

CODE
OF THE CITY OF
LEXINGTON, NEBRASKA

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Chapter 115

ZONING*

*State law reference—Zoning, R.R.S. 1943, § 19-901 et seq.

ARTICLE I. IN GENERAL

Sec. 115-1. Definitions.¹⁸⁹

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory means a subordinate activity or use that is customarily incidental to and located on the same lot as the main use of the property.

Activity means the performance of a function or operation which constitutes the use of land.

Agricultural farm or operation means any tract of land over ten acres in area used for or devoted to the commercial production of farm products.

Agriculture means the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in the county. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.

Alley means a public or private right-of-way which is used for secondary vehicular service access to the rear or side of those properties whose principal frontage is on a street.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.

Bed and breakfast guesthouse means a house or portion thereof, where short-term lodging rooms and meals are provided, and that no more than five rooms or suites of rooms shall be provided for guests. The owner and/or host shall reside on the premises.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys or by a combination of streets and public parks, cemeteries, railroad rights-of-way, watercourses or municipal boundaries. In cases where the platting is incomplete or disconnected, the city engineer shall determine the outline of the block.

~~*Board of adjustment* means the legally appointed municipal board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official map as defined within this chapter and in accordance with the laws of the state.~~

Boardinghouse or lodginghouse means a building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

Boundaries.

¹⁸⁹ Legal or Editorial Change: Code 1990, § 28-9 Definitions. Deleted definition of board of adjustment as not needed. Corrected state and administrative code references in the definitions of child care center and child care home. Conformed definition of manufactured home to R.R.S. 1943, § 19-902. In § 25-8, deleted subsections A--C as covered by Code chapter 1.

(1) The term "boundaries," when indicated as approximately following centerlines of street, road, highway, alley or railroad rights-of-way shall be construed to follow such lines.

(2) The term "boundaries," when indicated as approximately following platted lot lines or city limit lines shall be construed to follow such lines.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure. The term "building" includes the term "structure."

Child care center means a facility which is or should be licensed by the state department of social services as defined under the authority of R.R.S. 1943, § 71-1908--~~71-1923~~ ~~71-1918~~, as provided and defined under ~~Title 474 of the Nebraska Administration Code, Chapter 6, section 202~~ 391 N.A.C. § 1-003.

Child care home means facility which is or should be registered by the state department of social services as a family day care home when care is provided for four or more children from different families as defined under ~~article 19, section 71-1908-1918~~ R.R.S. 1943, §§ 71-1908--71-1923.

Club, private, means a building or premises used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons.

Court means an open, unoccupied space, other than yard, bounded on three or more sides by exterior walls of a building, or by exterior walls of a building and lot lines on which walls are allowable.

District means the sections of zoning area for which this chapter governing the use of land, building height and bulk, size of yards and intensity of activity are uniform.

Drive-in establishments means any restaurant, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building or where facilities are provided for eating outside a building, shall be included in this definition.

Dwelling means any building or portion thereof which is designed and used for residential purposes.

Dwelling, multifamily, means a building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, single-family, means a dwelling having accommodations for and occupied by one family.

Dwelling, two-family, means a residential building containing two dwelling units entirely surrounded by open space on the same lot.

Dwelling unit means a unit which consists of one or more rooms which are arranged, designed or used as separate living quarters by a single family or other groups of persons living together as a household or person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

Family.

(1) The term "family" means one or more persons, related or unrelated, living together as a single housekeeping unit with or without domestic servants, caregivers, foster children and supervisory personnel in a group living arrangement.

(2) The term "family" does not include occupancy of a residence by persons living in fraternities, sororities, clubs or transient, or permanent commercial residential facilities catering to the general public. The term "family" excludes nursing homes and convalescent homes.

Feedlot. See *Intensive livestock, confinement facilities/operations.*

Garage, private, means an accessory building or portion of a main building used for storage of automobiles and other personal property incidental to the maintenance of the building and grounds.

Garage, repair, means an accessory building or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles and which is operated for commercial purposes.

Height of buildings and structures means the vertical distance from the average ground level abutting a building or structure to the highest point of a building or highest point of any permanent part of a structure other than a building. Height where not regulated in feet shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings.

Home occupations means an accessory use of a nonresidential nature within a residence or its accessory buildings.

Hotel or motor hotel means a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than 40 sleeping rooms, and no provisions for cooking in individual rooms.

Intensive livestock, confinement facilities/operations means any building, lot, pen, pool, pond or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for ongoing confined raising, feeding or management of animals which exceed the following animal capacities:

- (1) 50 or more feeder or fat cattle;
- (2) 50 or more beef breeding animals, two years or older;
- (3) 30 or more dairy cattle;
- (4) 300 or more swine;
- (5) 500 or more sheep;
- (6) 1,000 or more poultry; or
- (7) An equivalent in combined animal units.

Junkyard or salvage yard.

(1) The term "junkyard" or "salvage yard" means a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment.

(2) The term "junkyard" or "salvage yard" does not include pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

Kennel means the ownership or harboring of more than four dogs on the premises of a zoned lot, whether kept for private or business purposes.

Lot means a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. The term "lot" includes the terms "piece" and "plot."

Lot, corner, means a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension; except that a lot as herein defined, when made up of more than one platted lot, shall be deemed to front on the street upon which the platted lots front.

Lot depth means the mean horizontal distance from the front street line to the rear line.

Lot, interior, means a lot whose side lines do not abut upon any street.

Lot line, front, means the boundary between a lot and the street on which it fronts.

Lot line, rear, means the boundary line which is opposite and most distant from the front street line.

Lot line, side, means any lot boundary line not a front or rear line thereof, a side line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot lines means the lines bounding a lot as defined in this section.

Lot of record means a lot created by a subdivision of land which has been legally recorded in the office of the register of deeds or a parcel of land described by metes and bounds and has also been so recorded.

Lot, through, means a means n interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line.

Manufactured home means:

- (1) A factory-built structure which:
 - a. Is to be used as a place for human habitation;
 - b. Is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site;
 - c. Does not have permanently attached to its body or frame any wheels or axles; and
 - d. Bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq., promulgated by the United States Department of Housing and Urban Development; or
- (2) A modular housing unit as defined in R.R.S. 1943, § 71-1557; and bearing ~~the seal of the state department of health~~ a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act (R.R.S. 1943, § 71-1555 et seq.).

Mobile home and mobile home park. Refer to the definitions in section 113-1.

Nonconforming use, building or yard means a use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated and existed as such on the date of adoption of the ordinance from which this chapter is derived ~~these regulations~~.

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

Professional services means offices for professional services, including, but not limited to, services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, counselors, architects, engineers, lawyers and accountants.

Restaurant means a building wherein food is prepared and served in ready-to-eat form, to the public, for human consumption. The term "restaurant" includes a cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.

Service floor area means the total floor area of a building exclusive of stairways, restrooms, storage rooms, hallways or other areas which are not regularly used by visitors, clients, customers, patients or patrons in their normal every day use of the building.

Sign means an exterior display of any letters, numerals, pictorial representation, symbol, flag, emblem, designs or trademarks illuminated or animated device which makes information known to the public or directs attention of the public off the site on which the sign is displayed to any object, subject, place, person, activity, product, etc.

Special use permit means a written permit issued with authorization of the city council. The special permit provides permission under specific conditions to make certain special uses of land in specific zoning districts as stipulated under permitted special uses in each of the zoning district regulations.

Stable, private, means an accessory building and premises for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

Stable, public, means a stable other than a private or riding stable as defined in this section herein.

Stable, riding, means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded or kept for remuneration, hire or sale.

Street means a right-of-way which affords principal means of vehicular access to property abutting thereon.

Street-oriented sign means a sign that directs attention to a business, profession, service or entertainment conducted, sold or offered on the premises of the zone lot where the sign is located.

Structural alterations means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to signs, and excepting customary utility poles, retaining walls and boundary fences.

Tourist cabin or motel means a building or buildings containing in the aggregate, on one undivided tract or parcel of land, a group of individual private units, each provided with separate sleeping rooms, having both lavatory and toilet facilities, designed and to be used primarily for transient guests traveling by automobile.

Townhouses means one of a group or row of not less than three nor more than 12 attached, single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

Used for includes "designed for," "intended for," "arranged for" and "occupied for."

Variance means a variation from a specific requirement in this chapter, as applied to a specific piece of property, as distinct from rezoning.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street that is designated a thoroughfare street on the thoroughfare plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots all yards abutting a street shall be measured from a line 25 feet from the lot line, whichever provides the greater setback.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard between the rear lot line and the rear line of the main building and the side lot lines.

Yard, side, means a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.

Zone lot means a lot of record as of the effective date of the ordinance from which this chapter is derived or any amendments to it, or two or more lots of record or any portion thereof within a block under single ownership or use as of the effective date of said ordinance or any subsequent amendments to it.

~~A. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number and the plural, the singular.~~

~~B. The word "shall" is mandatory and is not discretionary.~~

~~C. The word "may" is permissive.~~

(Code 1990, § 28-5, 25-8; Ord. No. 1839, § 1; Ord. No. 1912, 9-26-1990; Ord. No. 2124, § 1)

Sec. 115-2. Violations and penalties.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the proper local authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent any illegal act, conduct business or use in or about such premises. Any person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not more than \$100.00 for any one offense, recoverable with costs, together with judgment of imprisonment until the amount of the fine and costs shall be paid.

(Code 1990, § 28-39; Ord. No. 1912, 9-26-1990)

State law reference—Penalties for violation of zoning ordinance, R.R.S. 1943, § 19-913.

Sec. 115-3. Intent.

It is the intent of this chapter to promote the orderly development of the city in accordance with a comprehensive development plan or any component studies thereof. This chapter shall apply to all territory within the planning jurisdiction of the city. It is also the intent of this chapter that the extent of its applicability shall be automatically changed in accordance with the provisions contained herein, or with any provision of state law which may hereinafter affect the applicability of this chapter.

(Code 1990, § 28-1; Ord. No. 1912, 9-26-1990)

Sec. 115-4. Purpose.

In order to promote the health, safety and general welfare of the citizens of the city and its environs in accordance with present and future needs as expressed in the comprehensive development plan, the city, ~~proposes to~~ adopts the zoning ordinance from which this chapter is derived to provide for economic and efficient land development, encourage the most appropriate use of the land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public services can be provided, protect historical and environmental areas, preserve agricultural land, encourage good civic design and provide for adequate public utilities, facilities and services.

(Code 1990, § 28-2; Ord. No. 1912, 9-26-1990)

Sec. 115-5. Interpretation.

(a) The zoning regulations set forth in this chapter for each district shall be the minimum regulations to promote the general health, safety and welfare of the community and shall apply uniformly to each activity, structure or parcel of land except as hereinafter provided. Whenever this chapter requires a greater width or size of yards or requires a lower height of building or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes higher standards than are required in any other statute or local regulation, the more restrictive rule shall govern.

