify the applicant in writing whether the application is approved or denied. However, if the applicant requested additional time to cure defects in the application, the 90 calendar days shall be extended for a corresponding, reasonable amount of time. If the application for the proposed wireless support structure requires a developmental variance or variance of use, the permit authority may have not more than 30 additional days.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.298 SUBSTANTIAL MODIFICATION.

(A) *Contents of application.* An application for a permit shall include the following:

- (1) The name, business address, and point of contact for the applicant;
- (2) The location address and latitude and longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within 1,000 feet (304.8 m.) of the proposed new support structure; and
- (3) A construction plan, as defined herein, that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

(B) *Single application.* An applicant may submit one application for multiple wireless service facilities that are located within the GROW-OL. The permit authority may issue a single permit for all wireless support structures and service facilities included in the application rather than individual permits for each wireless support structure and service facility.

(C) *Variances.* If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, the applicant shall additionally submit evidence showing that the application complies with the criteria for a developmental variance or variance of use from the terms of the zoning ordinance.

(D) *Procedure.*

(1) *Determination of completion/defects.* Within ten business days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the applicant is not notified in writing of all defects in the application, the application is considered complete. An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within 30 calendar days of receiving the notice. If an applicant is unable to cure the defects within the 30-day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(2) *Decision by permit authority.* Not more than 90 calendar days after the permit authority makes an initial determination of completeness, the permit authority shall:

- (a) Review the application to determine if it complies with applicable requirements of this section;
- (b) Review the application to determine if it complies with standards required as established by the permit authority; and
- (c) 1. Notify the applicant in writing whether the application is approved or denied. However, if the applicant requested additional time to cure defects in the application, the 90 calendar days shall be extended for a corresponding, reasonable amount of time.
2. If the application for the proposed wireless support structure requires a developmental variance or variance of use, the permit authority may have not more than 30 additional days,

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.299 COLLOCATION.

(A) *Contents of application.* An application for a permit shall include the following:

- (1) The name, business address, and point of contact for the applicant;
- (2) The location address and latitude and longitude of the proposed or affected wireless support structure or wireless facility, and identify all small cell towers within 1,000 feet (304.8 m.) of the proposed new support structure; and
- (3) Evidence of conformance with applicable building and improvement location permit requirements, including, but not limited to, the height and/or size of new cabinet, height of wireless support structure, and vision clearance, and the like for public safety reasons.

(B) *Single application.* An applicant may submit one application to collocate multiple wireless service facilities that are located within the GROW-OL. The permit authority shall issue a single permit for all wireless service facilities included in the application rather than individual permits for each wireless service facility.

(C) *Procedure.*

(1) *Determination of completion/defects.*

(a) Within ten business days of receipt of an application, the permit authority shall review an application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If the permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(b) An applicant that receives a written notice of incompleteness may cure the defects and resubmit the application within 15 calendar days of receiving the notice. If an applicant is unable to cure the defects within the 15-day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(2) *Decision by permit authority.* Not more than 45 calendar days after the permit authority makes an initial determination of completeness, the permit authority shall:

(a) Review the application to determine if it complies with the building code requirements or applicable requirements of this section;

(b) Review the application to determine if it complies with standards required as established by the permit authority; and

(c) Notify the applicant in writing whether the application is approved or denied.

(3) *Additional time.* If the applicant requested additional time to cure defects in the application, the 45-day period shall be extended for a corresponding amount of time.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.300 WRITTEN DETERMINATIONS.

(A) In a written determination issued under sections T/S 29.10.08, 29.10.09, and 29.10.10, the permit authority shall state clearly the basis for the decision to approve or deny an application.

(B) If the permit authority denies an application, the written notice must include substantial evidence in support of the denial.

(C) A notice is considered written if it is included in the minutes of a public meeting of the permit authority.

(D) If a permit authority fails to act on an application within the applicable deadline as proscribed in T/S 29.10.08, 29.10.09, or 29.10.10, the application is considered approved,

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

§ 156.301 CONSTRUCTION REQUIREMENTS.

All antennas, telecommunication towers, accessory structures, and any other wiring constructed within the Plan Commission jurisdiction shall comply with the following requirements:

(A) All applicable provisions of this Zoning Ordinance and the Building Code of the state, as amended, and the Federal Communications Commission (FCC) when applicable.

(B) All wireless facilities and support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code, as amended, and the Electronics Industry Association.

(C) All wireless facilities and support structures shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.

(D) All wireless facilities and support structures shall be constructed to conform to the requirements of the Occupational Safety and Health Administration (OSHA).

(E) All wireless facilities and support structures shall be designed and constructed to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.

(Res. 02-2017, passed 1-17-2017; Ord. 17-0001, passed 2-27-2017)

WD-1 WATERFRONT DEVELOPMENT DISTRICT

§ 156.315 GENERAL REGULATIONS.

The WD-1 Waterfront Development District is established as a district in which a wide variety of principal uses are designed to foster economic growth and public benefit. These regulations are intended to:

(A) Prohibit the use of the land in this district that is counter productive to the general intent of the district;

(B) Permit commercial, office, entertainment, hotel, or other visitor-serving use, recreational and supporting uses to coexist in a single district designed as a unit;

(C) Locate the district so that Lake Michigan or a majority tributary provides one of its boundaries; and

(D) Initiate the establishment of this district by approval of a concept plan that documents and identifies the intent of the district.

(Prior Code, § 156.290) (Ord. 0-96-0003, passed - -1996; Ord. 0-00-0024, passed 10-30-2000) Penalty, see § 156.999

§ 156.316 USE REGULATIONS.

Uses permitted in the WD-1 Waterfront Development District shall be subject to the following conditions:

(A) Uniform control, either by ownership or agreement, of all uses and activities within the district;

(B) An approved concept plan set which includes a site plan, engineering plan, landscape plan, and architectural plans which depict the intent of the proposal. The plan(s) shall be drawn at a scale as approved by the Plan Commission, identifying the proposed uses, buildings, roadways, parking, pedestrian circulation system, recreational facilities, common open spaces, and landscape areas; and

identifies the means by which the proposal will be constructed and serviced;

(C) A written description accompanying the concept site plan outlining the intent of the site plan, including a phasing plan if applicable;

(D) An estimate of construction costs for all buildings and site improvements, with subtotals for major development features; and

(E) Additional information as required by the Plan Commission which may include: concepts regarding covenants/restrictions, concepts regarding supplemental donations and the like.

(Prior Code, § 156.291) (Ord. 0-96-0003, passed - -1996)

§ 156.317 HEIGHT REGULATIONS.

No specific height regulations are required, provided the proposed district can document to the satisfaction of the Common Council that all buildings, structures, and uses can be adequately serviced by police, fire, and other municipal agencies so as to protect the health, safety, and welfare of the occupants.

(Prior Code, § 156.292) (Ord. 0-96-0003, passed - -1996) Penalty, see § 156.999

§ 156.318 AREA REGULATIONS.

No yards are required in the WD-1 Waterfront Development District, except as noted in §§ 156.078 and 156.080 and the following:

(A) Where the district boundary is located within 25 feet of a building, the district shall require a 25-foot wide transitional yard along the entire length of that district boundary line and no parking, roadways, or buildings shall be located within the yard;

(B) (1) Along with other district boundaries, a yard shall be required.

(2) The yard depth shall be determined by the Plan Commission and shall incorporate landscaping indicative of the proposed use, and landscaping shall reduce impacts on adjoining land.

(Prior Code, § 156.293) (Ord. 0-96-0003, passed - -1996) Penalty, see § 156.999

MANUFACTURED HOUSING

§ 156.330 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MANUFACTURED HOME. A dwelling unit fabricated on or after January 1, 1981, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Code or State Pub L. No. 360, Acts of 1971, being 42 U.S.C. §§ 5401 et seq., as promulgated by the State Administrative Building Council.

MOBILE HOME. A transportable structure built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974, larger than 320 square feet, and designed to be used as a year-round residential dwelling.

(Prior Code, § 156.305) (Ord. 3328, passed - -1982)

§ 156.331 PLACEMENT.

The establishment, location, and use of manufactured homes may be permitted in residential zones permitting installation of site-constructed homes; provided, that the homes shall meet the following requirements and limitations:

(A) The homes shall meet the appropriate exterior appearance standards hereinafter set forth;

(B) The home shall receive all required permits and conform to the zoning regulations, building codes, fire codes, and any other applicable state and local regulations;

(C) Mobile homes and manufactured homes not meeting the definition of a manufactured home as stated in § 156.330, shall not be permitted anywhere within the city; and

(D) The establishment, assembly, location, or use of manufactured housing is expressly prohibited in the Marktown and Sunnyside Historic Districts.

(Prior Code, § 156.306) (Ord. 3328, passed - -1982) Penalty, see § 156.999

§ 156.332 STANDARDS.

A manufactured home shall:

(A) Contain in excess of 950 square feet of occupied space;

- (B) Be placed on a foundation meeting all requirements of a site-constructed home;
 - (C) Have wheels, axles, and hitch mechanism removed;
 - (D) Meet appropriate utility connection standards;
 - (E) Be placed onto a permanent exterior perimeter retaining wall, in accordance with approved manufactured home installation standards; and
 - (F) Have roofing and siding materials of a type customarily used on site-constructed residences.
- (Prior Code, § 156.307) (Ord. 3328, passed - -1982) Penalty, see § 156.999

§ 156.333 INSTALLATION STANDARDS.

