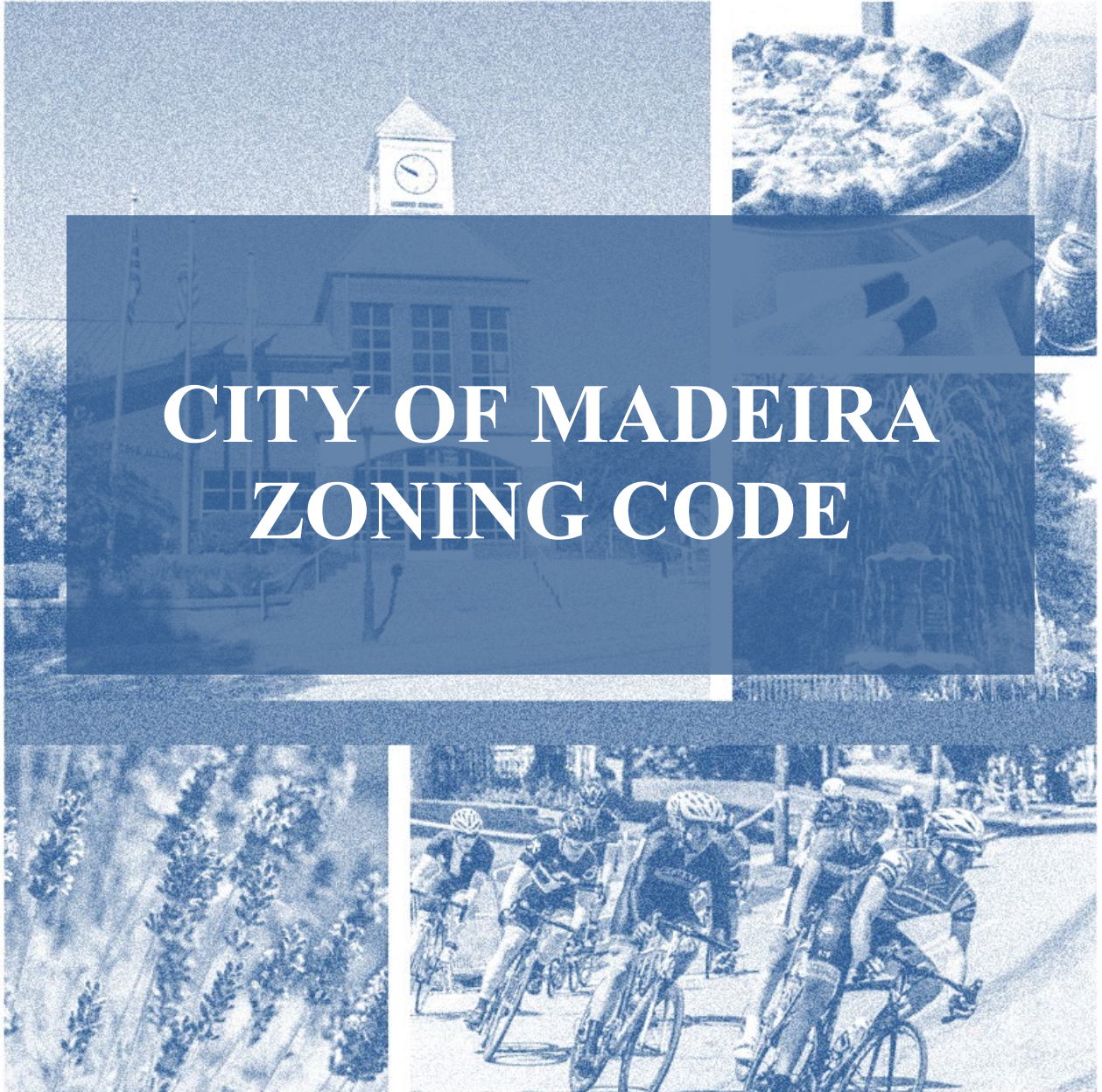


# MADEIRA



## CITY OF MADEIRA ZONING CODE

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**§ 150.01 DEFINITIONS**


(A) For the purpose of this Zoning Code, the following words and phrases shall have the following meanings ascribed to them respectively.