(b) For all purpose of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the list of permitted uses or other regulations contained within this chapter, uses not specifically permitted are prohibited. Uses other than those specified in the district regulations may be added to a district upon application by a landowner and upon proper amendment of the district regulations.

(Code 1990, § 28-3; Ord. No. 1912, 9-26-1990)

Sec. 28-42 Separability.¹⁹⁰

~~Should any article, section, clause, or provision of this chapter be declared by a court of law to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the segment declared to be unconstitutional or invalid. Each article, section, clause or provision in this chapter is therefore declared severable.~~

(Code 1990, § 28-42; Ord. No. 1912, 9-26-1990)

Sec. 115-6. Establishment of controls over use, height and open space.

(a) *New uses.* Upon the effective date of the ordinance from which this chapter is derived, any new building or other structure, or any tract of land shall be used, constructed, or developed only in accordance with the use, height, and open space and all other applicable provisions of this chapter.

(b) *Existing uses, lots, building or other structure.*

- (1) Any existing use legally established other than by special use permit, prior to the effective date of the ordinance from which this chapter is derived which does not comply with its provisions shall be subject to the nonconforming use regulations in this chapter.
- (2) Any existing lot, parcel, building or other structure legally established prior to the effective date of the ordinance from which this chapter is derived which does not comply

¹⁹⁰ Legal or Editorial Change: Code 1990, § 28-42 Separability. Deleted as covered by Code chapter 1.

with its provisions, other than use provisions, shall be subject to the nonconforming regulations in this chapter.

(Code 1990, §§ 28-4.1 28-4.2; Ord. No. 1912, 9-26-1990)

Sec. 115-7. Use of vacant land.

Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this chapter. The use of vacant land for a permitted use, other than farming, shall require a zoning permit.

(Code 1990, § 28-5; Ord. No. 1912, 9-26-1990)

Secs. 115-8--115-32. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 115-33. Amendments.¹⁹¹

(a) Application for amendment, revision or change of the zoning district map or for a special use permit may be made by any person, or his agent, who owns the land sought to be rezoned or specially used. If such application is made by the owner's agent, the agent shall enter upon the application the name and current mailing address of the owner.

(b) Applications for amendment, revision or change of any portion of this chapter may be made by any interested person. All applications shall be made on forms prescribed by the city clerk-treasurer and duly filed with the city clerk-treasurer.

(c) A fee as determined by resolution of the city council shall accompany each application for amendment, revision or change of the zoning district. An accurate sketch of the land in question, drawn to scale on a sheet of 8 1/2 inches by 11 inches, and a legal description thereof shall accompany the application.

(d) Immediately upon receipt of such application and fee, the city clerk-treasurer shall note thereon the date of filing and make a permanent record thereof. All such applications shall be set down for hearing not later than the second regular monthly meeting of the planning commission following the application. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the planning commission be continued for a definite time to be specified in the record of the planning commission. ~~notice of such hearing shall be published at least one time in the official newspaper of the city, such notice to be published not less than ten days prior to the date of the hearing before the planning commission.~~

~~In addition to the publication of the notice herein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Said notice shall be not less than two feet in height and four feet in width with white or yellow background, and black letters not less than two inches in height, and be substantially the same as the published notice. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change such notice prior to such hearing. Any~~

¹⁹¹ Legal or Editorial Change: Code 1990, § 28-37 General. In the fifth paragraph, the city has required notice provisions that differ from that required in R.R.S. 1943, § 19-905. In some cases the city is more stringent. Please advise as to the desired course of action. Throughout this section changed city clerk-treasurer to city clerk.

~~person so doing shall be deemed guilty of a misdemeanor. The record title holders of any real estate included in such proposal, and all record title holders of land within 300 feet of the land involved in such proposal, shall be served with a written notice substantially the same as the published notice. Service to nonresident title holders shall be made by certified mail to the last known address of said title holder. Such notice shall be mailed at least ten days prior to such hearing. In addition, the city clerk treasurer shall notify the board of education having jurisdiction in the area containing the property, for the purpose of securing a recommendation from the board relative to the zoning change. Such recommendation from the board of education shall be advisory only and failure to submit a recommendation within 30 days shall be construed as approval of the proposal as submitted.~~

(e) Following the final hearing of such application, the planning commission shall approve or deny the same, at the earliest reasonable time, and shall transmit an accurate written summary of the proceedings to the city clerk ~~treasurer~~.

(f) Following receipt of the summary of the action of the planning commission, the city clerk shall cause the proper posting and publication to be done for a public hearing by the city council and shall submit the same to the city council for consideration at the next regular meeting following the date of publication as allowed by law; at which time, final action approving or disapproving the recommendation of the planning commission shall be taken, provided, that the council may for good cause or upon the request of the applicant, continue its hearing upon such application or take the same under advisement after hearing, for final decision at a later date, and in any case the record shall show the reason for such continuance or withholding of final action.

(g) Recommendations for amendment, revision, change or repeal of this chapter, zoning district map, rules or regulations, may also be made by the planning commission upon its own motion or by the city council, provided, that the same are first submitted to the planning commission for hearing and recommendation. In either case, final action by the city council shall be taken only after hearing upon publication notice and recommendation, whether favorable or otherwise, by the planning commission, in the manner hereinbefore provided.

(h) In case of a protest against such change, signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body.

(i) Notice of all hearings provided for in this section shall be given as provided by law.

(Code 1990, § 28-37; Ord. No. 1816, § 3; Ord. No. 1912, 9-26-1990)

State law reference—Zoning amendments, R.R.S. 1943, §§ 19-904, 19-905, 19-915.

Secs. 115-34--115-54. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT, APPEALS AND VARIANCES*

***State law reference**—Board of adjustment, appeals and variances, R.R.S. 1943, § 19-907 et seq.

Sec. 115-55. Created.

There is hereby created a city board of adjustment with power as provided by state statute, and the board of adjustment shall be appointed by the city council.

(Code 1990, § 28-40; Ord. No. 1912, 9-26-1990)

State law reference—Board of adjustment required, R.R.S. 1943, § 19-907.

~~Sec. 28-41 Composition; rules and regulations; and powers.~~¹⁹²

~~The board of adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the city council upon written charges and after public hearings. All members of the board of adjustment shall reside within the corporate limits of the city. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the board of adjustment shall be appointed from the membership on the planning commission, and the loss of membership on the planning commission by such member shall also result in his immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment. The board of adjustment shall adopt rules in accordance with the provisions of this chapter and with state law.~~

~~(Code 1990, § 28-41; Ord. No. 1685, § 2; Ord. No. 1912, 9-26-1990)~~

Sec. 115-56. Variances.¹⁹³

~~The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the legislative body, have only the following powers:~~

- ~~(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structure.~~
- ~~(2) To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and~~
- ~~(3) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. No such variance shall be authorized by the board unless it finds that:

 - ~~a. The strict application of the zoning regulation would produce undue hardship;~~
 - ~~b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;~~
 - ~~e. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance;~~~~

¹⁹² Legal or Editorial Change: Code 1990, § 28-41 Composition; Rules and Regulations; and Powers. Deleted as covered by and in conflict with R.R.S. 1943, § 19-908.

¹⁹³ Legal or Editorial Change: Code 1990, § 28-41.1 Powers - Generally; Variances. Except for par. (4), deleted as covered by and inconsistent with R.R.S. 1943, § 19-910. The conflict is that appeals are not allowed for denial of special permit uses.

- ~~d. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.~~

Appeals and applications for variance shall be made by the property owner or his designated agent and filed in writing with the board of adjustment on forms provided. A fee as determined by resolution of the city council payable to the city shall be charged to partially defray cost of review and processing for each appeal or application.

- ~~(5) No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations. In exercising the above mentioned powers such board may, in conformity with the provisions of sections 19-901 to 19-905, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.~~

(Code 1990, § 28-41.1; Ord. No. 1816, § 5; Ord. No. 1912, 9-26-1990)

State law reference—Powers of board of adjustment, R.R.S. 1943, § 19-910.

~~Sec. 28-41.2 Appeals.~~¹⁹⁴

~~Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.~~

(Code 1990, § 28-41.2; Ord. No. 1912, 9-26-1990)

Secs. 115-57–115-85. Reserved.

ARTICLE III. NONCONFORMING USES OF LAND AND STRUCTURES*

*State law reference—Nonconformities, R.R.S. 1943, § 19-904.01.

¹⁹⁴ Legal or Editorial Change: Code 1990, § 28-41.2 Appeals. Deleted as covered by R.R.S. 1943, § 19-909.

Sec. 115-86. Purpose.

(a) This chapter established separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. It is necessary and consistent with the establishment of those districts that those nonconforming buildings, structures, and uses, which substantially and adversely affect the orderly development and taxable value of other property in the district, not be permitted to continue without restriction.

(b) The purpose of this article is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those circumstances and conditions under which those nonconforming buildings, structures and uses shall be permitted to continue.

(Code 1990, § 28-25; Ord. No. 1912, 9-26-1990)

Sec. 115-87. Authority to continue.

Any nonconforming building, structure or use which existed lawfully at the time of the adoption of this chapter and which remains nonconforming, and any such building, structure, or use which shall become nonconforming upon the adoption of the ordinance from which this chapter is derived, or of any subsequent amendments thereto, may be continued subject to the regulations set forth in this article ~~which follow~~.

(Code 1990, § 28-25.1; Ord. No. 1912, 9-26-1990)

Sec. 115-88. Continuance and extension of use of building; change of use to another nonconforming use.

The lawful use of a building existing at the time of the application of this chapter may be continued, although such use may be extended throughout such portions of buildings as are arranged or designed for such use; provided that no structural alterations, except to make the building or structure and the use thereof conform to the regulations of the district in which it is located, are made therein. A nonconforming use of a building may be changed to another nonconforming use of a more restricted classification if approved by the city council; provided that no structural alterations are made. If such nonconforming building or use is removed, the future use of such premises shall be in conformity with the provisions of this chapter.

(Code 1990, § 28-25.2; Ord. No. 1912, 9-26-1990)

Sec. 115-89. Discontinuance of a nonconforming use.

If the nonconforming use of a building, structure, or premises is discontinued for a continuous period of one year, it shall not be renewed, and any subsequent use of the building, structure, or premises shall conform to the use regulations of the district in which such building, structure or premises are located. However, a nonconforming use which has been discontinued for more than one year may be used for a nonconforming use if the applicant can demonstrate that there is no feasible conforming use, and such reuse is approved by the planning commission.

(Code 1990, § 28-25.3; Ord. No. 1912, 9-26-1990)

Sec. 115-90. Amortization.

There are found to be certain uses of land and buildings which have an adverse affect on the carrying out of the general development plan which should be discontinued after a reasonable time irrespective of aforesaid rules as to nonconforming uses. The ~~following~~ uses set forth in this section shall be removed or made conforming within the specified amortization period. Said amortization period shall commence upon the effective date of the ordinance from which this chapter is derived.