Manufactured homes must be set onto a concrete slab or an excavated area with footings, foundations, and basement walls constructed in accordance with the terms of the One- and Two-Family Dwelling Code as set by the State Administrative Building Council. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter retaining wall. The wall shall be composed of solid masonry, which shall extend below the frost line. The design by a registered professional engineer or architect shall safely support those loads, as determined by the character of the soil.

(Prior Code, § 156.308) (Ord. 3328, passed - -1982) Penalty, see § 156.999

§ 156.334 APPROVED SIDING MATERIALS LIST.

The following siding materials are approved for use on manufactured housing:

- (A) Residential horizontal lap siding;
- (B) Residential horizontal vinyl lap siding;
- (C) Woodsiding, subject to approval by the Director of the Division of Inspections and Permits;
- (D) Stucco siding; and
- (E) Brick or stone siding.

(Prior Code, § 156.309) (Ord. 3328, passed - -1982) Penalty, see § 156.999

§ 156.335 APPROVED ROOFING MATERIALS LIST.

The following roofing materials are approved for use on manufactured housing:

- (A) Asbestos shingles on a roof pitched according to the design specifications of the shingles;
- (B) Fiberglass shingles on a roof pitched according to the design specifications of the shingles;
- (C) Shake shingles on a roof pitched according to the design specifications of the shingles;
- (D) Asphalt shingles on a roof pitched according to the design specifications of the shingles; and
- (E) Tile materials on a roof pitched according to the design specifications of the materials.

(Prior Code, § 156.310) (Ord. 3328, passed - -1982) Penalty, see § 156.999

TV EARTH STATION ANTENNAS

§ 156.350 HEIGHT AND FENCING REQUIREMENTS.

(A) All TV earth station antennas used for receiving microwave transmissions from satellites in R-1 through 5 and C-1 and 2 Districts shall not be more than 14 feet in height.

(B) All TV earth station antennas installed with a single-pole type of installation with a safety feature pressure shut-off or hand crank turning mechanism will not need a fence.

(C) All TV earth station antennas with a tripod or tower grid type of installation shall have a six-foot fence enclosing the antenna, if there is no fence enclosing the yard in which the antenna is located.

(Prior Code, § 156.325) (Ord. 3450, passed - -1987) Penalty, see § 156.999

§ 156.351 INSTALLATION; SETBACK CONFORMANCE.

- (A) TV earth station antennas shall be installed only in rear yards behind the rear structure line.
- (B) TV earth station antennas shall conform with all city building setback requirements.

(Prior Code, § 156.326) (Ord. 3450, passed - -1987) Penalty, see § 156.999

§ 156.352 ROOF INSTALLATION REQUIREMENTS.

TV earth station antennas may be installed on the flat roofs of buildings or structures in R-4, R-5, C-1, and C-2 Districts with the permission of the Zoning Board.

(Prior Code, § 156.327) (Ord. 3450, passed - -1987) Penalty, see § 156.999

§ 156.353 SPECIFICATIONS AND CODE COMPLIANCE.

TV earth station antennas shall be installed pursuant to its manufacturer's specifications and instructions and in compliance with Article 810 of the National Electrical Code, 1984, published by the National Fire Protection Association (NFPA), as amended.

(Prior Code, § 156.328) (Ord. 3450, passed - -1987) Penalty, see § 156.999

§ 156.354 PERMIT AND LICENSE REQUIREMENTS.

Applicants for TV earth station antennas shall be required to obtain a building permit from the city and present documentation or possession of any required license by any federal, state, or local agency prior to the issuance of any building permit.

(Prior Code, § 156.329) (Ord. 3450, passed - -1987) Penalty, see § 156.999

VIDEO GAME ARCADES

§ 156.365 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT GAME MACHINES. Any device, whether mechanical, electrical, or electronic, which shall be ready for play by the insertion of a coin, token, or payment to an attendant and may be operated by the public for use as entertainment or amusement. It shall include video games, pinball machines, and pool tables. It does not include vending machines which do not incorporate amusement features, nor does it include juke boxes or other musical devices.

ARCADE. Any establishment, room, or place where four or more amusement game machines are available to the public and/or which derives more than 50% of its gross revenues from amusement game machines.

(Prior Code, § 156.340) (Ord. 3367, passed - -1983)

§ 156.366 AMUSEMENT GAME MACHINES AS ACCESSORY USES.

A retail establishment located in a commercially zoned area may be allowed to install amusement game machines in any single business as an accessory use. The installation and use of amusement game machines as an accessory use may be permitted provided that the following requirements and limitations are met:

- (A) No more than three amusement game machines are allowed. More than three machines will constitute an arcade;
- (B) No retail establishment within 200 feet of the lot line of a school will be permitted to install amusement game machines as an accessory use;
- (C) No retail establishment within 200 feet of the lot line of a church will be permitted to install amusement game machines as an accessory use; and
- (D) All regulations of the municipal code must be met. Any retail establishment that already has amusement game machines as an accessory use as of the date of adoption of the ordinance codified in this subchapter shall be permitted to maintain the machines for the duration of the license period. However, renewal of the license will not be permitted unless all requirements of this subchapter are met.

(Prior Code, § 156.341) (Ord. 3367, passed - -1983) Penalty, see § 156.999

§ 156.367 AMUSEMENT ARCADE REGULATIONS.

(A) No person, organization, or company shall operate an amusement arcade in the city without first obtaining, in addition to all other licenses and permits required by the city code, a special use permit from the Board of Zoning Appeals.

(B) Any person, organization, or company that is lawfully operating an amusement arcade as of the date of adoption of the ordinance codified in this chapter shall be permitted to operate without a special use permit for the duration of the license period. Thereafter, a renewal of the license will not be permitted unless all requirements of this subchapter are met.

(C) No amusement arcade, whether lawfully in operation as of the adoption of the ordinance codified in this chapter or not, shall be exempted from any of the provisions of this section.

(D) No special use permit for an amusement arcade shall be granted for a period longer than two years. The Board of Zoning Appeals may grant a special use permit for a shorter period of time or it may impose additional conditions to be met whenever necessary to effectuate the purposes of this chapter and to promote the health, safety, morals, and general welfare of the public.

(Prior Code, § 156.342) (Ord. 3367, passed - -1983) Penalty, see § 156.999

§ 156.368 AMUSEMENT ARCADE STANDARDS.

The following standards shall be applied to all amusement arcades in the city:

- (A) Amusement arcades are expressly prohibited within 200 feet of the lot line of a school;
- (B) Amusement arcades are expressly prohibited within 200 feet of the lot line of a church;
- (C) Each amusement arcade must provide at least two restrooms (one for males and one for females) which will be accessible to employees and customers;
- (D) Each amusement arcade must have at least one supervisory employee, 21 years or older, on the premises throughout business hours;
- (E) The sale, possession, consumption, and use of alcoholic beverages are expressly prohibited at all times;
- (F) Each amusement arcade must post at least two signs informing the public that the sale and use of alcoholic beverages are prohibited. One sign shall be plainly visible to persons entering therein. The other sign shall be plainly posted within the arcade;
- (G) Persons under the age of 18 are expressly prohibited from entering the premises of an amusement arcade from 5:00 a.m. to 4:00 p.m. or when minors are required to be in school;
- (H) Each amusement arcade must post at least two signs informing the public that persons under the age of 18 are prohibited from entering the premises during school hours;
- (I) The sale of tobacco products and smoking paraphernalia are prohibited;
- (J) Shouting, swearing, loitering, or abusive language shall not be permitted;
- (K) Persons under the age of seven are prohibited from entering the premises of an amusement arcade unless accompanied by an adult; and
- (L) The hours of operation for each amusement arcade shall be established by the Board of Zoning Appeals.

(Prior Code, § 156.343) (Ord. 3367, passed - -1983) Penalty, see § 156.999

SIGNS

§ 156.380 INTENT.

- (A) (1) The intent of this subchapter is to provide adequate opportunity for the erection of signs while reducing visual clutter and achieving an aesthetically pleasing appearance in the city.
- (2) In so doing, this subchapter intends to improve the visual environment of the city, eliminate traffic hazards caused by improper signs and ensure that information is presented safely and effectively.
- (B) This subchapter establishes a comprehensive system for the regulation of signs to promote the public safety, health, and welfare. It presents a set of reasonable, non-arbitrary, and non-discriminatory standards and procedures that are intended to facilitate the improvement and protection of the community by prohibiting the misuse of signs.
- (C) (1) This subchapter furthers the greater public interest by allowing a property owner to identify the ownership of property and the activities, services, and products available thereon.
- (2) The identification of property, activities, services, and products located elsewhere is permitted to a lesser degree.

(Prior Code, § 156.355) (Ord. 0-01-0024, passed 9-10-2001)

§ 156.381 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMATED SIGN. Any sign that includes action and/or motion, not including flashing or changing signs.

BANNER SIGN. A temporary sign composed of cloth, canvas, or other lightweight material that may or may not be enclosed in a frame.

BENCH SIGN. Any sign on or attached to any structure or device intended for exterior public seating.

BUSINESS SIGN. A lawfully operating enterprise or use licensed as a business by the city.

CHANGING SIGN. A sign, such as an electronic sign, temperature or date sign, message center, or reader board, on which content changes at timed intervals.

CONSTRUCTION SIGN. A temporary sign stating the names of those persons directly connected with the construction of a project and may include address and telephone information.

DIRECTIONAL SIGN. A sign, the sole purpose of which is to direct the flow of vehicular or pedestrian traffic, indicate entrances or exits, transmit parking information, or convey similar information,

DOUBLE-FACED SIGN. A sign with two distinct faces of equal size, generally back-to-back, supported on the same structure and designed so that each face is viewed from a different direction.