Table 150-1	
Term	Definition
Accent Material	Decorative material applied to the facade of a building to add visual interest.
Accessory Building	A building that is detached from the principal building. Its use is related, subordinate, and customarily incidental to the use of the principal building on the same lot.
Accessory Structure	A structure that is detached from the principal building. Its use is related, subordinate, and customarily incidental to the use of the principal building on the same lot.
Accessory Use	A use of land or building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
Architectural Review Officer (“ARO”)	The professional architect responsible for the review and approval of architectural elements of submitted permit applications, appointed by the City Manager and approved by City Council.
Articulation	To divide a building’s facade into distinct and significant parts. (See Figure 1.)
Attached Townhouse Style Residence	A residential structure in which each dwelling unit has its own entrance and exit, and each unit occupies the ground level on at least one floor.
Awning	<p>A non-load bearing roof-like cover of canvas, similar fabric, or standing seam metal roof over a frame, designed and intended for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walk, or door, and is supported entirely by attachment to a building wall. (See Figure 1.)</p>  <p style="text-align: center;">Figure 1: Building shows articulation, awning and belt courses</p>
Balcony	An exterior floor system projecting from an adjoining structure that is attached to or supported by the adjoining structure, with no additional independent supports. A balcony may be covered or uncovered.
Belt Course	A slight recess or projection of masonry or similar material running horizontally through a facade. (See Figure 1)
Brick Applique	An exterior cladding of traditional brick materials of less than one inch in thickness, applied to an underlying structural support wall such as one of concrete masonry units using a mortar or float technique, which results in the appearance of a traditional brick finish.
Brick Veneer	An exterior cladding of traditional brick materials of less than one inch in thickness, applied to an underlying structural support wall such as one of concrete masonry units using a mortar or float technique, which results in the appearance of a traditional brick finish.

Building Code	The building code ordinances of the City of Madeira, Ohio adopted by ordinances and codified as Chapter 152.
Building Height	This shall be calculated by determining the difference in elevation from the ground level, at the designated point, to the highest elevation of the roof of the building (excluding any chimney or antenna). The designated point at which to measure the ground level elevation shall be at the horizontal center of the side of a building nearest a public street where the side of the building intersects with the ground level. Generally, this will be the front of the building. On a corner lot if the building is equidistant from each street, it shall be the side with the lower ground elevation. The natural or existing topography shall be used to determine elevation of the ground level at the location unless the City Manager determines that a higher ground elevation is appropriate because of unusual difficulties with topography or site development.
Build-to-Line	A line established in the interior of the lot parallel to the property line or right-of-way line which defines the plane to which a building shall be set. The effect is buildings consistently placed along the frontage of a street or block to create a consistent street wall.
Bulkhead	<p>(1) The part of the facade that forms a base for one or more windows on the ground floor.</p> <p>(2) Typically found in traditional storefronts.</p> <p>(3) See Figure 2 below.</p>  <p><b>Figure 2: The bulkhead is located under the windows</b></p>
Bufferyard	An area of healthy and viable vegetation, natural or planted, installed and maintained for the purposes of separating and screening the effects of a higher intensity land use upon a lower intensity land use and that contains only vegetation and no part of which is used for parking or driveways.
Building	A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.
Business District	Business One – Downtown District – Main Street Madeira “B-1”, Business Two – Montgomery Road Enterprise District “B-2”, or Business Three – Makers, Retailers, & Auxiliary District “B-3”
Cantilever	A structural horizontal projection of an upper portion of a building, which has no visible exterior vertical supports and is supported only by the wall from which it emerges.

Canopy	A freestanding structure consisting of vertical supports and an overhead support system clad in fabric or metal roofing to provide partial protection from the elements.
Cellular Communications Services	Personal communications accessed by means of cellular equipment and services.
Cellular or Wireless Communications Antenna	Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both bi-directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.
Cellular or Wireless Communications Site	A tract, lot or parcel of land that contains the cellular or wireless communications tower, antenna, support structures, parking and any other uses associated with and ancillary to cellular or wireless communications transmission.
Cellular or Wireless Communications Support Structure	Any building or structure, including equipment shelter, guy wire anchors, accessory to but necessary for the proper functioning of the cellular or wireless communications antenna or tower.
Cellular or Wireless Communications Tower	Any freestanding structure used to support a cellular or wireless communications antenna.
Cellular or Wireless Communications Tower, Height of	The height from the base of the structure, at grade, to its top; including any antenna located thereon. Grade shall be determined as the elevations of the natural or existing topography of the ground level prior to construction of the tower.
Cement Veneer	1. A veneer of cement or fired clay made to create synthetic stone finished surface. 2. Veneers can be applied to an exterior surface with an adhesive and thereby produce the effect of a stone or masonry wall without being structural.
City	City of Madeira, Ohio
City Manager	The official administrative professional responsible for the daily management of the city's functions.
City Manager's Designee	(1) Any person employed by the City Manager to perform a task related to the review of permit applications to the city. (2) This may include an Assistant to the City Manager, a Planner, Zoning Administrator, engineer, architect, or any other professional to assist the City Manager in the assessment of applications.
Clerestory	<p>An upper story row of windows, or windows so placed. Often applied when there is not an actual interior corresponding floor. (See Figure 3.)</p>  <p>The diagram shows a cross-section of a building facade. On the ground level, there are four large windows and a set of double doors. Above this level, there is a row of three smaller windows. A horizontal line is drawn above these upper windows, indicating the level of the clerestory. To the right of the building, there is a sign that says 'Store Name' with an arrow pointing to the right. The caption below the diagram states: 'Figure 3: The upper row of windows on this single story building represents a clerestory'.</p>
Club Pool	A swimming pool that ten or more persons not of the same family have at any time and by way of membership, securities, part ownership, or other arrangement, the right to use.