- (1) Fences, hedges and foliage which constitute a hazard by virtue of impairing sight distances at an intersection shall be made conforming within six months.

- (2) Nonconforming open storage operations, such as junkyards, automobile wrecking, salvage material storage and similar uses shall be made conforming, with regard to performance standards in division 2 of article VII of this chapter, within two calendar years.

(Code 1990, § 28-25.4; Ord. No. 1912, 9-26-1990)

Sec. 115-91. Repairs and improvements.

Repairs and improvements may be made to a nonconforming building or structure, provided that no alterations shall be made, except those required by law or ordinance, unless the building or structure is changed to a conforming or more restricted use; provided that the board of adjustment, in the case of evident hardship, may permit an enlargement of a nonconforming use not exceeding 50 percent of the floor or land area being used at the time of the adoption of this chapter.

(Code 1990, § 28-25.5; Ord. No. 1912, 9-26-1990)

Sec. 115-92. Effect of chapter on building permit issued prior to passage of the ordinance from which this chapter is derived.

Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, and plans for which are on file at the city hall at the time of the passage of the ordinance from which this chapter is derived and the construction of which shall have been diligently prosecuted within one year of the date of such permit.

(Code 1990, § 28-25.6; Ord. No. 1912, 9-26-1990)

Sec. 115-93. Restoration of damaged building.

Nothing in this chapter shall be taken to prevent the restoration, within six months, of a nonconforming building destroyed to the extent of not more than 50 percent of its value by fire, explosion or act of God, or the public enemy, provided that when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the six months allowed for reconstruction, and nothing in this chapter shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction, but any building damaged to more than 50 percent of its value may not be rebuilt, repaired or used unless it is made to conform to all regulations for buildings in the district in which it is located.

(Code 1990, § 28-25.7; Ord. No. 1912, 9-26-1990)

Sec. 115-94. Relocation of building or structure.

No building or structure shall be moved wholly or in part to any other location on the same or any other lot unless every portion of such building or structure is made to conform to all of the regulations of the district in which it is located.

(Code 1990, § 28-25.8; Ord. No. 1912, 9-26-1990)

Sec. 115-95. Expansions of nonconforming use.

(a) *Change in nonconforming use.* The use of a nonconforming building or structure may be changed to a use of the same or more restricted classification provided no structural alterations are made. However, if a use of a nonconforming building or structure is changed to a more restricted classification, it shall not thereafter be changed to a use of a less restricted classification.

(b) *Vacant buildings.* A vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within one year from the effective date of the ordinance from which this chapter is derived.

(c) *Land.* The nonconforming land use, which does not involve a building or structure, shall not be expanded or extended beyond the area it occupied, nor changed to any other use not permitted in the district in which the land is located.

(Code 1990, § 28-25.9; Ord. No. 1912, 9-26-1990)

Sec. 115-96. Nonconforming lots.

The following regulations shall apply to all lots of record which were existing prior to the effective date of the ordinance from which this chapter is derived:

- (1) A single-family residential dwelling unit may be erected on a lot of record existing prior to the effective date of said ordinance, regardless of the minimum lot area, lot width or lot depth, provided the maximum lot coverage of the zoning district in which the lot in question is located is met, and other provisions of this chapter are met.
- (2) In the event all of the minimum yard requirements cannot be provided on a lot of record existing prior to the effective date of the ordinance from which this chapter is derived, the building inspector may permit the erection of a single-family residential dwelling unit, provided the minimum yard requirements conform to the prevailing front yard, side yard and rear yard setbacks of dwelling units adjacent to the lot in question. In the event there are no dwelling units adjacent to the lot in question, the minimum yard requirements shall conform to the most applicable zoning district established within this chapter. The building inspector shall use the minimum lot area, lot width and lot depth of the lot in question to determine the most applicable zoning district.

(Code 1990, § 28-25.10; Ord. No. 1912, 9-26-1990)

Sec. 115-97. Nonconforming structures in the airport operation zone.

(a) Within the operation area as ~~hereinbefore~~ defined in section 115-159, no nonconforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character, or object of natural growth shall hereinafter be replaced, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before the ordinance from which this chapter is derived ~~these regulations~~ was adopted, if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80 percent or more, or have been abandoned for a period of 12 months or more. Transmission lines and communication lines as referred to in the regulations set forth in this chapter shall be interpreted to mean all poles, wires, guys and all other equipment, necessary for the operation and maintenance of same within the zone regulated.

(b) Whenever the building inspector shall determine, or shall be notified by the state department of aeronautics that a specific nonconforming structure or object exists and has existed, prior to the passage of the ordinance from which this chapter is derived and within the zoned area ~~hereinbefore~~ described in section 115-159, at such height or in such position as to constitute a hazard to the safe operation of aircraft landing at or taking off from the airport, the owner and lessor of the premises on which such structure or object is located shall be notified in writing by the building inspector and shall within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the building inspector. The cost of such marking shall not be assessed against the owner or lessor of the premises.

(Code 1990, § 28-25.10; Ord. No. 1912, 9-26-1990)

State law reference—Nonconforming uses in airport zoning districts, R.R.S. 1943, § 3-310.

Secs. 115-98--115-122. Reserved.

ARTICLE IV. ZONING DISTRICT ESTABLISHED; ZONING MAPS*

***State law reference**—Zoning districts authorized, R.R.S. 1943, § 19-902.

Sec. 115-123. Establishment of districts.¹⁹⁵

In order to implement the purposes and provisions of this chapter, the following districts are hereby established:

Agricultural Districts	
	A-1 Agricultural
	A-2 Urban Reserve
Residential Districts	
	R-1 Single-Family Residential
	R-2 Single- and Two-Family Residential
	R-3 Multiple Residential
	R-4 Mobile Home Dwelling
Commercial Districts	
	C-O Office Commercial
	C-1 Limited Commercial Service
	C-2 Core Commercial Service
	C-3 Commercial Highway Service
Industrial Districts	
	M-1 Light Industrial
	M-2 Heavy Industrial
Special Districts	
	<u>Planned Residential</u>
	Airport Hazard
	<u>FW Floodway Overlay</u>
	<u>FF Flood Fringe Overlay</u>
	Floodplain
	Feedlot
	Planned Unit Development

(Code 1990, §§ 28-6--28-6.5; Ord. No. 1912, 9-26-1990)

¹⁹⁵ Legal or Editorial Change: Code 1990, §§ 28-6--28-6.5. Made the listing of district conform to the remainder of the ordinance.

Sec. 115-124. Zoning map adopted by reference.¹⁹⁶

(a) District boundaries established by this chapter are shown on the city zoning map which is hereby adopted by reference into this chapter. The zoning map, including the special district map overlays and any amendments, shall be a part of this chapter and may extend up to two miles from the municipal boundary.

(b) The official zoning map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map to section 115-124 of the Lexington City Code." The effective date of the ordinance from which this chapter is derived and the map shall also accompany the signature. All dates of any amendments to the ordinance or map shall be promptly entered onto the official zoning map.

(c) The official zoning map shall be located in the office of the city clerk and shall be the final authority as to the current zoning status of all parcels of land within its jurisdiction.

(Code 1990, § 28-7; Ord. No. 1912, 9-26-1990)

Secs. 115-125--115-146. Reserved.**ARTICLE V. ZONING DISTRICT REGULATIONS****Sec. 115-147. A-1 Agricultural District.**

(a) *Scope and intent.* The provisions of this section apply to the A-1 Agricultural District. The A-1 district is intended to:

- (1) Preserve land best suited for agricultural uses within the community's zoning jurisdiction;
- (2) Prevent the intrusion of urban development into agricultural areas which would make agricultural production uneconomical or impractical;
- (3) Preserve in agricultural use, land suited to the eventual development in other uses until such time as streets, utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to nonagricultural use; and
- (4) Provide appropriate locations for certain types of establishments primarily servicing agricultural producers.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Agricultural farms or operations, excluding the expansion of existing or development of new intensive livestock, confinement facilities/operations as defined in section 115-1.
- (2) Bulk grain storage, both publicly or privately owned or managed;
- (3) Garden centers and nurseries;
- (4) Home occupations, in conformance with section 115-223;
- (5) Irrigation and flood control projects;
- (6) One single-family dwelling per zone lot;
- (7) Parks, playgrounds and community buildings owned or operated by a public agency;

¹⁹⁶ Legal or Editorial Change: Code 1990, § 28-7 Incorporation of Map. Please advise as to whether the certification on the zoning map will be changed to reference the new code.

- (8) Places of worship;
- (9) Public and private golf courses, excluding miniature golf and driving ranges not associated with a golf course;
- (10) Public elementary and high schools or private schools;
- (11) Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures and facilities;
- (12) Stables and riding academies;
- (13) Veterinary facilities.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the A-1 Agricultural District in conformance with the conditions prescribed herein: ~~(4)~~ Roadside stands for the temporary or seasonal sale of produce. ~~(a)~~ Such roadside stands shall be permitted in the required yard; however, no roadside stand shall be permitted in a right-of-way, nor closer than 20 feet to the edge of a traveled roadway.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(4)~~ accessory uses and structures normally appurtenant to permitted and conditional uses and structures in conformance with section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purposes in the A-1 Agricultural District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services; agricultural product milling and processing; establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services, sales and repairs;
- (2) Airports and heliports including crop dusting strips;
- (3) Auction/sale barns and yards;
- (4) Broadcast towers and stations, including amateur radio or land mobile towers of more than 100 feet;
- (5) Campgrounds;
- (6) Cemeteries, mausoleums and mortuaries;
- (7) Child care centers;
- (8) Colleges, universities and trade schools;
- (9) Contiguous expansion of intensive livestock, confinement facilities/operations, as defined in section 115-1;
- (10) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- (11) Kennels;
- (12) Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries;
- (13) Mobile homes, subject to compliance with section 113-5(a)(3);
- (14) Museums and art galleries;

- (15) One additional single-family dwelling for the purpose of housing relatives or agricultural workers;
- (16) Public and private charitable institutions;
- (17) Water storage, sewer treatment plants, and public and private sanitary landfills.
- (18) Trailer (camping) parks, subject to compliance with section 113-9.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as conditional or special uses shall be prohibited from the A-1 Agricultural District.

(g) *Parking regulations.* Parking within the A-1 Agricultural District shall be regulated in conformance with the provisions of section 115-225.

(h) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the A-1 Agricultural District shall be as follows:

Requirements	Single-Family Dwelling	Other Permitted Uses
Lot area (in acres)	10	5
Lot width (in feet)	400	200
Required front yard (in feet)	50	50
Required side yard (in feet)	25	15
Required rear yard (in feet)	50	25
Height (in feet)	35	35
Maximum lot coverage (in percent)	20	20
Minimum dwelling size per unit (in square feet)	800	--
Maximum height of accessory structures (in feet)	100	100

(Code 1990, § 28-10; Ord. No. 1912, 9-26-1990; Ord. No. 2124, §§ 2, 4; Ord. No. 2309, § 1, 12-27-2011)

Sec. 115-148. A-2 Urban Reserve District.