FLASHING SIGN. A sign on which illumination flashes intermittently, in whole or in part, or which gives the perception of intermittent or flashing light by another means.

FREESTANDING SIGN. A sign erected on a freestanding frame, mast, or pole and not attached to any other structure.

HEIGHT. As applied to a sign means the vertical distance measured from the lowest ground level directly beneath the sign to the highest point at the top of the sign. The ground level shall be the lowest of natural grade or finished grade.

IDENTIFICATION SIGN. A sign, the sole purpose of which is to identify the site or the building, use, or persons occupying the site on which the sign is located.

ILLUMINATED SIGN. A sign having its own immediate source of internal or external lighting.

INSTITUTIONAL SIGN. A sign incorporating information regarding governmental, quasi-governmental, educational, charitable, or religious institutions.

NAMEPLATE SIGN. A sign identifying only the name, address, and/or occupation or profession of the occupant of the premises on which the sign is located.

OFF-PREMISES SIGN. A sign with content unrelated to the premises on which the sign is located.

OUTDOOR ADVERTISING SIGN. An off-premises sign.

POLITICAL SIGN.

(1) A sign designed to influence the action of voters whether for the passage or defeat of a measure appearing on the ballot in any federal, state, or local election. The election or defeat of a candidate for nomination or election to any public office, or for the support of any political party, not exceeding eight square feet in sign area. Excluded from this definition is signage identifying a political headquarters or office of a political party or candidate.

(2) Signs shall be secured by wire frame; or shall have the option of employing faring strips for support, if wire framing is not available. No **POLITICAL SIGNS** shall be attached or placed upon any abandoned building within any zoning classification of the city. The earliest date that a **POLITICAL SIGN** can be installed or placed is October 1 or April 1 of any year that a federal, state, or local election is held. Any political sign shall be removed not later than seven days following the election to which it relates. Exception: The provisions of this section shall not apply to lawful commercial outdoor advertising structures licensed under this subchapter.

PORTABLE SIGN. A sign intended to be moved or capable of being moved, whether or not on wheels or other special supports, including but not limited to A-frame signs and placards.

PROJECTING SIGN. A sign, other than a wall sign, suspended from or supported by a building or wall, projecting from 12 inches to 30 inches from the building or wall.

REAL ESTATE SIGN. A sign intended to convey information regarding the availability of the property on which the sign is located for sale, lease, or rent and removed within seven days of the sale, lease, or rental of the property.

ROOF SIGN. Any sign erected on or extending above the roofline or parapet of any building or structure.

SIGN. Any device, fixture, structure, construction, cloth, or other material that conveys a message in pictorial, symbolic, or word form, placed for display to the outdoor public. The term **SIGN** shall not include time and temperature devices, church windows, religious symbols, noncommercial flags, barber poles, or similar devices if there is no identification or advertising thereon.

SIGN AREA. The entire area within a single, continuous perimeter enclosing the extreme limits of a sign and not passing between or through any elements of the sign. The perimeter shall include all elements and ornamentation forming an integral part of the design of the sign. Directional signs and signs identifying or indicating restrooms, telephones, and similar convenience areas shall not be included in calculating **SIGN AREA**.

SPECIAL EVENT SIGN. A temporary sign pertaining to events of civic, community, philanthropic, educational, or religious organizations, which are not conducted in connection with the operation of a commercial enterprise.

UNLAWFUL SIGN. A sign in violation of any term of this municipal code.

WALL SIGN. A sign attached or erected against the wall of a building or structure with the sign face parallel to and less than 12 inches from the wall of the building or structure and not extending above the building face or parapet.

WINDOW SIGN. A sign placed inside a window for purposes of viewing from outside the window.

(Prior Code, § 156.356) (Ord. 0-01-0024, passed 9-10-2001; Ord. 0-03-0010, passed 2-10-2003)

§ 156.382 GENERAL REGULATIONS.

(A) No sign shall be erected, installed, altered, or maintained in any zoning district in the city, including public and private streets therein, except in conformity with this subchapter. All signs shall comply with the particular regulations of the district in which they are located.

(B) No sign attached to a building shall extend above the height of the building, project more than 30 inches from the outside wall of the building nor project in a manner as to impede movement on a public sidewalk, street, alley, or other public way. Signs shall be maintained in an attractive and structurally safe condition. All exterior parts shall be painted, coated, or made of rust inhibitive material. Any supporting structure shall be free of any bracing such as guy wires or cables and shall be designed as an architectural feature of the building.

(C) No sign shall obstruct any door, fire escape, or free passage over any public right-of-way or create a traffic hazard. Signs shall be placed with care so as not to obscure unreasonably existing conforming signs on adjacent properties.

(D) On a site on which more than one lawful use conducted, each use shall be permitted an identification sign not larger in area than the identification sign for uses permitted under the requirements of the zoning district in which the site is located. However, the total site area on site shall not exceed the total sign area for the site as permitted in the zoning district.

(Prior Code, § 156.357) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.383 PROHIBITED SIGNS.

The following signs are prohibited:

- (A) Roof signs;
- (B) Signs on benches or other similar structures;
- (C) Signs on non-working vehicles or trailers placed on the premises for purposes of advertising;
- (D) Signs that, by their wording, color, or location resemble or conflict with traffic control signs or devices;
- (E) Signs that create a safety hazard;
- (F) Signs that obstruct any door, window, fire escape, or other emergency exit; and

(G) Signs erected in the public right-of-way or on any public pole, bench, bus shelter, or other public structure, excepting when posted by a public officer in the performance of a public duty.

(Prior Code, § 156.358) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.384 TEMPORARY SIGNS.

The following signs are permitted for a period of not more than seven days with a temporary sign permit:

- (A) Freestanding, moveable signs;
- (B) Balloon signs;
- (C) Banner signs;
- (D) Flags and pennants; and
- (E) Special event signs.

(Prior Code, § 156.359) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.385 SIGNS REQUIRING A SPECIAL USE PERMIT.

The following signs are permitted only with a conditional use permit:

- (A) Animated signs;
- (B) Flashing signs;
- (C) Signs for cinemas, theaters, auditoriums, banquet facilities, hotels, motels, riverboats, casinos, or similar facilities; and
- (D) Signs within the Waterfront Development District.

(Prior Code, § 156.360) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.386 ZONING CLASSIFICATION REGULATIONS.

Only signs for purposes consistent with the uses or activities authorized within the zoning district or for the particular premises may be erected or maintained.

(A) *Residential signs.*

(1) *Permitted residential signs.*

- (a) A sign identifying a lawful home occupation limited to a nameplate sign not exceeding two square feet in sign area;
- (b) A sign identifying an institutional, religious, charitable, educational, or multi-family facility within a residential zoning district not exceeding six square feet in sign area for the first 100 feet of street frontage and an additional two square feet in sign area for each additional 100 feet of street frontage, not to exceed 48 square feet total sign area;
- (c) Real estate signs; and
- (d) Political signs.

(2) *Conditional residential signs.* Temporary signs.

(B) *Commercial signs.*

(1) *Permitted C-1 signs.*

- (a) An identification sign for each business on site up to 16 square feet in sign area; and
- (b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 16 square feet, plus an additional 16 square feet for the first 500 feet of street frontage, and an additional two square feet in sign area for each additional 100 feet of street frontage.

(2) *Permitted C-2 signs.*

- (a) An identification sign for each business on site up to 32 square feet in sign area; and
- (b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 32 square feet, plus an additional 32 square feet for the first 500 feet of street frontage and an additional two square feet in sign area for each additional 100 feet of street frontage.

(3) *Additional signs.* Signs for theaters, auditoriums, banquet facilities, hotels, motels, casinos, or related facilities may be erected or maintained contrary to the provisions of this subchapter only upon approval of the site development plan by the Planning Commission with a special use permit.

(C) *Industrial signs.*

(1) *Permitted M-1 signs.*

- (a) An identification sign for each business on site not exceeding 64 square feet in sign area;
- (b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 64 square feet, plus an additional 64 square feet for the first 500 feet of street frontage and an additional four square feet for each additional 100 feet in street frontage; and

(c) An off-premises sign, in conformance with the criteria set forth herein:

1. Off-premises signs will only be allowed on Cline Ave. (State Road 912) corridor and the State Toll Road (I-90) corridor;
2. No off-premises signs of any kind will be allowed in the following surface street corridors:
 - a. Indianapolis Blvd.;
 - b. Chicago Ave.;
 - c. Railroad Ave.;
 - d. Kennedy Ave.;
 - e. Huish Dr.;
 - f. Euclid Ave.; and
 - g. Columbus Dr.
3. The maximum number of faces per sign structure shall be two, constructed back to back. No faces shall be installed side-by-side or stacked;
4. The maximum sign area shall be 672 square feet per face. Temporary extensions of copy for artistic purposes, up to 200 additional square feet, may be approved by the City Planner for a period not to exceed 120 days;
5. The maximum height shall be 50 feet, measured from the centerline of the roadway toward which the sign is faced, to the top of the sign structure;
6. The minimum distance between two off-premises signs shall be 2,640 feet measured along the roadway surface in either

direction. The separation distance is measured from the center points of the sign posts. If the sign has more than one support, then the separation distance is measured from the center of the lineal dimension of the sign;

7. The minimum distance between an off-premises sign and a platted residential district, school, park, church, or waterfront district shall be 500 feet, measured from the base of the sign to the nearest property line of any residential district, school, park, church, or waterfront district;

8. The minimum setback from the nearest property line for any off-premises signs 50 feet. In addition, no off-premises sign shall project over or onto the right-of-way of any roadway;

9. Lighting of an off-premises sign shall be designed in a manner as to not be or become a nuisance to any residentially-zoned property in the city; and

10. Any pre-application conference filed with the City Planner for an off-premises sign (billboard) will need to include a plat of survey from a registered surveyor to include the proposed sign location on the property, the setback of the sign from the roadway, the legal description of the property and key number, separation measurements from any existing off-premises signs within 3,000 feet, and schools, churches, parks any platted residential districts, and Waterfront Development District within 600 feet.