Commercial Vehicle	<ol style="list-style-type: none"> <li>1. Any vehicle, no matter what its gross vehicle weight, used or designed to be used for business or commercial purposes and which, in addition, negatively infringes upon the residential character of a Residence District. These vehicles include but are not limited to a bus, cement truck, panel truck, semi-tractor, semi-trailer or any other non-recreational trailer used for commercial purposes, stake bed truck, step van, tank truck, tar truck, dump truck; or</li> <li>2. Any other vehicle that is designed or rated by the manufacturer for more than 8,800 pounds gross vehicle weight and is licensed by the State Bureau of Motor Vehicles as either a truck or a commercial vehicle.</li> </ol>
Corner Lot	Any lot abutting upon intersecting streets at their intersections, or upon two parts of the same street where they form an interior angle of less than 135 degrees.
Cornice	<p>Dimensional detail consisting of trims, panels, brackets, and/or corbels projecting at the uppermost or crowning portion of a wall or facade. Also known as a crown molding. (See Figure 4.)</p>  <p><b>Figure 4: Cornice at the top line of a building facade</b></p>
Deck	An exterior floor system constructed of wood, metal, composite or other like material, which is either attached to or detached from the principal building or dwelling and is supported by an adjoining structure and/or posts, piers or other independent supports. A deck attached to or detached from the principal building or dwelling shall be no larger than twenty-five percent (25%) of the footprint of the principal building or dwelling.
Dining Encroachment	Stands, tables, umbrellas, chairs, displays, signs, banners, flags, objects related to the business or other items of private property placed on sidewalks or other areas of the public right-of-way to provide or enhance outdoor dining.
Dining Premises	The real estate owned, leased, or rented by the licensed indoor dining establishment.
Divided Light Windows	Windows which are traditional in appearance, comprised of several panes of glass separated by wooden or lead glazing bars or a single pane of glass with decorative glazing bars.
Downtown District	The B-1 Business District.
Dwelling	A building or structure designed and occupied exclusively for residential use and other permitted uses by one family, but not including a tent, cabin, trailer, hotel, motel, fraternities, sororities, or mobile home.
Eclectic Architecture	A building style or the style of a collection of buildings, which draws from a variety of recognized architectural styles, periods, or sources without being a true facsimile of any one specific genre. It may also mean a district, which does not have one consistently applied architectural style, but exhibits a mix of styles.
Exterior Building Materials	The exterior weatherproofing cladding or covering of a building, which is applied to an underlying structural form. Exterior Building Materials may but do not necessarily provide structural support. Exterior Building Materials are visible and contribute to the design and character of the facade and roof forms.
Facade	The exterior face or wall of a building. The face may be referred to as either a primary or a secondary facade.