(a) *Scope and intent.* The provisions of this section apply to the A-2 district. This district is intended to allow for future orderly development of the community. Development may occur in this district, but only if public water and sanitary sewer systems and all other public facilities are provided.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Agricultural farm or operation, excluding the expansion of existing or development of new intensive livestock, confinement facilities/operations as defined in section 115-1;
- (2) Home occupations, in conformance with section 115-223;
- (3) Irrigation and flood control projects;
- (4) One single-family dwelling per zone lot;
- (5) Parks, playgrounds and community buildings owned or operated by a public agency;
- (6) Public and private golf courses, excluding miniature golf and driving ranges not associated with golf courses;
- (7) Public and quasi-public uses of an educational, recreational or religious type including:

- a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (8) Public uses of an administrative, public service or cultural type including:
- a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities.

(c) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~-accessory uses and structures normally appurtenant to permitted uses and structures in conformance with section 115-223.

(d) *Permitted special uses.* A building or premises may be used for the following purpose in the A-2 Urban Reserve District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services; agricultural product milling and processing; establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services, sales and repairs;
- (2) Broadcast towers and stations, including amateur radio or land mobile towers of more than 100 feet;
- (3) Campgrounds;
- (4) Cemeteries, mausoleums and mortuaries;
- (5) Child care homes;
- (6) Colleges, universities and trade schools;
- (7) Expansion of nonconforming uses;
- (8) Garden centers and nurseries;
- (9) Kennels;
- (10) Mobile homes, subject to compliance with section 113-5(a)(3);
- (11) Museums and art galleries;
- (12) Nursing homes;
- (13) One additional single-family dwelling for the purpose of housing relatives or agricultural workers;
- (14) Public and private charitable institutions;
- (15) Stables and riding academies;
- (16) Water storage and sewer treatment plants.
- (17) Trailer (camping) parks, subject to compliance with section 113-9.

(e) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the A-2 Urban Reserve District.

(f) *Parking regulations.* Parking within the A-2 Urban Reserve District shall be regulated in conformance with the provision of section 115-225.

(g) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the A-2 Urban Reserve District shall be as follows:

<u>Requirements</u>	Single-Family Dwelling	Other Permitted Uses
Lot area (in acres)	10	5
Lot width (in feet)	400	200
Required front yard (in feet)	50	25
Required side yard (in feet)	25	15
Required rear yard (in feet)	50	25
Height (in feet)	35	35
Maximum lot coverage (in percent)	20	20
Maximum height of accessory structures (in feet)	100	100

(Code 1990, § 28-11; Ord. No. 1912, 9-26-1990; Ord. No. 2309, § 2, 12-27-2011; Ord. No. 2124, §§ 5, 6)

Sec. 115-149. R-1 Single-Family Residential District.

(a) *Scope and intent.* The provisions of this section apply to the R-1 Single-Family Residential District. This district is intended to provide an open appearance, low density residential uses consisting of single-family detached dwelling units and accessory structures. Other associated uses such as community facilities, public utilities and open spaces that specifically benefit the residents by creating an open environment.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Child care homes in conformance with section 115-191;
- (2) Home occupations; in conformance with section 115-223;
- (3) One single-family dwelling per zone lot, including manufactured homes as defined in section 115-1 and in conformance with section 115-226;
- (4) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds.

(c) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~ accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(d) *Permitted special uses.* A building or premises may be used for the following purposes in the R-1 Single-Family Residential District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Cemeteries, mausoleums and mortuaries;
- (2) Child care center, in conformance with section 115-191;
- (3) Expansion of nonconforming uses;

- (4) Kennels;
- (5) Museums and art galleries;
- (6) Public and private charitable institutions;
- (7) Public and private golf courses, excluding miniature golf courses and driving ranges not associated with golf courses;
- (8) Public uses of an administrative, public service or cultural type including:
 - a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities.
- (9) Public utility purposes and communications equipment buildings.
- (10) Bed and breakfast guesthomes. As a condition to allowance of a bed and breakfast guesthome:
 - a. No more than five rooms or suites of rooms shall be provided for guests;
 - b. The owner and host shall reside on the premises;
 - c. Off-street parking shall be prescribed appropriate for each premises.
- (11) Antique retail sales shop.

(e) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Single-Family Residential District.

(f) *Parking regulations.* Parking within the R-1 Single-Family Residential District shall be in conformance with the provisions of section 115-225.

(g) *Sign regulations.* Signs within the R-1 Single-Family Residential District shall be in conformance with the provisions of section 109-5.

(h) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the R-1 Single-Family Residential District shall be as follows:

Requirements	Single-Family Dwelling	Other Permitted Uses
Lot area (in square feet)	8,000	8,000
Lot width (in feet)	70	70
Required front yard (in feet)	25	25
Required side yard (in feet)	7	7
Required rear yard (in feet)	25	25
Height (in feet)	35	45
Maximum lot coverage (in percent)	30	30
Maximum height of accessory structures,* except garages and storage buildings (in feet)	60	60
*Setback shall be such that structure shall not fall beyond the property line.		

Sec. 115-150. R-2 Single- and Two-Family Residential District.

(a) *Scope and intent.* The provisions of this section apply to the R-2 Single- and Two-Family Residential District. This district is intended to provide for single- and two-family detached medium density dwelling units. Other associated uses such as community facilities, utilities and open spaces that specifically benefit the resident by creating an open environment.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Child care homes in conformance with section 115-191;
- (2) Home occupations; in conformance with section 115-223;
- (3) No more than two single-family dwellings per zone lot, including manufactured homes as defined in section 115-1 and in conformance with section 115-226;
- (4) One two-family dwelling per zone lot;
- (5) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds.

(c) *Permitted accessory uses and structures.*

- (1) The following accessory uses and structures shall be permitted: Accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.
- (2) A building or premises may be used for the following purposes in the R-2 Single- and Two-Family Residential District if a special permit for such use has been obtained in accordance with article VI of this chapter:
 - a. Child care center in conformance with section 115-191;
 - b. Cemeteries, mausoleums and mortuaries;
 - c. Expansion of nonconforming uses;
 - d. Kennels;
 - e. Museums and art galleries;
 - f. Public and private charitable institutions;
 - g. Public and private golf courses, excluding miniature golf courses and driving ranges not associated with golf courses;
 - h. Public uses of an administrative, public service or cultural type including:
 1. City, county, state or federal administrative centers and courts;
 2. Libraries;
 3. Police and fire stations; and
 4. Other public buildings, structures and facilities;
 - i. Public utility purposes and communications equipment buildings;
 - j. Townhouses.
 - k. Bed and breakfast guesthomes. As a condition to allowance of a bed and breakfast guesthome:

1. No more than five rooms or suites of rooms shall be provided for guests;
2. The owner and host shall reside on the premises;
3. Off-street parking shall be prescribed appropriate for each premises.

(d) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-2 Single- and Two-Family Residential District.

(e) *Parking regulations.* Parking within the R-2 Single- and Two-Family Residential District shall be in conformance with the provisions of section 115-225.

(f) *Sign regulations.* Signs within the R-2 Single- and Two-Family Residential District shall be in conformance with the provisions of section 109-6.

(g) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the R-2 Single- and Two-Family Residential District shall be as follows:

<u>Requirements</u>	Single-Family Dwelling	Two-Family Dwelling	Other Permitted Uses
Lot area (in square feet)	7,000	10,890	10,890
Lot width (in feet)	50	75	75
Required front yard (in feet)	25	25	25
Required side yard (in feet)	7	7	7
Required rear yard (in feet)	25	25	25
Height (in feet)	35	35	45
Maximum lot coverage (in percent)	50	50	50
Maximum height of accessory structures,* except garages and storage buildings (in feet)	60	60	--
*Setback shall be such that structure shall not fall beyond the property line.			

(Code 1990, § 28-13; Ord. No. 1912, 9-26-1990; Ord. No. 1937, §§ 2, 4; Ord. No. 2124, §§ 10--12)

Sec. 115-151. R-3 Multiple Residential District.

(a) *Scope and intent.* The provisions of this section apply to the R-3 Multiple Residential District. This district is intended to provide for residential structures containing a multiple number of dwelling units. Compatible community facilities and public utilities necessary to service residents are also permitted.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Boardinghouses and lodginghouses;
- (2) Child care homes, in conformance with section 115-191;
- (3) Golf courses, except miniature golf and driving ranges not associated with golf courses;
- (4) Home occupations, in conformance with section 115-223;
- (5) Multiple-family dwellings;
- (6) Nursing homes;

- (7) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (8) Public uses of an administrative, public service or cultural type including:
 - a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities;
- (9) Single-family dwellings, including manufactured homes as defined in section 115-1 and in conformance with section 115-226;
- (10) Two-family dwellings.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the R-3 Multiple Residential District in conformance with the conditions prescribed herein:

- (1) *Domestic shelter.* ~~(a)~~ The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area.
- (2) *Temporary shelter for homeless.* ~~(a)~~ The maximum number of occupants of such a facility shall not exceed one person per 500 square feet of lot area.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~ accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purposes in the R-3 Multiple Residential District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Cemeteries, mausoleums and mortuaries;
- (2) Child care centers, in conformance with section 115-191;
- (3) Expansion of nonconforming use;
- (4) Kennels;
- (5) Medical, dental and related health care and personal services, including legal, accounting and like professional services; undertaking establishments; office buildings;
- (6) Museums and art galleries;
- (7) Public and private charitable institutions;
- (8) Public utility purposes and communications equipment buildings;
- (9) Townhouses.
- (10) Bed and breakfast guesthomes. As a condition to allowance of a bed and breakfast guesthomes:
 - a. No more than five rooms or suites of rooms shall be provided for guests;
 - b. The owner and host shall reside on the premises;
 - c. Off-street parking shall be prescribed appropriate for each premises.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-3 Multiple Residential District.

(g) *Parking regulations.* Parking within the R-3 Multiple Residential District shall be in conformance with the provisions of section 115-225.

(h) *Sign regulations.* Signs within the R-3 Multiple Residential District shall be in conformance with the provisions of section 109-8.

(i) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the R-3 Multiple Residential District shall be as follows:

<u>Requirements</u>	Single-Family Dwelling	Two-Family Dwelling	Multiple Dwelling (four)	Other Permitted Uses
Lot area (in square feet)	5,000	7,260	3,630/unit	7,260
Lot width (in feet)	50	75	80	80
Required front yard (in feet)	25	25	25	25
Required side yard (in feet)	7	7	7	7
Required rear yard (in feet)	25	25	25	25
Height (in feet)	35	35	35	45
Maximum lot coverage (in percent)	50	50	50	50
Maximum height of accessory structures,* except garages and storage buildings (in feet)	60	60	60	60
*Setback shall be such that structure shall not fall beyond the property line.				