(2) *Permitted M-2 signs.*

(a) An identification sign for each business on site not to exceed 96 square feet in sign area;

(b) Additional signs up to a total sign area on site of the total of the number of businesses on site multiplied by 96 square feet, plus an additional 96 square feet for the first 500 feet of street frontage and an additional six square feet in sign area for each additional 100 feet in street frontage; and

(c) An off-premises sign, in conformance with the criteria set forth herein:

1. Off-premises signs will only be allowed on Cline Ave. (State Road 912) corridor and the State Toll Road (I-90) corridor;

2. No off-premises signs of any kind will be allowed in the following surface street corridors:

- a. Indianapolis Blvd.;
- b. Chicago Ave.;
- c. Railroad Ave.;
- d. Kennedy Ave.;
- e. Huish Dr.;
- f. Euclid Ave.; and
- g. Columbus Dr.

3. The maximum number of faces per sign structure shall be two, constructed back to back. No faces shall be installed side-by-side or stacked;

4. The maximum sign area shall be 672 square feet per face. Temporary extensions of copy for artistic purposes, up to 200 additional square feet, may be approved by the City Planner for a period not to exceed 120 days;

5. The maximum height shall be 50 feet, measured from the centerline of the roadway toward which the sign is faced, to the top of the sign structure;

6. The minimum distance between two off-premises signs shall be 2,640 feet measured along the roadway surface in either direction. The separation distance is measured from the center points of the sign posts. If the sign has more than one support, then the separation distance is measured from the center of the lineal dimension of the sign;

7. The minimum distance between an off-premises sign and a platted residential district, school, park, church, or waterfront district shall be 500 feet, measured from the base of the sign to the nearest property line of any residential district, school, park, church, or waterfront district;

8. The minimum setback from the nearest property line for any off-premises signs 50 feet. In addition, no off-premises sign shall project over or onto the right-of-way of any roadway;

9. Lighting of an off-premises sign shall be designed in a manner as to not be or become a nuisance to any residentially-zoned property in the city; and

10. Any pre-application conference filed with the City Planner for an off-premises sign (billboard) will need to include a plat of survey from a registered surveyor to include the proposed sign location on the property, the setback of the sign from the roadway, the legal description of the property and key number, separation measurements from any existing off-premises signs within 3,000 feet, and schools, churches, parks, any platted residential districts and Waterfront Development District within 600 feet.

(D) *Waterfront development signs.* All signs in the Waterfront Development District shall require site development review and a special use permit.

(Prior Code, § 156.361) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.387 ABANDONED SIGNS.

The owner of property on which a sign advertising a use, facility, product, or event that is no longer sold, conducted, or available on the premises shall remove the sign within 90 days of the discontinuance. Signs remaining after 90 days shall be considered abandoned signs and may be removed by the city, with the cost of the removal charged to the property owner(s). In the event that the property owner(s) fails to pay for the expense of removing any abandoned sign, the city may place a lien on the property for the amount due.

(Prior Code, § 156.362) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.388 PRE-APPLICATION CONFERENCE; EXEMPT SIGNS.

The following signs shall be exempt from the requirement of a pre-application conference:

(A) One identification sign, not exceeding the square footages established pursuant to the zoning district in which the property is located, affixed to the building;

(B) Directional signs;

(C) Properly displayed national, state, or local flags;

(D) Seasonal holiday decorations;

(E) Political signs in conformance with this subchapter;

(F) Real estate signs in conformance with this subchapter;

(G) Bulletin boards on the site of a national, state, or local public facility, religious, charitable, or educational institution;

(H) Official traffic, fire, and police related signs, temporary traffic control signs, utility location, and identification signs and markers, and any signs required by the city or any other public authority to be erected, installed, or maintained; and

(I) Notices required to be posted by law.

(Prior Code, § 156.363) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.389 SIGN PRE-APPLICATION CONFERENCE.

(A) *Required.* No person shall place, erect, install, or maintain any sign in the city without first obtaining a sign pre-application conference pursuant to this subchapter, unless the sign is exempt under the provisions of § 156.363.

(Prior Code, § 156.364)

(B) *Fee.* Application for a sign pre-application conference shall be made to the City Planner on form as may be prescribed by the Department of Business Development and Planning. Approval for signs not requiring site plan review and conforming to the regulations of this subchapter shall be issued by the City Planner and referred to the Building Commissioner for permits. An application for a sign requiring development plan review shall be referred by the City Planner to the Planning Commission for review in the same manner as other projects requiring development plan review. An application for a sign requiring a special use permit shall be processed in the same manner as any other application for a special use permit.

(Prior Code, § 156.365)

(Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.390 PERMITS AND FEES.

(A) After a pre-application conference and/or sign approval has been issued by the City Planner, a permit shall be obtained before placing, erecting, installing, or repairing any sign, using forms furnished by the Building Commissioner pursuant to construction codes adopted by the city.

(B) Fees for sign permits shall be established by the Common Council of the city from time to time. The current fee schedule, adopted contemporaneously with the ordinance adopting this subchapter, shall be an amount as set by the city from time to time per square foot of sign area. The sign application fee shall accompany the sign application.

(Prior Code, § 156.366) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

§ 156.391 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this subchapter is enforced through the proper proceedings.

(A) Any sign lawfully erected prior to the effective date of this subchapter and maintained in conformance with the requirements of this subchapter shall be permitted to continue as a legal nonconforming sign. No modification shall be made to a legal nonconforming sign, unless the modification serves to make the sign more conforming to the requirements of this subchapter.

(B) Any unlawfully erected or maintained sign shall be subject to removal under the provisions of State Code and the city municipal

code. The reasonable expense of removal, including reasonable attorney fees, may be placed as a lien on the property on which the sign was unlawfully erected or maintained.

(Prior Code, § 156.367) (Ord. 0-01-0024, passed 9-10-2001) Penalty, see § 156.999

FENCES

§ 156.405 PURPOSE AND INTENT.

(A) The purpose of a fence is to provide privacy, security, boundary definition, weather conditions control (snow fencing), decoration, and safety for the residents and property owners of the city, the general public and for the various land uses within the corporate limits of the city.

(B) The intent of the following regulations is to provide a framework for the protection of the residents and property owners of the city, the general public and public and private property through the regulation of the installation, erection, repair, construction, placement, and maintenance of fences on property located within the city.

(Prior Code, § 156.380) (Ord. 0-02-0009, passed - -2002)

§ 156.406 DEFINITION AND CLASSIFICATION.

(A) *Definition.* A **FENCE** shall be defined as a human-made structure partially or completely surrounding a part of, or the whole of, a zoned lot from within the area controlled, including a hedge or other natural growth specifically planted as a barrier.

(B) *Classification.* A fence shall be of the following classifications:

- (1) Wooden picket, PVI, or other similar materials (not more than 50% open);
- (2) Woven wire, chain link, and similar metal materials (excluding chicken wire);
- (3) Ornamental iron of any type;
- (4) Wooden split rail and the like;
- (5) Privacy fencing of solid material (90% or more solid opaque material and taller than four foot), including PVC fencing, designed to physically and visually enclose areas;
- (6) Shrubbery, including hedges, trees (excluding shade trees), or plants planted so as to provide a visual barrier of 50% or more solid;
- (7) Masonry walls of the following materials; brick, stone, decorative block, concrete block (in commercial and industrial zoning districts only) and/or other similar materials; constructed on a foundation; and
- (8) Any similar fence-type structure not specifically mentioned above, designed to enclose all or part of a zoning lot that serves a purpose similar to a fence excluding masonry walls.

(Prior Code, § 156.381) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.407 LOCATION OF FENCES.

The location of all fencing and associated bases shall adhere to all setback and yard requirements provided in the zoning regulations and shall be within the property line.

(Prior Code, § 156.382) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.408 MAINTENANCE AND REPAIR OF FENCES.

(A) All fences (including walls) shall be constructed of new or good used material and in accordance with the methods of construction that conform to the requirements of the adopted Building Code.

(B) All materials used in the construction of fences shall be clean, sound, and free from decay or other defects that would seriously hamper or impair the strength of the fence. All materials used shall be nontoxic, non-hazardous, and not deleterious to the environment. Wood fences shall be proper fencing materials. All fences shall be of a uniform material from the ground or lowest level to the top of highest level of the fence. City staff shall review all proposed materials as part of the fence permit application process.

(C) All fences shall be maintained in a state of good repair. Any dilapidated, dangerous, or unsightly fences or retaining walls shall be repaired, painted, or removed when so ordered by the Building Commissioner.

(Prior Code, § 156.383) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.409 PROHIBITED FENCES.

(A) *Barbed wire; razor wire fences, and the like.*

(1) No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain any fence or barrier consisting of, or made of what is called barbed wire in residential zoning districts.

(2) Barbed wire is also prohibited along the line of, or in or upon a public park, church, school, or other location intended for use by children.

(3) Use of barbed wire for special reasons is subject to review by city staff for use in only commercial and industrial zoning districts.