Family	A person living alone, or two or more persons customarily living together as a single housekeeping unit and using common cooking facilities, but shall not include a group occupying a hotel, club, boarding or lodging house, motel, sorority house, fraternity house, group home, or any premise being used for a short-term rental.
Fence	An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas, to mark a boundary, or to protect privacy.
Fenestration	Window and other openings in a building's facade.
Garage Sale	Garage sale shall refer to any garage sale, yard sale, home sale, or any other attempt to sell personal property, for a limited period of time, on a property within a Residence District.
Glazing	Fitted or covered with glass.
Height of Building	Same definition as Building Height.
Home Office	A business, profession, occupation, or trade that conducted within a Dwelling for the economic gain or support of a resident of the Dwelling and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.
Hosting Platform	A person that participates in the transient rental business by providing, and collecting or receiving a fee for, booking service through an online platform that allows an operator to advertise the rental property through a website hosted by the hosting platform. Examples of hosting platforms, include, but are not limited to, Airbnb, VRBO, and HomeAway.
Impervious Surfaces	Surfaces that prevent or substantially impede the passage, absorption, and/or infiltration of water, including stormwater, into the soil, including, but not limited to, buildings, structures, parking lots, driveways, sidewalks, rooftops, surfaces constructed of asphalt or concrete, brick or concrete pavers, and compacted gravel surfaces.
Independent Living Building	A building which contains complete housing units for individual use, each including a bathroom, living room and at least one bedroom (or a living room/bedroom in a studio unit), which may include related transportation services and facilities such as congregate dining, social gathering areas, library, prayer chapel and exercise room, but which does not include nursing type facilities.
In-Law Suite	In-Law Suite means an independent dwelling unit contained within a single-family dwelling, typically with its own entrance, kitchen, bedroom, and bathroom, and used exclusively for family members of the owner of the dwelling, who must also reside within the dwelling and use the dwelling as his and/or her primary residence.
Kick Plate	A hard plate or veneer fitted to the lower portions of a building, including the lower rail of a door, bulkhead, or risers of a step to prevent damage from moderate impact. Also referred to as a toe kick.
Landing or Stoop	An elevated, open structure that is located at the head or foot of a staircase or ramp, or a platform in a flight of stairs or ramp.
Lot	A piece or parcel of land whose area, in addition to the parts thereof now or hereafter occupied by a building and its accessory structures, is sufficient to furnish the yards and courts required for compliance with this Zoning Code as to all future construction.
Lot Coverage	The percentage of the lot area which is covered by buildings and structures, excluding uncovered decks.
Lot Width	The average length of all lines within the lot parallel to the street.
Micro Antennas	Any cellular or wireless communication antennas which consist solely of the antenna and which do not have any supporting structures other than brackets, including micro cells. Micro Antennas shall be equal to or less than five feet in height and with an area of not more than 580 square inches.
Mixed-Use	A building with multiple stories where the ground floor is occupied by a business user (retail, service, office) and the upper stories are occupied by either a different business user or residential units.

Motor Home	A self-propelled recreational vehicle constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.
Outdoor Dining	An area not enclosed in a building and which is intended as an accessory area to a restaurant or other retail establishment. Specifically not regulated by this section are city parks, Residence Districts, mobile food vendors, city-authorized special events such as street dances and street block parties, and activities on property primarily used for institutional purposes such as schools, churches, governmental uses, and private clubs such as swim, golf, and tennis clubs.
Panhandle Lot	Any lot that has all the following characteristics: 1. It does not front on a public right-of-way except by a strip of property which is narrower than the required frontage or width of lots in the zoning district; 2. The majority of the area of the panhandle lot is situated immediately behind one or more lots (front lots) relative to the right-of-way to which the panhandle lot has access. The front lot does have sufficient width and frontage; and 3. The intended use of the panhandle lot is for a single dwelling, separate and apart from the front lot.
Parapet	A facade extension above the true or finished roof line of a building.
Paved Surface	Either asphalt or cement surface or other improved surface which is specifically approved by Planning Commission.
Parking Lot	A parcel of land devoted to the unenclosed parking of multiple motor vehicles.
Parking Space	An area enclosed or unenclosed, covered or open, of sufficient size to park vehicles, together with a driveway connecting the parking space with a street or any public area and permitting ingress and egress of vehicles.
Pediment	A triangular shaped gable or architectural element between a horizontal entablature and a sloping roof or molding.
Personal Wireless Services	Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, including cellular services.
Pilaster	A slightly-projecting column built into or applied to the face of a wall. Most commonly flattened or rectangular in form, Pilasters can also take a half-round form or the shape of any type of column, including tortile. They occur very commonly in eighteenth and nineteenth century door surrounds.
Porch	An open structure entirely covered with a roof and attached to the principal building or dwelling.
Premise	Any lot, plot, tract, or parcel of land, or any part thereof, including any buildings, structures, property, and appurtenances thereon.
Primary Facade	A primary facade is visible from an adjacent roadway and can be considered the front of the structure. Buildings on a corner lot may have more than one primary facade.
PVC (Polyvinyl Chloride)	A vinyl polymer commonly used in pipes, signs, ceiling tiles and wires.
Quoining	Dressed stones or bricks at the corners of buildings, laid so that their faces are alternately large and small. Originally used to add strength to the masonry wall, they are now used for more decorative purposes.
Ramp	A sloping walkway or passage used to join and provide a smooth transition between two levels of different elevations.
Rear Line	A line entirely within the lot, ten feet long and parallel to and at the maximum distance from the street.
Recreational Vehicle	A vehicular portable structure designed and constructed to be primarily used as a temporary dwelling for travel, recreational, camping and vacation uses, including but not limited to, a Motor Home, Travel Trailer, and a Truck Camper.
Residence District	Residence One “R-1”, Residence Two “R-2”, or Residence Three “R-3”.
Retaining Wall	A structure that holds back soil or rock from a building, structure or area and prevents or mitigates downslope movement or erosion and provides support for vertical or near-vertical grade changes.