(Code 1990, § 28-14; Ord. No. 1912, 9-26-1990; Ord. No. 1937, §§ 3, 4; Ord. No. 2124, §§ 13--15)

Sec. 115-152. R-4 Mobile Home Dwelling District.

(a) *Scope and intent.* The provisions of this section apply to the R-4 district. This district is intended to provide for the development of mobile home parks, and subdivisions where individuals may purchase lots and attach mobile homes. The minimum size area in the R-4 Mobile Home Dwelling District shall be two acres.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Child care homes, in conformance with section 115-191;
- (2) Home occupations; in conformance with section 115-223;
- (3) Mobile homes;
- (4) Nursing homes;
- (5) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (6) Single-family dwellings, including manufactured homes as defined in section 115-1 and in conformance with section 115-226;

(7) Two-family dwellings.

(c) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~-accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(d) *Additional requirements.* Except within a licensed mobile home park, no mobile homes shall be permitted to be placed in this district which do not meet the following requirements:

- (1) The structure shall be not less than 14 feet in width as titled by the state, and 800 square feet of finished living area and shall have an insignia of compliance with HUD standards and manufactured after June 15, 1976;
- (2) Foundations and setup. Mobile homes shall be attached to permanent and continuous foundations which maintain at least 18 inches of clear crawl space. The foundations shall be of sufficient strength to support the loads imposed by the mobile home, based on accepted engineering design standards, as approved by the building official. Foundation tie-downs or other supports shall be provided to withstand the specified horizontal, uplift, and overturning wind forces on a mobile home, based on accepted engineering design standards, as approved by the building official. All wheels and towing assemblies shall be removed.

(e) *Permitted special uses.* A building or premises may be used for the following purposes in the R-4 Mobile Home Dwelling District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Child care homes, in conformance with section 115-191;
- (2) Expansion of nonconforming uses;
- (3) Kennels;
- (4) Mobile home parks in compliance with chapter 113;
- (5) Museums and art galleries;
- (6) Public and private charitable institutions;
- (7) Public uses of an administrative, public service or cultural type including:
 - a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities;
- (8) Public utility purposes and communications equipment buildings.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-4 Mobile Home Dwelling District.

(g) *Parking regulations.* Parking within the R-4 Mobile Home Dwelling District shall be in conformance with the provision of section 115-225.

(h) *Sign regulations.* Signs within the R-4 Mobile Home Dwelling District shall be in conformance with the provisions of section 109-8.

(i) *Height and area regulations.* Except within a mobile home park, which is subject to standards as provided in chapter 113, the maximum height and minimum lot requirements, except as provided in section 115-224, within the R-4 Mobile Home Dwelling District shall be as follows:

<u>Requirements</u>	Mobile Homes	Other Permitted Uses
Lot area (in square feet)	5,000	5,000
Lot width (in feet)	50	50
Required front yard (in feet)	25	25
Required side yard (in feet)	7	7
Required rear yard* (in feet)	25	25
Height (in feet)	20	20
Maximum lot coverage (in percent)	50	50
Maximum height of accessory structures,* except garages and storage buildings (in feet)	60	60
*Setback shall be such that structure shall not fall beyond the property line.		

(Code 1990, § 28-15; Ord. No. 1912, 9-26-1990; Ord. No. 1932, §§ 3, 4; Ord. No. 2124, §§ 16--18)

Sec. 115-153. C-O Office Commercial District.

(a) *Scope and intent.* The provisions of this section apply to the C-O Office Commercial District. This district is intended to provide for uses to serve the recurring household needs and personal service requirements of the occupants of nearby residential areas, and also professional offices which do not conflict with the residential character of a neighborhood. These districts may occur along or away from arterial streets, characteristically are small, and are distributed widely over the area for convenient accessibility by residential area occupants.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Barbershops and beauty parlors;
- (2) Child care centers, in conformance with section 115-191;
- (3) Child care homes, in conformance with section 115-191;
- (4) Detached banking facilities;
- (5) Home occupations, in conformance with section 115-223;
- (6) Administrative and professional offices, including but not limited to accountants, architects, brokers, engineers, dentists, dental laboratories, attorneys, physicians, medical supply, real estate, insurance and financial institutions.
- (7) Mortuaries;
- (8) Public and charitable institutions;
- (9) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (10) Public uses of an administrative, public service or cultural type including:
 - a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities;

(11) Public utility purposes and communication equipment buildings;

(12) Any use permitted in R-1 district.

(c) *Construction standards.* A building or premises not used solely for residential purposes shall comply with the following standards:

(1) *Building conversion.* A building constructed for residential use may be converted for use as an office or other permitted business purpose if the following conditions are met:

- a. Any new construction or improvements shall comply with the height and area standards of subsection (i) of this section;
- b. All required off-street parking shall be located in the side or rear yard, and shall be screened from abutting residential property by solid fencing at least six feet in height;
- c. Converted buildings shall comply with building codes and handicap access standards for a commercial building.

(2) *New construction.* Prior to issuance of a building permit for new construction, building plans shall be submitted to the planning commission for review and approval. The standard of review shall be whether the proposed new structure is consistent in character and appearance with the surrounding residential neighborhood.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~ accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purposes in the C-O Office Commercial District if a special permit for such use has been obtained in accordance with article VI of this chapter: ~~(1)~~ expansion of nonconforming use.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-O Office Commercial District.

(g) *Parking regulations.* Parking within the C-O Office Commercial District shall be in conformance with the provision of section 115-225.

(h) *Sign regulations.* Signs within the C-O Office Commercial District shall be in conformance with the provisions of section 109-10.

(i) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the C-O Office Commercial District shall be as follows:

<u>Requirements</u>	Single-Family Dwelling	Two-Family Dwelling	Multiple Dwelling	Other Permitted Uses
Lot area (in square feet)	5,000	5,000	3,630/unit	5,000
Lot width (in feet)	50	50	75	50
Required front yard (in feet)	25	25	25	25
Required side yard (in feet)	7	7	7	7
Required rear yard (in feet)	25	25	25	25
Height (in feet)	35	35	35	45

Maximum lot coverage (in percent)	50	50	50	50
Maximum height of accessory structures,* except garages and storage buildings (in feet)	35	35	35	35
*Setback shall be such that structure shall not fall beyond the property line.				

(Code 1990, § 28-16; Ord. No. 1912, 9-26-1990; Ord. No. 2049, § 1; Ord. No. 2124, §§ 19, 20)

Sec. 115-154. C-2 Core Commercial District.

(a) *Scope and intent.* The provisions of this section apply to the C-2 Core Commercial District. This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a central business district. The highest density and intensity of use is permitted in this district.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Automobile sales and services;
- (2) Automotive wash facilities;
- (3) Bakery;
- (4) Banks, savings and loan associations, credit unions and finance companies;
- (5) Barbershops, beauty parlors and shoeshine shops;
- (6) Business offices;
- (7) Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
- (8) Detached banking facilities;
- (9) Dry cleaning or laundry establishments;
- (10) Food service, restaurants and taverns;
- (11) Food storage lockers;
- (12) Funeral homes and mortuaries;
- (13) Garden centers;
- (14) Messenger and telegraph stations;
- (15) Motels and hotels;
- (16) Multifamily dwelling units in commercial buildings on floor other than the ground floor;
- (17) Museums and art galleries;
- (18) Office buildings;
- (19) Parking lots, parking garages and other off-street parking facilities;
- (20) Personal and professional services;
- (21) Photography studios;
- (22) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (23) Public and private charitable institutions;
- (24) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;

c. Parks and playgrounds;

(25) Public uses of an administrative, public service or cultural type including:

a. City, county, state or federal administrative centers and courts;

b. Libraries;

c. Police and fire stations; and

d. Other public buildings, structures and facilities;

(26) Public utility facilities;

(27) Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure of the walls of the buildings;

(28) Filling/service stations and convenience stores;

(29) Single-family dwellings, including manufactured homes as defined in section 115-1 and in conformance with section 115-226;

(30) Stores or shops for the sale of goods at retail;

(31) Temporary shelter for homeless;

(32) Two-family dwellings.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the C-2 Core Commercial District in conformance with the conditions prescribed herein:

(1) Child care center in conformance with section 115-191.

(2) Child care home in conformance with section 115-191.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~-accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purpose in the C-2 Core Commercial District if a special permit for such use has been obtained in accordance with article VI of this chapter:

(1) Expansion of nonconforming use.

(2) Kennels.

(3) Mobile homes, subject to compliance with section 113-5(a)(3).

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-2 Core Commercial District.

(g) *Sign regulations.* Signs within the C-2 Core Commercial District shall be in conformance with the provisions of section 109-11.

(h) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the C-2 Core Commercial District shall be as follows:

<u>Requirements</u>	Single-Family Dwelling	Two-Family Dwelling	Multifamily Dwelling	Other Permitted Uses
Lot area (in square feet)	2,500	2,500	2,500	2,500
Lot width (in feet)	50	75	75	2
Required front yard (in feet)	0	0	0	0

Required side yard (in feet)	0	0	0	0
Required rear yard (in feet)	0	0	0	0
Height (in feet)	35	35	35	35
Maximum lot coverage (in percent)	75	75	75	100
Maximum height of accessory structures (in feet)	45	45	45	45

(Code 1990, § 28-18; Ord. No. 1912, 9-26-1990; Ord. No. 2124, §§ 22, 23)

Sec. 115-155. C-3 Commercial Highway Service District.

(a) *Scope and intent.* The provisions of this section apply to the C-3 district. This district is designed to provide for uses which serve the needs of the motoring public. Appropriate locations for these districts are along major traffic arterials.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Automobile sales and services;
- (2) Automotive wash facilities;
- (3) Construction sales and services;
- (4) Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
- (5) Detached banking facilities;
- (6) Food service, restaurants and taverns;
- (7) Freight terminals;
- (8) Garden centers and nurseries;
- (9) Mobile and modular home sales;
- (10) Motels and hotels;
- (11) Museums and art galleries;
- (12) Public and private charitable institutions;
- (13) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (14) Public uses of an administrative, public service or cultural type including:
 - a. City, county, state or federal administrative centers and courts;
 - b. Libraries;
 - c. Police and fire stations; and
 - d. Other public buildings, structures and facilities;
- (15) Filling/service stations and convenience stores;
- (16) Stores or shops for the sale of goods at retail;
- (17) Temporary shelter for the homeless;
- (18) Transportation warehousing;

(19) Wholesale sales and services.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the C-3 Commercial Highway Service District in conformance with the conditions prescribed herein:

- (1) Child care center in conformance with section 115-191.
- (2) Child care home in conformance with section 115-191.

(d) *Permitted accessory uses.* The following accessory uses and structures shall be permitted: ~~(1)~~ accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purpose in the C-3 Commercial Highway Service District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Cemeteries, mausoleums and mortuaries;
- (2) Colleges, universities and trade schools;
- (3) Expansion of nonconforming use;
- (4) Kennels;
- (5) Mobile homes, subject to compliance with section 113-5(a)(3);
- (6) Water storage and sewer treatment facilities.
- (7) Warehouses or storage houses.
- (8) Trailer (camping) parks, subject to compliance with section 113-9.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-3 Commercial Highway Service District.