(B) *Electrically charged fences.* No person shall place, erect, install, build, construct, add as a repair item, use, and/or maintain an electrically charged fence within any zoning district of the city.

(C) *Excluded materials used to construct fences.* No person shall place, erect, install, build, construct, add as a repair item, use, and/or maintain any fence or barrier consisting of, or made of what is commonly known as railroad ties, blocking lumber, pallets, or similar materials. Additionally, no metal siding, metal sheeting, or the like shall be used to construct a fence.

(D) *Protrusion on fences.* No person shall place, erect, install, build, construct, add as a repair item, use, and/or maintain any fence or barrier with spikes or nails or any other sharp objects imbedded on the top or sides of a fence or barrier within any zoning district of the city.

(E) *Fences and other obstacles causing obstruction of view.*

(1) No owner, occupant, or tenant of any real estate abutting any street intersection shall permit any fence, tree, shrubbery, or obstacle at any street intersection or within 20 feet from the intersecting right-of-way lines of the intersection.

(2) No fence, tree, shrubbery, or obstacle shall obstruct or tend to obstruct the view of any operator of a vehicle or a bicycle or a pedestrian approaching any intersection within the city in what is known as the vision clearance area.

(Prior Code, § 156.384) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.410 CERTAIN FENCE ENCLOSURES REQUIRED.

The following shall be required to be enclosed by a fence.

(A) *Property undergoing new construction.*

(1) Prior to the initiation of construction and upon obtaining a required fence permit, a temporary security fence of six feet is required to be erected with sufficient anchoring to secure the new construction site.

(2) The temporary security fence is to be removed after the construction completion and prior to occupancy of the site.

(B) *Property undergoing demolition and/or repair.*

(1) Prior to the initiation of demolition, dismantling, removing, or extensively repairing of a building or structure abutting a street, alley, or sidewalk; and, upon obtaining a required fence permit, protection in the form of a temporary security fence shall be provided for the site being affected. Any temporary security fence installed with sufficient anchoring shall not be less than four feet high with approved and appropriate cautionary signage, barricades, and/or ribbon taping. The temporary security fence shall be removed after completion of the demolition or repair.

(2) A minimum four-foot high temporary security fence shall also be required for any building under 40 feet high and shall be placed within 15 feet of, or adjacent to, a street and alley line.

(a) For buildings not exceeding 22 feet in height the fence shall not be less than seven feet from the building line.

(b) For buildings exceeding 22 feet in height the fence shall not be less than nine feet from the building line. The fence must fully enclose the building from the required distance between the face of the building and the property line, but shall not extend beyond the lot line of the property upon which the building is located without special acknowledgment by the issued permit.

(3) For buildings exceeding 40 feet in height the temporary security fence shall not be less than six feet high and shall be located 15 feet or more from the building line. Where the protection extends beyond the lot line of the property upon which the building is located, a special acknowledgment shall be noted on the issued permit.

(C) *Storage yards.*

(1) Every premises or enclosure (except a completely enclosed building) used for the purpose of storing materials, including bulk storage, junkyard materials, inoperable and/or dismantled vehicles and similar items, shall be entirely surrounded by a privacy fence.

(2) The privacy fence shall be at a minimum six feet high and not exceeding eight feet in height. The fence shall be kept in a proper state of repair and none of the enclosed items or stored materials shall be piled higher than the fence or visible above the top of the fence.

(D) *Swimming pools.*

(1) All swimming pools shall be enclosed by means of a fence.

(2) The fence shall be at least six feet, and not exceeding eight feet in height, and shall be of a type not readily climbed by children.

(3) The gates for the fence shall be of a self-closing and latching type with the latch on the inside of the gate not readily accessible

for public entrance.

(4) If a privacy fence of at least six feet encloses the entire rear yard of the residential unit, this provision may be waived after inspection and approval of the residential enclosure by the City Building Commissioner's office.

(5) The approval shall be issued on forms provided by the City Building Commissioner's office and must be retained by the property owner.

(Prior Code, § 156.385) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.411 PERMITTED FENCES IN RESIDENTIAL DISTRICTS.

In residence districts, fences enclosing plots used for dwelling purposes shall conform to the following requirements.

(A) *Residential units not at an intersection (see Diagram A).*

(1) Fences erected in front of the building line shall be as listed in § 156.406(B)(1), (2), (3), (4), (6), or (8) and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Masonry pillars may be permitted as part of the permit. The pillars for a fence shall not exceed four feet, six inches in height and each pillar shall not exceed 18 inches in width and depth.

(2) Side yard fences placed behind the front building line, may be of any type but shall not exceed a height of six feet.

(3) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

(B) *Residential units at an intersection (see Diagram B).*

(1) Corner lot properties (those having a side yard adjacent to a street) fences erected in front of the building line shall be as listed in § 156.406(B)(1), (2), (3), (4), or (6), and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Fence type (§ 156.406(B)(6)) shrubbery, and the like, may be used on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front building line. Any pillar use shall conform to the above.

(2) Side yard fences, on the nonadjacent street side, placed behind the front building line to the rear building line, may be of any type but shall not exceed a height of six feet.

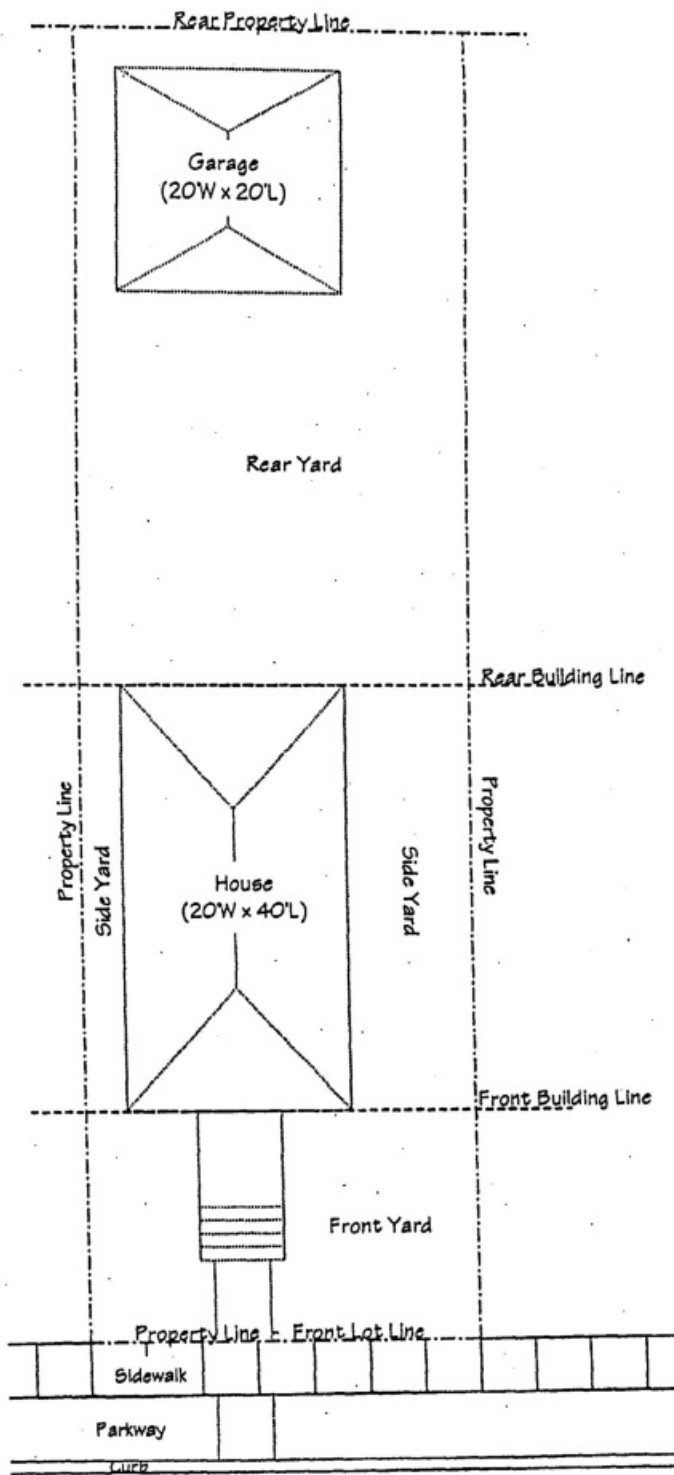
(3) Side yard fences, on the adjacent street side, § 156.406(B)—privacy fencing may be used on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front and rear building lines.

(4) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

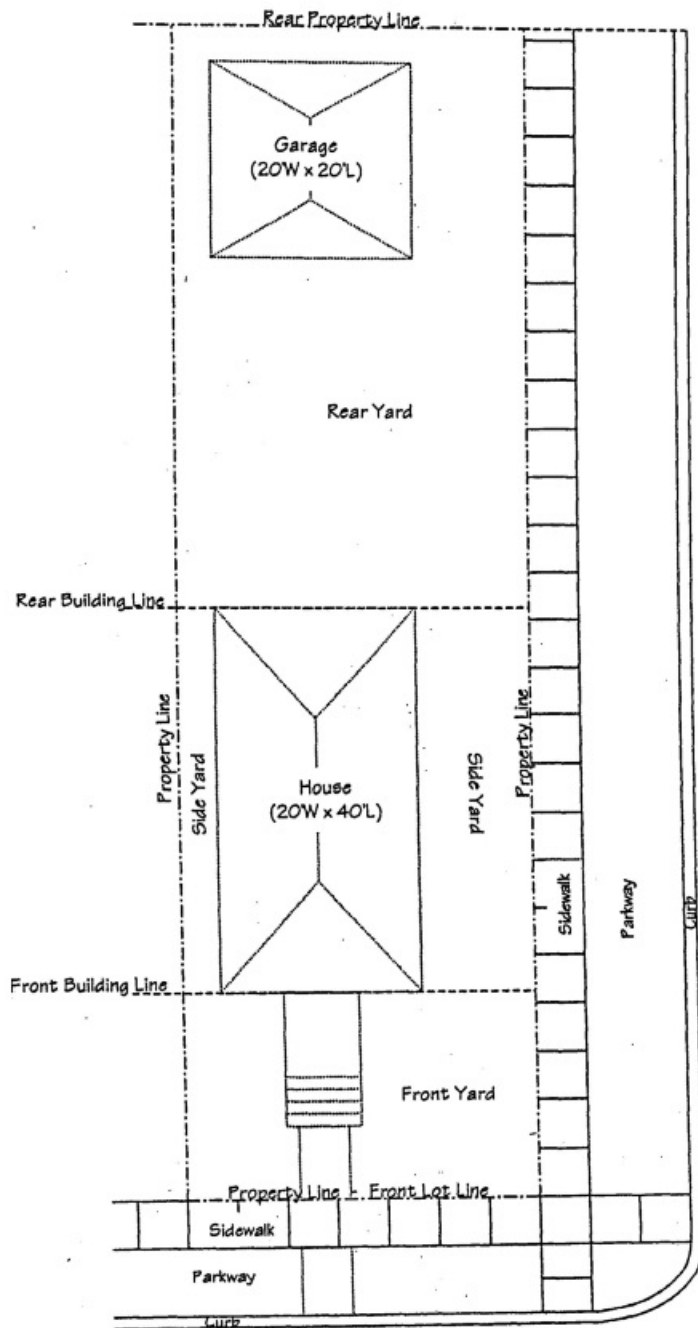
(C) *Generally.* Any residential district or subdivision with a developmental covenant restricting the use of fencing or places certain restrictions on fencing type and height and the like, remain in force and will be enforced by this subchapter.

(D) *Diagrams.*

(1) *Diagram A: Interior lot, not at intersection.*



(2) Diagram B: Corner lot at intersection.



(Prior Code, § 156.386) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.412 PERMITTED FENCES IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

In commercial and industrial zones fences shall conform to the following requirements.

(A) Fences erected along the front property line in commercially and industrially zoned districts shall not exceed six feet in height and may be of any type except § 156.406(B)(7)—masonry walls. Fences along the sides and back building lines may be of any type and shall not exceed six feet.

(B) Fences erected along the front property in commercially and industrially zoned districts that are greater than six feet, but not more than eight feet in height, may be of any type. The fence shall be set back from the street line a minimum of five feet and softened by landscaping material as approved by the City Planning Department in the pre-application conference.

(C) Fences erected along the front property line of existing and occupied residential unit(s) in commercially and industrially zoned districts shall not exceed four feet in height unless approved by variance and shall be of any type § 156.406(B)(5)—privacy fencing. The residential lot can use any other type of fence for the sides and back of the parcel in conformance with the residential section of this subchapter.

(D) (1) Fences erected in association with used car lots or parking lots (public or private) along the front property line (or the street frontages, if at a corner) in commercially and industrially zoned districts shall not exceed six feet in height and only can be of § 156.406(B)(2)—woven wire.

(2) A site plan showing lot ingress and egress, the placement of the vehicles on the lot, and the type of gate system to be used must accompany any application for the fence. The used car or parking lot can use any type of fence for the sides and back of the parcel in conformance with this section of this subchapter.

(E) Barbed wire, and the like, may be used at a height of not less than seven feet above grade. Barbed wire, and the like, shall be placed so that it does not project beyond the outside face of the fence. The City Planning Department in the pre-application conference shall approve the use of barbed wire, and/or the like, in conjunction with a fence.

(Prior Code, § 156.387) (Ord. 0-02-0009, passed - -2002)

§ 156.413 FENCE PERMIT PRE-APPLICATION CONFERENCE.

(A) *Required.* A fence permit pre-application conference is required to place, erect, construct, or install any fence in the city. A person with an existing fence needing repair in an amount as set by the city from time to time is also required to participate in a fence permit pre-application conference.

(Prior Code, § 156.388)

(B) *Generally.*

(1) Application for a fence permit pre-application conference shall be made to the City Planner on forms as may be prescribed by the Department of Business Development and Planning. The person making application should submit a plat of survey with the fence located on the survey, it will become an attachment to the conference form.

(2) Approval for fences not requiring site plan review and conforming to the regulations of this subchapter shall be issued by the City Planner and referred to the Building Commissioner for a fence permit.

(3) An application for a fence requiring development plan review shall be referred by the City Planner to the Planning Commission for review in the same manner as other projects requiring development plan review. An application for a fence requiring a variance or special use permit shall be processed in the same manner as any other application for a variance or special use permit.

(Prior Code, § 156.389)

(Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.414 PERMITS AND FEES.

(A) A plat of survey must accompany a fence permit application as part of the pre-application conference and any permitting submission to the Building Department.

(B) A building permit must be obtained (by either the owner of the property upon which the fence is to be constructed or erected, or by contractor performing the work) before placing, erecting, installing, construction, or repairing the fence, after the pre-application conference form with fence approval has been issued by the City Planner. The permitting process shall use forms furnished by the Building Commissioner pursuant to building/construction codes adopted by the city.

(C) The Common Council of the city establishes fees for any permits from time to time. The current fee schedule, adopted contemporaneously with the ordinance adopting this subchapter, shall be based on the entire cost of the fence materials plus labor costs.

(D) The fence building permit fee shall accompany the fence permit application.

(Prior Code, § 156.390) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.415 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this subchapter is enforced through the proper proceedings, including legal action.

(A) (1) Any fence lawfully erected prior to the effective date of this subchapter and maintained in conformance with the requirements of this subchapter shall be permitted to continue as a legal nonconforming fence.

(2) No modification shall be made to a legal nonconforming fence, unless the modification serves to make the fence more conforming to the requirements of this subchapter.

(3) Any modification requires the pre-application conference process, as well as, a building permit.

(B) (1) Any unlawfully erected or maintained fence shall be subject to removal under the provisions of State Code and the city municipal code.

(2) The actual expense of removal, including reasonable attorney fees, may be placed as a lien on the property on which the fence was unlawfully erected or maintained.

(C) (1) If a dispute arises between the property owner erecting the fence and any adjacent property owners as to the location of the fence, the Building Commissioner may require the property owner erecting the fence to either:

(a) Show that the fence was erected according to the plat of survey described in § 156.414(D); or

(b) Shall obtain a current land survey from a registered surveyor.

(2) If the parties in the dispute find that the fence has been improperly placed/located, the owner erecting the fence shall be required to move the fence.

(Prior Code, § 156.391) (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

HISTORIC PRESERVATION COMMITTEE

§ 156.430 PURPOSE.

(A) The purpose of this subchapter is to identify those structures, sites, and neighborhoods in the city that have historic, architectural, and aesthetic significance and to preserve and maintain them for current and future residents by encouraging renovation, rehabilitation, and repair that is consistent with their historic, architectural, and aesthetic character.

(B) Furthermore, it is the purpose of this subchapter to strengthen the economy of the city by stabilizing and improving property values in historic areas, and to encourage new or rehabilitated buildings and developments that will be harmonious with existing historic structures, sites, and neighborhoods.

(Prior Code, § 156.405) (Ord. 0-08-0020, passed 9-22-2008)

§ 156.431 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. Any act or process which changes one or more of the “exterior architectural features” of an improvement.

CERTIFICATE OF APPROPRIATENESS. A certificate authorizing plans for alteration, construction, demolition, or removal of an improvement which has been designated a landmark or which is located within an historic preservation district.

COMMISSION.

(1) The Historic Sites Commission shall be an appointed body, consisting of appointees from the following governing branches:

- (a) Plan Commission: one appointee, (this appointee shall be an architect or planner);
- (b) BZA: one appointee;
- (c) City Council: one appointee; and
- (d) Office of the Mayor: two appointees.

(2) At the discretion of their respective appointing body, each appointee shall serve a term of no less than two years. All additional conditions affecting the Historic Sites Commission shall be determined by the city.

CONSTRUCTION. Any act of process whereby a new improvement is built, an existing improvement is expanded in size or area, or a demolished improvement is rebuilt.

DEMOLITION. Any act or process which destroys all of an improvement.

EXTERIOR ARCHITECTURAL FEATURE. The architectural style, design, general arrangement, and components of all of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by the exterior services, including, but not limited to, the kind of building materials and the type and style of windows, doors, lights, signs, and other fixtures are pertinent to the improvement, visible from any public street or thoroughfare. An alley shall not be considered a public street or thoroughfare for the purposes of this definition.

HISTORIC PRESERVATION DISTRICT. Any area which:

- (1) Contains improvements which:
 - (a) Have a special character or special historic or aesthetic interest of value;
 - (b) Represent one or more periods of styles of architecture typical of one or more eras in the history of the city; and
 - (c) Cause the area, by reason of factors, to constitute a distinct section of the city.

(2) Has been designated by the City Council as an **HISTORIC PRESERVATION DISTRICT** pursuant to the provisions of this subchapter.

IMPROVEMENT. Any building, structure, site, parking facility, fence, gate, wall, work of art, or other object constituting a physical betterment of or addition to real property, or any part of the betterment or addition.