(g) *Parking regulations.* Parking within the C-3 Commercial Highway Service District shall be in conformance with the provision of section 115-225.

(h) *Sign regulations.* Signs within the C-3 Commercial Highway Service District shall be in conformance with the provisions of section 109-12.

(i) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the C-3 Commercial Highway Service District shall be as follows:

<u>Requirements</u>	All Permitted Uses
Lot area (in square feet)	7,500
Lot width (in feet)	70
Required front yard (in feet)	15
Required side yard (in feet)	10
Required rear yard (in feet)	15
Height (in feet)	35
Maximum lot coverage (in percent)	60
Maximum height of accessory structures*(in feet)	60
*100 feet maximum height allowed within one-half-mile of Interstate 80 interchange.	

(Code 1990, § 28-19; Ord. No. 1912, 9-26-1990; Ord. No. 1960; Ord. No. 2124, §§ 24, 25; Ord. No. 2309, § 3, 12-27-2011)

Sec. 115-156. M-1 Light Industrial District.

(a) *Scope and intent.* The provisions of this section apply to the M-1 district. This district is designed to provide for a wide range of industrial and related uses which conform to a high level of performance standards.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Agriculture, excluding the expansion of existing or development of new feedlots;
- (2) Animal care;
- (3) Automobile sales and services;
- (4) Automotive wash facilities;
- (5) Bottling works;
- (6) Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke;
- (7) Carpenter, cabinet, plumbing or sheet metal shops;
- (8) Cheese factories;
- (9) Construction sales and services;
- (10) Dry cleaning and/or laundry plants;
- (11) Farm implement sales and services;
- (12) Farm produce sales;
- (13) Food service, restaurants and taverns;
- (14) Freight and truck terminals;
- (15) Frozen food lockers;
- (16) Furniture warehouse;
- (17) Garden centers and nurseries;
- (18) Groceries, retail and wholesale;
- (19) Light manufacturing operation, provided such use complies with the regulations set forth in article VII, division 2 of this chapter;
- (20) Machinery sales and storage lots;
- (21) Mobile and modular home sales and manufacturing;
- (22) Newspaper publishing plants;
- (23) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (24) Public utility and public service uses;
- (25) Transportation warehousing;
- (26) Warehouse or storage houses;

(27) Wholesale sales and services.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the M-1 District in conformance with the conditions prescribed herein:

- (1) Child care center, in conformance with section 115-191;
- (2) Child care home, in conformance with section 115-191.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~-accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purpose in the M-1 Light Industrial District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Expansion of nonconforming use;
- (2) Junkyards and salvage yards;
- (3) Kennels;
- (4) Mobile homes, subject to compliance with section 113-5(a)(3).
- (5) Trailer (camping) parks, subject to compliance with section 113-9.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the M-1 Light Industrial District.

(g) *Parking regulations.* Parking within the M-1 Light Industrial District shall be in conformance with the provision of section 115-225.

(h) *Sign regulations.* Signs within the M-1 Light Industrial District shall be in conformance with the provisions of section 109-13.

(i) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the M-1 Light Industrial District shall be as follows:

Requirements	All Permitted Uses
Lot area (in square feet)	10,000
Lot width (in feet)	80
Required front yard (in feet)	15
Required side yard (in feet)	10
Required rear yard (in feet)	15
Height (in feet)	35
Maximum lot coverage (in percent)	60
Maximum height of accessory structures (in feet)	100

(Code 1990, § 28-20; Ord. No. 1912, 9-26-1990; Ord. No. 2124, §§ 26, 26.1; Ord. No. 2309, § 4, 12-27-2011)

Sec. 115-157. M-2 Heavy Industrial District.

(a) *Scope and intent.* The provisions of this section apply to the M-2 district. This district is intended to accommodate industrial uses which are generally not compatible with residential and/or commercial activity.

(b) *Permitted principal uses and structures.* The following shall be permitted as uses by right:

- (1) Alfalfa dehydrating mills;
- (2) Agriculture, excluding the expansion of existing or development of new feedlots;
- (3) Animal care;
- (4) Bottling works;
- (5) Blacksmithing and welding shops;
- (6) Building materials, storage and sales;
- (7) Carpenter, cabinet, plumbing and sheet metal shops;
- (8) Cold storage plants;
- (9) Construction sales and services;
- (10) Dry cleaning and laundry plants;
- (11) Farm machinery sales, service and storage;
- (12) Feed and seed stores;
- (13) Freight and truck terminals;
- (14) Frozen food lockers;
- (15) Garden centers and nurseries;
- (16) Irrigation equipment sales and manufacture;
- (17) Manufacturing, processing or fabrication;
- (18) Manufacturing, processing or fabrication;
- (19) Machinery sales and storage lots;
- (20) Mobile and modular home sales and manufacturing;
- (21) Public and quasi-public uses of an educational, recreational or religious type including:
 - a. Public and parochial elementary schools, junior high schools and high schools;
 - b. Private nonprofit schools, churches, parsonages and other religious institutions;
 - c. Parks and playgrounds;
- (22) Public utility and public service uses;
- (23) Seed cleaning and processing;
- (24) Service stations;
- (25) Storage yards;
- (26) Transportation warehousing;
- (27) Warehouses or storage houses;
- (28) Wholesale sales and services.

(c) *Permitted conditional uses.* A building or premises may be used for the following in the M-2 Heavy Industrial District in conformance with the conditions prescribed herein:

- (1) Child care center, in conformance with section 115-191;
- (2) Child care home, in conformance with section 115-191.

(d) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted: ~~(1)~~ accessory uses and structures normally appurtenant to permitted uses and structures as identified in section 115-223.

(e) *Permitted special uses.* A building or premises may be used for the following purpose in the M-2 Heavy Industrial District if a special permit for such use has been obtained in accordance with article VI of this chapter:

- (1) Anhydrous ammonia;
- (2) Expansion of nonconforming uses;
- (3) Grain elevators;
- (4) Kennels;
- (5) Livestock sales and holding pens;
- (6) Meat packing plants;
- (7) Mobile homes, subject to compliance with section 113-5(a)(3);
- (8) Petroleum and natural gas refining and processing;
- (9) Ready-mix concrete and asphalt mix plants;
- (10) Stockyards and slaughterhouses;
- (11) Storage of bulk oil, gas and explosives.
- (12) Junkyards and salvage yards.

(f) *Prohibited uses and structures.* All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the M-2 Heavy Industrial District.

(g) *Parking regulations.* Parking within the M-2 Heavy Industrial District shall be in conformance with the provision of section 115-225.

(h) *Sign regulations.* Signs within the M-2 Heavy Industrial District shall be in conformance with the provisions of section 109-13.

(i) *Height and area regulations.* The maximum height and minimum lot requirements, except as provided in section 115-224, within the M-2 Heavy Industrial District shall be as follows:

<u>Requirements</u>	All Permitted Uses
Lot area (in square feet)	10,000
Lot width (in feet)	80
Required front yard (in feet)	15
Required side yard (in feet)	0
Required rear yard (in feet)	0
Height (in feet)	35
Maximum lot coverage (in percent)	70
Maximum height of accessory structures (in feet)	100

(Code 1990, § 28-21; Ord. No. 1912, 9-26-1990; Ord. No. 2124, § 27)

Sec. 115-158. Planned Residential Districts.

(a) *Scope and Purpose.* The provisions of this section apply to Planned Residential Districts. Each of the residential districts provided for in this section shall have a separate and distinct counterpart known and herein referred to as a planned district. A planned district shall be for the purpose of permitting and regulating the uses heretofore permitted in the equivalent district and further provide for and encourage latitude and flexibility in the location of buildings, structures, roads, drives, variations in yards and open spaces, etc., subject to approval of the plan by local officials. Innovations in design and the application of sound design principles is encouraged. Sufficient flexibility will be provided to minimize land use conflicts, encourage harmonious development of the site and its surroundings, and provide adequate public infrastructure. The tract for use as a Planned Residential District shall be not less than two acres in area and shall be under single or joint ownership.

(b) *Use, height, area, etc., regulations.* In general, the height and area of buildings, the amount of open space, light and air, the concentration of population, the parking and loading requirements shall be equal to those in the corresponding districts R-1 to R-3, inclusive. The uses permitted shall be the same as in the equivalent districts R-1 to R-3, inclusive. Variations and departures from normal practice may, however, be permitted. Each building need not face on a public street and more than one main building may be located on a lot. Buildings may be constructed on platted tracts which are smaller than the minimum lot size requirements where other adjacent permanent open space is provided. Buildings may be grouped in clusters or around courts and may be served by private drives in lieu of public streets. Buildings may be located closer to the lot lines than otherwise permitted provided such buildings are architecturally suitable for such a relationship to adjoining buildings or property, due consideration being given to future development of adjoining property under separate ownership. Any building or portion thereof may be owned in condominium under state statutes.

(c) *Enumerated.* The Planned Residential Districts shall be as follows:

Planned District	Equivalent District
RP-1	R-1
RP-2	R-2
RP-3	R-3

(d) *Procedure for rezoning property to a planned residential district.* A tract of land may be zoned RP-1 through RP-3 only upon application by the owner or his agent and only upon approval of a development plan for the tract. The proponents of a planned development shall prepare and submit to the planning commission a development plan containing the following elements:

- (1) The boundaries of the tract to be zoned and the area adjacent for a distance of not less than 100 feet.
- (2) The proposed location and arrangements of buildings, structures, parking areas, existing and proposed streets, drives and other public ways and other features of the proposed development.
- (3) Sufficient approximate dimensions to indicate the relationship between buildings, streets and drives, and property lines.
- (4) Preliminary elevation and plan sketches of proposed buildings.

The planning commission shall advertise and hold a public hearing on the plan as provided by law. At such time as the development as planned meets with the approval of the commission, the same

shall be duly approved, properly endorsed and identified and sent on to the city council for action. All decisions of the planning commission may be appealed to the city council who may reverse or affirm the same. Upon final approval of the plan and the rezoning of the tract as required by law, construction may proceed, and conformance with the plan and all supporting documentation is mandatory.

(Code 1990, § 28-33; Ord. No. 1912, 9-26-1990)

~~Sec. 28-35 Flood hazard district.~~¹⁹⁷

~~The development of land subject to flooding and the encroachment upon natural waterways shall be regulated by special controls set forth in this section. The boundaries of this district are shown on a map entitled flood hazard boundary map, dated 8-13-76, or subsequent revision of said map approved by resolution of the city council.~~

~~Sec. 28-35.1 Selected floodway within the flood hazard district.~~

~~Contained within the flood hazard district is an area known as the selected floodway. In the absence of a technical hydrologic study to delineate selected floodway boundaries, the selected floodway is defined as being a corridor 100 feet on either side of stream channel banks.~~

~~Sec. 28-35.2 Special requirements.~~

~~No building, structure or obstruction shall be hereafter erected or established in the selected floodway. In the flood hazard district located outside of the selected floodway, all first floor elevations of any principal use structure and all residential dwelling units shall be one foot above the 100-year flood elevation. In the absence of any such definitive elevations, first floor elevation shall be at least three feet above stream bank elevation.~~

~~(Code 1990, §§ 28-35-28-35.2; Ord. No. 1912, 9-26-1990)~~

Sec. 115-159. Airport Hazard District.