INTERIOR. The visible surfaces of the enclosed or inside portions of an improvement.

LANDMARK. Any improvement, which has a special historical, community, or aesthetic interest or value as party of the development, heritage, or cultural characteristics of the city, state of nation and which has been designated by the City Council as a landmark pursuant

to the provisions of this subchapter. **LANDMARKS** include improvements which reflect or exemplify the cultural, political, spiritual, economic, social, or artistic history of the city, state, or nation, or which are identified with historic personages or with important events in local, state, or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for a representation of a period, style, or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced his or her era.

ORDINARY REPAIRS AND MAINTENANCE. Any work done on or replacement of any part of an improvement for which a permit issued by the Department of Community Development is not required by law, where the purpose and effect of the work or replacement is to correct any deterioration or decay of or damage to the improvement of any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of the deterioration, decay, or damage.

OWNER. Any person, group of persons, partnership, corporation, or other legal entity holding legal or equitable title to real estate located within the city, including, but not limited to, contract purchasers and all of the beneficiaries under a land trust.

PARTIAL DEMOLITION. Any act or process which destroys part of an improvement in order to accommodate an addition to the improvement.

REMOVAL. Any act or process which changes the location or position of an improvement of or any portion of an improvement.

TAX PARCEL. Any lot, block, tract, or other piece of real property, whether tax exempt or not, which has been assigned a permanent real estate index number, as shown on the record of the local real estate tax collector.

(Prior Code, § 156.406) (Ord. 0-08-0020, passed 9-22-2008)

§ 156.432 APPLICABILITY OF ZONING PROVISIONS.

(A) Zoning classifications and permitted uses.

(1) All landmarks and historic preservation districts shall also be classified in one or more of the zoning districts established by subchapter. The zoning of any landmark shall be designated by a combination of symbols, i.e., R-2-L, C-1-L, and the like. The zoning of any land in a historic preservation district shall be designated by a combination of symbols, i.e., R-2-H, R-3-H, and the like.

(2) For any landmark or any historic preservation district, all the regulations of the underlying zoning district shall apply, except insofar as the regulations are in conflict with any special regulations applicable to a landmark or historic preservation district, and in the event of a conflict, the regulations governing the landmark or historic preservation district shall apply. All permitted uses or conditional uses otherwise allowable in the underlying zoning district shall continue to be the appropriate allowable use.

(B) Relationship to Plan Commission. The Historic Sites Commission may, at the request of the Plan Commission or on its own initiative, prepare a written report to, and, in addition, may testify at any public hearing conducted by, the Plan Commission with respect to any matter being considered by the Plan Commission which may affect any improvement designated a landmark or any designated historic preservation district.

(C) Conditional uses.

(1) A copy of any application for a conditional use under the provisions of this subchapter shall be forwarded by the Plan Commission to the Historic Sites Commission, if the proposed conditional use would be within or immediately adjacent to a historic preservation district, or if the owner of a landmark would be entitled to notice under the provisions of this subchapter.

(2) Within a reasonable time after receipt of the copy of any application for a conditional use, the Historic Sites Commission shall review the application to determine the effect which the proposed conditional use would have on the landmark or historic preservation district, according to the appropriate criteria and architectural and aesthetic consideration for the granting of a certificate of appropriateness.

(3) Within 30 days after receipt of the copy of any application for a conditional use, the Historic Sites Commission shall file with the Plan Commission any written report and recommendations it desires to make. The written report and recommendations, and any testimony presented by the Historic Sites Commission at a public hearing conducted by the Plan Commission, shall be briefly summarized in the report submitted by the Plan Commission to the City Council. In lieu of the summary, the Plan Commission, at its discretion, may append the Historic Sites Commission's report and recommendations to the written report and recommendations made by the Plan Commission to the City Council.

(D) Variances; amendments to zoning provisions.

(1) A copy of any application for a variance from the provisions of these zoning provisions, or street graphics ordinance, and a copy of any proposed amendment to the map or text of the zoning provisions shall be forwarded by the Plan Commission of the Board of Zoning Appeals to the Historic Sites Commission, if the proposed change would be within or immediately adjacent to a Historic Preservation District, or if the owner of a landmark would be entitled to notice under the provisions of the zoning provisions or this chapter.

(2) Within a reasonable time after receipt of the copy of any application for a variance from the provisions of this zoning chapter or an amendment to the map or text of this zoning chapter, the Historic Sites Commission shall review the application to determine the effect which the proposed variance or amendment would have on the district according to the appropriate criteria and architectural and aesthetic considerations of the granting of a certificate of appropriateness.

(3) (a) Within 30 days after receipt of the copy of any application for a variance of a proposed amendment, the Historic Sites

Commission shall forward any written report and recommendations it desires to make to the Commission or Board from which the copy of the application or amendment was received.

(b) The written report and recommendations, and any testimony presented by the Historic Sites Commission as a public hearing conducted by the Plan Commission or Board of Zoning Appeals concerning the proposed variance or amendment, shall be briefly summarized in any reports required to be submitted to the Historic Landmarks Foundation of the state by the Plan Commission or Board of Zoning Appeals, as applicable.

(c) In lieu of the summary, the Plan Commission or Board of Zoning Appeals, at its discretion, may append the Historic Sites Commission's report and recommendations to any written reports and recommendations required to be provided to the Historic Landmarks Foundation of the state by the Plan Commission or Board of Zoning Appeals.

(Prior Code, § 156.407) (Ord. 0-08-0020, passed 9-22-2008) Penalty, see § 156.999

§ 156.433 ACQUISITIONS OF APPROPRIATE PROTECTIVE INTERESTS.

(A) The city may acquire, by purchase, donation, or condemnation, appropriate protective interests in any landmark or any improvement located within an historic preservation district within the corporate boundaries of the city wherever and to the extent that the City Council, upon the recommendation of the Commission, determines that the acquisition will be in the public interest.

(B) For the purposes of this section, an ***APPROPRIATE PROTECTIVE INTEREST*** means any right or interest in or title to an improvement including, but not limited to, fee title or any easement, restriction, covenant, or condition running with the land, designated to preserve, maintain, or enhance all or part of the existing state of improvements of historic, architectural, or aesthetic significance, the acquisition of which is determined by the City Council to be necessary and appropriate for the effectuation of the purposes of this subchapter.

(Prior Code, § 156.408) (Ord. 0-08-0020, passed 9-22-2008)

NONCONFORMING USES

§ 156.445 PURPOSE.

The regulations of this chapter govern nonconformities, which are structures, use, lots, developments, signs, fences, parking areas, and floodway/floodway fringe use that were lawfully established but because of the adoption of new or amended regulations no longer comply with one or more requirements of this Zoning Code.

(Ord. 09-0008, passed 4-27-2009)

§ 156.446 INTENT.

(A) In older cities, such as East Chicago, many structures and uses that were established in compliance with all regulations in effect at the time of their establishment have been made nonconforming by zoning map changes (rezoning) or amendments to the Zoning Code text. The regulations of this chapter are intended to clarify the effect of such nonconforming status and avoid confusion with illegal structures and uses (those established in violation of zoning rules).

(B) The regulations are also intended to:

- (1) Recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
- (2) Promote maintenance, reuse, and rehabilitation of existing buildings; and
- (3) Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

(Ord. 09-0008, passed 4-27-2009)

§ 156.447 AUTHORITY TO CONTINUE.

Any nonconformity that existed on the effective dates specified in Sec. 1,01.020 or any situation that becomes nonconformity upon adoption of any amendment to this Zoning Code may be continued in accordance with the regulations of this chapter.

(Ord. 09-0008, passed 4-27-2009)

§ 156.448 DETERMINATION OF NONCONFORMITY STATUS.

The burden of proving that nonconformity exists (as opposed to a violation of this Zoning Code) rests with the subject landowner.

(Ord. 09-0008, passed 4-27-2009)

§ 156.449 REPAIRS AND MAINTENANCE.

(A) Nonconformities must be maintained to be safe and in good repair.

(B) Incidental repairs and normal maintenance necessary to keep nonconformity in sound condition are permitted unless otherwise expressly prohibited by this Zoning Code.

(C) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt after three months of such declaration except in conformity with the regulations of the district in which it is located.

(D) Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(E) When the structure is destroyed or damaged by fire or other casualty the structure can be restored to the condition in which it was before the occurrence of the fire or other casualty only if the reconstruction cost does not exceed 50% of the cost of replacement of the entire building (as stated on the property owner's record card located in the Township Assessor's office).

(Ord. 09-0008, passed 4-27-2009)

§ 156.450 NONCONFORMING STRUCTURE.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter but could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, setback lines, intensity, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity to a conforming use.

(B) A detached residential accessory structure which becomes a nonconforming structure due to the demolition or other removal of the primary residential structure shall be permitted to continue. However, the failure to construct a new primary residential structure on the same lot, tract, or development parcel within 12 months of the removal of the primary structure shall be construed as intent to abandon the accessory structure.

(Ord. 09-0008, passed 4-27-2009)

§ 156.451 NONCONFORMING USE.

A lawful use involving individual structures, land, or of structures and land in combination, exists at the effective date of adoption or amendment of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a non-conforming use or a less restricted use, except upon approval of the Board of Zoning Appeals. Provided, however, that where a property in an "M-111" or "M-2" district conforms with requirements for off-street parking through the utilization of leased land at the time of the enactment of this chapter, the use of that property shall not be considered to have changed from conforming to non-conforming use by virtue of the loss of the right to the use of leased property for off-street parking purposes, until such time or unless additional property become available, in which event off-street parking requirements shall be met before other uses are established.