(a) *Detailed description of hazard area.* The additional provisions in this section shall apply to such lands within the corporate limits of the city or two miles therefrom situated within the area of three miles in all directions from boundaries of any airport. This area within three miles of the boundaries of the airport shall be known as the airport hazard area, and shall be regulated as follows: the hazard area consists of operation zones, approach zones, turning zones and transition zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the approach and turning zones.

(b) *Zone descriptions.* The boundaries, approach zones, transition zones and turning zones of the airport are described as follows:

- (1) *Operation zone.* The operation zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1,000 feet in width for each instrument runway or landing strip and 500 feet in width for all other runways and landing strips.
- (2) *Approach zone.* The approach zones shall begin at the ends of their respective operation zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the approach zone at a

¹⁹⁷ Legal or Editorial Change: Code 1990, §§ 28-35--28-35.2. Flood hazard district. Deleted as superseded by Ch. 28A (Ord. No. 2294).

rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet of width for each 100 feet of horizontal length for all other runways. The inner area of each approach zone shall be that portion of the approach zone beginning at the end of the respective or proposed operation zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip. The outer area of each approach zone shall be the area between the outer limit of the inner area of the approach zone and the outer limit of the approach zone.

- (3) *Transition zone.* The transition zones shall be the areas bounded by the operation zones of the hazard area, the sides of contiguous inner areas of approach zones and the outer limits of the transition zones; said outer limits of the transition zones being the intersections, at elevation of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the operation zones of the hazard area and the edges of adjacent inner areas of approach zones; said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one foot vertically to seven feet horizontally to the lines of intersection previously referred to.
- (4) *Turning zone.* The turning zones shall comprise all portions of the hazard area not contained in the operation zones, approach zones and in the transition zones. The outer limits of the turning zones shall be a series of points forming a line which is the horizontal distance of three statute miles from the nearest points along the airport property lines. Where this boundary line falls beyond the city's zoning jurisdiction, the city's two-mile zoning boundary shall govern; where said three-mile boundary falls within the city's two-mile zoning boundary, the three-mile airport boundary shall govern.

(c) *Height regulations.* No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:

- (1) In inner areas of approach zones to a height above the elevation of the nearest point on the end or proposed end of the instrument runway or landing strip in excess of 1/50 and all other runways or landing strips in excess of 1/40 of the distance from the point to the structure or object.
- (2) In the outer area of approach zones and in turning zones to a height in excess of 150 feet above the elevation at the end or proposed end of the runway or landing strip.
- (3) In the transition zones to a height above the planes forming the transition slopes.
- (4) In the existing or proposed operation zones to a height above the existing or proposed finished grade of the runways or landing strips or surface of the gravel.

(d) *Permit required.* It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, tower, smokestack, chimney, wires or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth, within the boundary of the hazard area of the airport without first obtaining a permit from the building inspector.

(e) *Exceptions.* In the outer area of approach zones and within the turning zones, these height regulations shall not apply to construction or planting which is no higher than 75 feet above the elevation of the end of the nearest runway or landing strip.

(f) *Application forms.* Application for a permit as required under the regulations set forth in this chapter shall be made upon a form to be available in the office of the building inspector, and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting.

(Code 1990, §§ 28-36--28-36.6; Ord. No. 1912, 9-26-1990)

State law reference—Airport zoning, R.R.S. 1943, § 3-301 et seq.

Secs. 115-160--115-186. Reserved.

ARTICLE VI. SPECIAL USES

Sec. 115-187. Permit--Planning commission to hear requests.

The planning commission may hear and recommend to the city council, in accordance with the provisions of this chapter, requests for special use permit.

(Code 1990, § 28-38; Ord. No. 1912, 9-26-1990)

Sec. 115-188. Same--Application; notice of public hearing.

The application for a special use permit shall be made by the property owner or his designated agent and filed in writing with the planning commission on forms provided, and shall contain information and exhibits as may be required under other sections. Not more than 60 days after filing such application a hearing shall be held on the application, unless otherwise withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with section 115-33. A fee as determined by resolution of the city council payable to the city shall be charged to partially defray cost of review and processing for each application for a special use permit, except that the fee shall be waived for any governmental agency.

(Code 1990, § 28-38.1; Ord. No. 1816, § 4; Ord. No. 1912, 9-26-1990)

Sec. 115-189. Same--Requirements.

(a) General requirements are hereby established which shall apply to all applications for special use permits, and specific standards listed shall apply to the issuance of a special use permit as appropriate. The commission may impose such other conditions and restrictions upon the premises benefited by a special use permit as may be necessary in order to reduce or minimize the injurious effect of such conditional use upon and ensure compatibility with surrounding property and to better carry out the general intent of this chapter. The commission may establish expiration dates as a condition or a part thereof.

(b) Special use permits granted after January 1, 2000, may be subject to annual review by the planning commission, for compliance with the provisions under which the permit was originally issued. Upon failure of applicant to meet the provisions or conditions contained within the special use permit, the planning commission may recommend and the city council may revoke the special use permit. In the event that a use has not been established within one year after the issuance of a special use permit, the planning commission may recommend and the city council may revoke said permit. ~~General requirements.~~—A special use permit shall be recommended, provided the commission finds that it:

- (1) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- (2) Will not adversely affect other property in the area in which it is located;
- (3) Is within the provision of conditional uses as set out in this chapter; and
- (4) Conforms to all applicable provisions of this chapter for the district in which it is to be located and necessary for public convenience in that location.

(Code 1990, § 28-38.2; Ord. No. 1912, 9-26-1990; Ord. No. 2124, § 28)

Sec. 115-190. Special conditions for mining and quarrying activity.

(a) The location of such an activity shall be in an area sparsely developed and likely to remain sparsely developed during the length of time the mining or quarrying activity is anticipated.

(b) Any permit issued hereunder shall be based on a site plan or other documents submitted with an application which shall provide for the following:

- (1) Existing contours of the site and up to 100 feet beyond the site boundary. Contour intervals shall be at two-foot intervals.
- (2) Location of the area in which the proposed quarrying activity is to be conducted.
- (3) Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.
- (4) Proposed method of drainage of the quarry area.
- (5) Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.

(Code 1990, § 28-38.3; Ord. No. 1912, 9-26-1990)

Sec. 115-191. Special conditions for child care centers or child care homes.

As a condition to allowance of child care centers or child care homes, the following shall be provided to the city zoning department:

- (1) The application shall be accompanied by the following information:
 - a. Number and ages of children to be cared for at facility;
 - b. Number of fulltime and parttime staff members;
 - c. Physical description and layout of facility, including proposed improvements and alterations to existing facility, parking spaces, fence, play area and floor plan.
- (2) The facility shall meet all appropriate local and state standards, including licensing.
- (3) The outdoor play area shall be readily accessible to the main facility, free from hazards, screened and set away from main street.
- (4) The use of mobile homes for such facility is prohibited.

(Code 1990, § 28-38.4; Ord. No. 1912, 9-26-1990)

Sec. 115-192. Expansion of nonconforming uses conditions.

In all districts, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitutes a nonconforming use. In consideration of applications for special permits, the following criteria shall be given specific consideration:

- (1) Effects on adjacent property, traffic, and city utility service needs;
- (2) Density of land use zoning for the subject property and adjacent property; and
- (3) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

(Code 1990, § 28-38.5; Ord. No. 1912, 9-26-1990)

Secs. 115-193--115-222. Reserved.

ARTICLE VII. SUPPLEMENTAL REGULATIONS

DIVISION 1. GENERALLY

Sec. 115-223. Accessory uses.

(a) *Generally.* Buildings and structures may be erected and land may be used for purposes which are clearly incidental, subordinate to, and customarily associated with the main permitted use of the same zone lot. Such accessory building and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful, or disturbing to adjacent property or the users thereof and shall be on the premises of the main use. Such accessory activities shall be controlled in the same manner as the main use except as otherwise expressly provided for hereinafter. The determination of the eligibility of a proposed use as an accessory use shall be made by the building inspector and appeal can be made from his decision as set out in division 2 of article II of this chapter ~~article V~~, board of adjustment, appeals and variances.

(b) *Accessory uses listed.* A partial list of accessory uses would include but not be limited to:

- (1) Any required off-street parking, whether within the same zone lot or not, for use only by residents, patrons or employees.
- (2) Home occupation accessory to a residential activity shall be carried on within a dwelling unit or accessory building by one or more occupants of the dwelling unit and shall not occupy more than 20 percent of the total floor area of such dwelling unit and in no event more than 300 square feet of floor area. The following shall not be permitted except as allowed under special use provisions:
 - a. Exterior displays, or a display of goods or chattels visible from the outside, or exhibit greater than one square foot in size on the premises by any method or device whatsoever or any manner which would indicate from the exterior that the dwelling unit or accessory building is being utilized in whole or in part as a home occupation.
 - b. Storage materials or goods or chattels, or any parts outside of a principal or accessory building or other structure.
 - c. Employment of no person other than the residents of the dwelling unit or more than one parttime nonoccupant in the conduct of any home business.
 - d. No horse or similar livestock may be kept on a zone lot less than three acres, except by special use permit within the city limits.
 - e. Temporary real estate sales office, located on property being sold, and limited to the period of sale, but not exceeding two years without special use permit.
 - f. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed are not sold on the premises.
 - g. Storage of occupant-owned boats, camping trailers, pickup campers, motor homes or other recreational vehicles, including motorcycles, shall not be parked in yards adjacent to public streets except within the driveway areas.
 - h. Garage sales, yard sales and estate auctions are all specifically exempt from these regulations, provided they are held not more than two weekends per year.

- (3) A one-family dwelling over or to the rear of a permitted commercial or industrial use provided that such dwelling is for the use of a caretaker or the person owning or operating the commercial or industrial use on the site.
- (4) Permitted accessory uses in high density residential and commercial districts include exterior signs as permitted by ordinance, swimming pools, minor recreation buildings, trash collection centers, power generating substations and other distribution facilities, food and vending machines, and flagpoles.
- (5) Residential districts. Flagpoles, chimneys, storage buildings, detached garages, radio, television or microwave antenna, provided that any satellite dish antenna which is either ground mounted, portable or greater than three feet in diameter, shall be located only within a rear yard, and shall be located a minimum of ten feet from any lot line, and in the case of a corner lot not less than 15 feet from a lot line adjacent to a side street.
- (6) Agricultural, commercial or industrial districts. Flagpoles, chimneys, cooling towers, elevator bulkheads, gas tanks, grain elevators, air pollution control devices, silos, radio transmitter towers, conveyers, stacks, ornamental towers, monuments, domes, spires, standpipes and the necessary mechanical appurtenances thereto.
- (7) Agricultural district. Accessory building customarily incident to agricultural use, living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling. Roadside stands offering for sale only agricultural produce or other products produced on the premises.
- (8) The determination of the eligibility of a proposed use as an accessory use shall be made by the building inspector and appeal can be made from his decision as set out in division 2 of article II of this chapter ~~article V, board of adjustment, appeals and variances.~~
- (c) *Additional restrictions on accessory buildings.*
 - (1) No accessory buildings shall occupy more than 25 percent of the area of any required area in a zone lot.
 - (2) No accessory buildings shall exceed a maximum permitted height of the main building.
 - (3) No accessory buildings shall be erected on or encroach upon the required front yard or required easements for any zone lot.
 - (4) A detached garage or other accessory building shall be located not less than 60 feet from the front lot line, nor less than three feet from any side lot line, nor less than three feet from any alley line; except, that when the rear lot line is common to a side or rear lot line of another lot, such outbuilding shall be located a minimum of three feet from the rear lot line, and in the case of corner lots not less than the distance required for residences from side streets.

(Code 1990, § 28-24; Ord. No. 1745, § 1; Ord. No. 1912, 9-26-1990)

Sec. 115-224. Lot area and height exceptions.

The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards, rear yards and other regulations and requirements set forth in this chapter ~~as follows in the foregoing sections of this chapter~~ shall be subject to the following exceptions and additional regulations:

- (1) *Height exception.* In any district, public or semipublic buildings, such as hospitals, churches, sanitariums or schools, either private or public, where permitted, may be erected to a height not exceeding 75 feet, provided that such buildings shall have yards which shall be increased one foot on all sides for each additional foot that such buildings

exceed the specified height limit as established by the regulations of the district in which such buildings are located.

(2) *Yard exceptions.*

- a. In any zone districts where lots comprising 40 percent or more of the frontage, on the same side of a street between two intersection streets, excluding reverse corner lots, are developed with buildings having front yards with a variation in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage.
- b. Where an official line has been established by the city or state for future widening or opening of a street upon which a lot abuts then the depth or width of a yard shall be measured from such official line to the nearest line of the building.
- c. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, beltcourses, cornices, chimneys, buttresses, ornamental features, eaves and air conditioner units; provided that none of the ~~above~~ projections set forth in this subsection shall extend into a minimum yard more than 30 inches; and provided further, that canopies or open porches having a roof area not exceeding 60 square feet may project a maximum of six feet into the required front or rear yard and existing open porches extending into the required yard shall not be enclosed.
- d. An open fire escape may project into a required side yard not more than half the width of such yard, but not more than four feet from the building. Fire escapes, solid floored balconies and enclosed outside stairways may not project more than four feet into a required rear yard.
- e. In any district, a detached accessory building not exceeding 24 feet or two stories in height, or in any case not higher than the main building, may occupy not more than 25 percent of a rear yard.
- f. No rear yard shall be required in C-1 to M-2 districts, inclusive, on any lot used for business or industrial purposes, the rear line for which adjoins a railway right-of-way or which has a rear railway track connection or alley.
- g. In computing the depth of a rear yard for any building where such yard abuts an alley, one-half of such alley may be assumed to be a portion of the rear yard.
- h. A through lot having one end abutting a limited access highway, with no access permitted to that lot from the highway, shall be deemed to front upon the street which gives access to that lot.

(Code 1990, §§ 28-27--28-27.2; Ord. No. 1912, 9-26-1990)

Sec. 115-225. Off-street parking and loading requirements.

For all buildings or structures hereafter erected or constructed, off-street motor vehicle parking and loading space shall be provided as set forth in this section. ~~below~~ Any use not included in the schedule shall be assigned a parking requirement by the building official.

(1) *Schedule of minimum off-street parking and loading requirements.*

Structures and Uses	Minimum Off-Street Parking Spaces*	Minimum Off-Street Loading Spaces
Single-family and duplex dwelling unit	2 per each unit	N/A
Multifamily dwelling unit	2 per each unit	N/A

Hotels and motels	1 per each unit	1
Any use in C-2 district	1 per each 2 employees	N/A
Churches, theaters and other seating facilities	1 per 4 seating capacity	N/A
Libraries	1 per 500 sq.ft. of floor area	N/A
Hospitals, sanitariums and nursing homes	1 per 4 beds	1
Banks	1 per 200 sq.ft. of floor area	1
Barbershops and beauty shops	1 per 200 sq.ft. of floor area	N/A
Restaurants	1 per 4 seating capacity	1
Carry-out food establishments	1 per 100 sq.ft. of floor area	1
Medical clinics	5 per doctor or dentist	1
*Angle parking from the public right-of-way not exceeding 60 degrees may be included in off-street parking requirements upon application and approval of the city council for each specific request.		

Structures and Uses	Minimum Off-Street Parking Spaces	Minimum Off-Street Loading Spaces
Dry cleaning and coin-operated laundry	1 per 200 sq.ft. floor area	1
Photographic studios	1 per 200 sq.ft. floor area	N/A
Schools	1 per teacher	1
Armories or assembly halls	1 per 200 sq.ft. floor area	1
Bakeries	1 per 200 sq.ft. floor area	1
Mortuaries	1 per 4 seating capacity	1
Printing and publishing plants (largest shift)	1 per each 2 employees	1
Radio and television broadcasting (largest shift)	1 per each 2 employees	1
Shops for custom work or light manufacture	1 per 400 sq.ft. floor area	1
Industrial uses (largest shift)	1 per each 2 employees	1
Taverns or nightclubs	1 per each 4 seating capacity	1
Frozen food lockers	1 per 400 sq.ft. of floor area	1
Bowling alleys	4 per alley	1
Wholesale stores	1 per 400 sq.ft. floor area	1
Retail or liquor stores	1 per 200 sq.ft. floor area	1
Professional offices	1 per 400 sq.ft. floor area	N/A
Service establishments	1 per 200 sq.ft. floor area	1

- (2) *Improvement of parking and loading areas.* All open parking and loading areas shall be ready for use upon occupying a building and shall be surfaced with bituminous or concrete pavement within six months following completion of the building. A parking space shall be at least nine feet by 20 feet. A loading space shall be ten feet by 50 feet. Parking and loading spaces shall have access to a public street or alley by means of paved driveways not exceeding 35 feet in width. Barrier curbs shall be constructed to prevent encroachment upon other property including public rights-of-way.

(Code 1990, §§ 28-29--28-29.2; Ord. No. 1912, 9-26-1990; Ord. No. 2124, § 28)

Sec. 115-226. Manufactured home standards.

~~Manufactured Homes:~~ All manufactured homes located outside mobile home parks shall meet the following standards:

- (1) The home shall have no less than 900 square feet of floor area;
- (2) The home shall have no less than an 18-foot exterior width;
- (3) The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run;
- (4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
- (5) The home shall have nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock;
- (6) The home shall have wheels, axles, transporting lights and removable towing apparatus removed;
- (7) Nothing in the section shall be deemed to supersede any valid restrictive covenants of record;
- (8) The home must meet building code requirements adopted by the city.

(Code 1990, § 28-31.4; Ord. No. 1912, 9-26-1990; Ord. No. 2124, § 30)

State law reference—Uniform Standard Code for Manufactured Homes and Recreational Vehicles, R.R.S. 1943, § 71-4601 et seq.; local regulation of manufactured homes, R.R.S. 1943, § 19-902.

Sec. 115-227. Street and highway dedication and setbacks.

(a) No building or structure shall be erected or enlarged in any zoning district unless half the street adjacent to such lot has been dedicated in width as required by the street classification plan. The maximum area of land required to be so dedicated shall not exceed 25 percent of the area of such lot and the dedication shall not reduce such a corner lot below a width of 50 feet of a lot area to less than 5,000 square feet or make a lot nonconforming for any other provisions in this chapter. Any owner of such lot may submit an application for a variance in accordance with the procedure in division 2 of article II of this chapter—article V, board of adjustment, appeals and variances, in the event an unreasonable hardship should occur due to such street dedication.

(b) A minimum 50-foot setback or 25 percent of the lot, whichever is less restrictive, whether a front or side yard, is required adjacent to all state and federal highways. In the C-2 district no setback is required.

(Code 1990, § 28-32; Ord. No. 1912, 9-26-1990)

Secs. 115-228--115-247. Reserved.

DIVISION 2. PERFORMANCE STANDARDS

Sec. 115-248. Storage of construction materials.

No building material, construction equipment, machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel other than in such districts as permitted in this chapter, except during actual construction operations upon the premises.

(Code 1990, § 28-28.1; Ord. No. 1912, 9-26-1990)

Sec. 115-249. Zone.

- (a) All operations shall be conducted within a fully enclosed building.

(b) Landscaping shall be provided and maintained by the owner or developer within the 15 feet adjacent to a street. Landscaping shall include but is not limited to screen planting, lawn area, trees, shrubs, fences and walls.

(Code 1990, § 28-28.2; Ord. No. 1912, 9-26-1990)

Sec. 115-250. Fire hazard.

No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazards. This shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gases, when handled in accordance with rules and regulations of the state and the city.

(Code 1990, § 28-28.3; Ord. No. 1912, 9-26-1990)

Sec. 115-251. Noise.

No operation shall emit a noise level in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. All noises shall be muffled so as not to be objectionable due to intermittence, beat, frequency or shrillness.

(Code 1990, § 28-28.4; Ord. No. 1912, 9-26-1990)

Sec. 115-252. Sewage and liquid wastes.

No operation shall discharge into a sewer watercourse or the ground liquid wastes of a radioactive nature, or gas, liquid or solid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

(Code 1990, § 28-28.5; Ord. No. 1912, 9-26-1990)

Sec. 115-253. Air pollution.

No operation shall discharge from any source whatsoever any material or contaminates in such quantity as to cause injury, detriment, nuisance, annoyance or damage to the public, vegetation or property.

(Code 1990, § 28-28.6; Ord. No. 1912, 9-26-1990)

Sec. 115-254. Odor.

No operation shall emit any odors of any kind that are generally agreed to be obnoxious by the public.

(Code 1990, § 28-28.7; Ord. No. 1912, 9-26-1990)

Sec. 115-255. Glare and heat.

No operation shall emit any glare or heat from any source whatsoever that shall be detectable at the exterior property line.

(Code 1990, § 28-28.8; Ord. No. 1912, 9-26-1990)

Sec. 115-256. Physical appearance.

Junkyards, salvage, auto wrecking and other similar operations shall be effectively enclosed or shielded from adjacent properties on all sides by means of a sight obscuring fence at least eight feet in height in good repair or similar screening approved by the building inspector.

(Code 1990, § 28-28.9; Ord. No. 1912, 9-26-1990)