(B) A non-conforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.

(C) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this subchapter.

(D) The non-conforming use of land for storage purposes shall be discontinued within five years from the date of the adoption and approval of this subchapter, and the use of land for storage purposes which becomes non-conforming by reason of subsequent change in this code shall also be discontinued with five years from the date of change. In addition, an environmental remediation plan to restore the land shall be established prior to the termination of the non-conforming use and such plan must be implemented by the land owners or leaser of land at the termination of the non-conforming use.

(E) Whenever a non-conforming use has been discontinued for a period of one year such use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter.

(F) If no structural alterations are made to a structure or structure and land in combination, a nonconforming use may be changed to another nonconforming use, provided that the zoning administrator shall make specific findings that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The determination of the zoning administrator may be referred by the applicant or the staff of the board of zoning appeals which may make the findings and require appropriate conditions and safeguards.

(G) When a nonconforming use of a structure, land, or a structure and land in combination is discontinued or abandoned for one year, or when governmental action impedes access to the premises, the structure, land, or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(H) If a nonconforming adult use or open use of land is discontinued for six continuous months or more, all nonconforming use rights

are lost and re-establishment of the nonconforming use is prohibited.

(I) When a structure containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

(J) The Board of Zoning Appeals may authorize, by written permit, in a residential district for a period of not more than one year from the date of such permit, a temporary building for commercial or industrial use incidental to the residential construction and development of such district.

(Ord. 09-0008, passed 4-27-2009)

§ 156.452 NONCONFORMING LOTS.

(A) A nonconforming lot is a tract of land lawfully established as a lot on a plat recorded or registered, pursuant to statute, with the Recorder of Deeds of the county and the city that does not comply with the minimum lot area or lot width standards of the zoning district in which it is now located.

(B) The lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) In residential zoning districts, a nonconforming lot may not be developed unless approved by BZA. However, if a nonconforming lot is voluntarily increased in size and complies with applicable lot area or lot width standards, such lot may be developed within a residential zoning district.

(2) In nonresidential zoning districts, a nonconforming lot may not be developed without approved by BZA. However, if a nonconforming lot is voluntarily increased in size and complies with applicable lot area or lot width standards, such lot may be developed within a nonresidential zoning district.

(Ord. 09-0008, passed 4-27-2009)

§ 156.453 NONCONFORMING DEVELOPMENTS.

(A) A nonconforming development is any aspect of a development other than a nonconforming lot, nonconforming use or nonconforming sign that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Zoning Code. Common examples of nonconforming developments are buildings that do not comply with current setback or height standards, off-street parking or loading areas that contain fewer spaces than required by current standards, or sites that do not comply with current landscaping standards. Nonconforming developments may remain, subject to the regulations of this section.

(B) Unless otherwise expressly stated in this Zoning Code, nonconforming developments may be altered or enlarged as long as the alteration or enlargement does not increase the extent of nonconformity. A building addition to an existing nonconforming development that projects further into a required setback or further above the permitted maximum height is an example of increasing the extent of nonconformity.

(Ord. 09-0008, passed 4-27-2009)

§ 156.454 NONCONFORMING SIGNS.

A nonconforming sign is a sign that was lawfully established prior to the effective date of adoption or amendment of this chapter, the lawful sign may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) Nonconforming signs must be maintained in good repair, and must comply with all other requirements of this Zoning Code.

(B) Nonconforming signs shall be reviewed by zoning district and determinations made based on the provisions of §§ 156.380 through 156.391.

(C) Change of copy or the substitution of panels or faces on nonconforming signs is permitted without affecting the legal status of a sign as a nonconforming sign (subject to requirements for building and electrical permits). No other alterations are allowed, except for routine maintenance and repair.

(D) Any nonconforming on-premises sign that is located on property that has failed to maintain a valid business license or that becomes vacant and unoccupied for a period of three months, or any nonconforming on-premises sign that pertains to a time, event, or purpose that is no longer imminent or pending will be deemed to have been abandoned.

(E) Any nonconforming off-premises sign that is not used or for which a valid permit or license does not exist for a continuous period of three months will be deemed to have been abandoned.

(F) (1) Abandoned nonconforming signs are prohibited and must be removed by the owner of the sign or the property owner of the premises.

(2) No building permits or approvals may be issued for buildings occupied by nonconforming abandoned signs until such signs are removed or updated to present sign ordinance.

(Ord. 09-0008, passed 4-27-2009)

§ 156.455 NONCONFORMING FENCES.

(A) Fences which are legal non-conforming with regard to location on the lot may be maintained and repaired as necessary. Such a fence may also be replaced, provided the location and type of fence remains the same and the height is not increased.

(B) However, in the event of (30%) of a non-conforming fence is damaged by unforeseen incident, or a non-conforming fence containing barbed wire, razor wire, or other harmful material, the replacement of the fence shall only be permitted in accordance with the applicable current requirements of the zoning district where the fence is located.

(C) Any person proposing to replace such a nonconforming fence shall submit adequate documentation as part of the fence application for the Improvement Location Permit for the fence verifying the current location, height, and fencing material to a Zoning Enforcement Officer.

(Ord. 09-0008, passed 4-27-2009)

§ 156.456 NONCONFORMING PARKING AREA.

Parking areas which do not conform to the improvement and or landscaping standards or the screening and buffering standards may continue to be used. Any proposed addition to or expansion of such a parking area shall be required to conform to the current applicable parking requirements including the improvement and landscaping standards, and the screening and buffering standards. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an addition or expansion.

(Ord. 09-0008, passed 4-27-2009)

§ 156.457 NONCONFORMING FLOODWAY/FLOODWAY FRINGE/ FLOOD PLAIN.

(A) In a floodway (FW) district, no nonconforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.

(B) In a floodway fringe (FF) district a building which constitutes a nonconforming use may undergo substantial modification provided such modification is on a one-time only basis and further provided that such modification does not increase the value of the building, by more than 40% of its preimprovement market value, (excluding the value of land) unless such building is permanently changed to a conforming use,

(C) A nonconforming use in a floodplain (FP) district may be altered, enlarged, or extended, on a one-time-only basis, provided the procedures set forth in the ordinance codified in this section with respect to new construction in a floodplain (FP) district are followed and further provided such alterations, enlargements, or extensions do not increase the value of the building structure, or other use (excluding the value of land) by more than 40% of its pre-improvement market value, unless such building, structure, or use is permanently changed to a conforming use.

(D) Any nonconforming use in the FW, FF, and FP district which is damaged by flood, fire, explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than 40% of its pre-damage value.

(Ord. 09-0008, passed 4-27-2009)

§ 156.999 PENALTY.

(A) *Generally.* Any person who shall violate any provision of this chapter or shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any essential statement or plan submitted and approved thereunder shall for each and every violation or noncompliance be guilty of an offense and upon conviction thereof or finding to that effect, shall be fined not more than an amount as set by the city from time to time to which may be added imprisonment for a term not exceeding ten days. Each day the violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or any premises or any part thereof, where anything in violation of this chapter shall exist and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who or which may have assisted in the Commission of any violation shall each be guilty of a separate offense and upon conviction thereof or finding to that effect shall be fined as herein provided and any building erected, raised, or converted or land or premises used in violation of any provision of this chapter or any requirement hereof, is declared to be a common nuisance and as such may be abated in a manner as nuisances are now or may hereafter be abated under existing law.

(B) *Signs.* In the event that subsequent to the adoption of §§ 156.380 through 156.391, a sign is installed without a permit, an additional fee in an amount as set by the city from time to time per sign or sign face shall be imposed.

(C) *Fences.* In the event that subsequent to the adoption of §§ 156.380 through 156.391, a fence is installed without a building permit, a penalty fee in an amount as set by the city from time to time shall be imposed each day of the violation. The penalty fee shall constitute and be considered a separate offence each day of the violation.

(D) *Historic Preservation Committee.*

(1) *Illegal demolition.*

(a) It shall be unlawful to demolish any portion of any landmark or any improvement located within the historic preservation

district unless specifically permitted through a certificate of appropriateness issued for that property.

(b) Property owners will be subject to the following fines and penalties (which shall include a property) for any and all illegal demolition to any landmark or any improvement listed on the historic register as defined by the City Historic Commission:

1. A fine of no less than \$10,000 and no greater than \$50,000; and
2. A two-year building moratorium on the property on which the illegal demolition occurred.

(c) In cases where the building has been completely demolished, ownership of the subject property is forfeited and the subject property shall become that of the city.

(d) In cases where a building is partially demolished, the property owner shall be required to complete the construction or renovation of the home in accordance with the building permits granted by the city.

(e) Occupancy shall not be granted on the subject property until two years from the date of an approved final inspection of the structure.

(f) Prior to and during the building moratorium, the subject property in all instances must be maintained in accordance with the property maintenance code.

(2) *Illegal construction or alteration.*

(a) It shall be unlawful to complete any construction or alteration to any landmark or any improvement located within a historic preservation district unless specifically permitted through the certificate of appropriateness issues for that property.

(b) 1. Property owners will be subject to the following fines and penalties for any and all illegal construction or alteration to any landmark or any improvement located within a historic preservation district:

2. A fine of no less than \$500 and no greater than \$1,000 per day, per violation until an acceptable resolution is approved by the Historic Sites Commission.

(Prior Code, § 156.999) (Ord. 0-01-0024, passed 9-10-2001; Ord. 0-02-0009, passed - 2002; Ord. 0-08-0020, passed 9-22-2008)