Roof Form	The shape of the roof, primarily determined by the pitch of the roof. Basic roof forms are flat, gabled, hipped, arched and domed.
Secondary Facade	A secondary facade refers to a side or rear exterior wall, which is not visible from an adjacent roadway.
Shared Access Point	A single vehicular access point or driveway shared by two or more properties on adjoining lots, which may cross a side lot line. A shared access point requires an access easement.
Shared Parking	Joint utilization of a parking area or parking spaces for more than one use.
Short-Term Rental	The rental of any premises, building, structure, dwelling, room, or appurtenance, wholly or partly, to a person for fewer than twenty-eight (28) consecutive days in exchange for a fee, whether such fee is paid by such person directly to the owner, operator, permanent occupant, a hosting platform, or otherwise.
Siding	An exterior cladding or covering applied to the structural elements of a building to provide weatherproofing, durability and design elements.
Sight Triangle	A triangular-shaped proportion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.
Sign Code	The sign ordinances of the City of Madeira, Ohio adopted by ordinances and codified as Chapter 154.
Single-Family Dwelling Unit	A building designed exclusively for the occupancy by one non-transient family or housekeeping unit.
String Course	A slight recess or projection of masonry or similar material running horizontally through a facade.
Structure	Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, sheds, detached garages, cabins, and manufactured homes.
Tall Structures	Any of the following structures or buildings: smoke stacks, water towers, buildings over 35 feet in height, antenna support structures of cellular or wireless communication companies, and cellular or wireless communications towers.
Transom	A window or glazed component set above other windows or openings, traditionally set close to the ceiling to promote ventilation. A component of traditional storefronts.
Travel Trailer	A non-self-propelled recreational vehicle that includes a tent-type fold-out camping trailer, as defined in R.C. § 4517.01.
Trim	Linear elements applied to or structurally integrated into the facade of a building, which delineates, adds emphasis to an architectural element, or covers a transition or joining of materials to present a more finished appearance.
Truck Camper	A non-self-propelled, recreational vehicle, without wheels for road use, and designed to be placed upon and attached to a motor vehicle.
Wall	An architectural partition with a height and length greater than its thickness; used to divide or enclose an area or to support another structure.
Water Table	A horizontal projecting string course, molding, or ledge placed to divert rainwater from a building's foundation. In traditional buildings, this element is often placed at or above the sill between the foundation and the base of the structural wall.
Yard	An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Zoning Code.
Yard, Front	A yard extending across the full width of a lot, between any part of the residence or principal building located thereon and the front lot line.
Yard, Rear	A yard extending the full width of a lot, between any part of the residence or principal building located thereon and the rear lot line.
Yard, Side	A yard extending from a front yard to a rear yard between any part of the residence or principal building and the nearest side lot line.

Zoning Code	The comprehensive zoning ordinances of the City of Madeira, Ohio adopted by ordinances and codified as Chapter 150.
Zoning Map	The zoning map of the City of Madeira, Ohio. This map, together with all explanatory data thereon, including all changes thereof as provided herein, shall be incorporated and made of this Zoning Code.

## **§ 150.02 MEANINGS OF WORDS AND PHRASES**

For the purpose of this Zoning Code, words used in the present tense shall include the future; the singular number shall include the plural and plural the singular; the word "building" shall include the word "structure," the word "shall" is mandatory and not directory; the word "may" is a permissive requirement and the word "should" is a preferred requirement; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied;" and the word "lot" includes the words "plot" or "parcel." A table shall be considered text for purposes of this Zoning Code. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.

## **§ 150.03 CONTINUED VALIDITY**

Should any provision of this Zoning Code be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Zoning Code as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

## **§ 150.04 VIOLATIONS**

In the event that any structure is in the process of erection, construction, reconstruction, alteration, conversion, moving, or maintenance, or any structure or land is, or in the process of use is, in violation of any provision of this Zoning Code, the City Law Director, in addition to the remedies provided for by the Revised Code of Ohio and by this Zoning Code, shall have authority and is hereby authorized to institute an appropriate action or proceeding in law or in equity, on behalf of the city, or any board or official thereof, to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to restrain, correct or abate such violation.

## **§ 150.05 CONTINUED USE**

Except as provided for in this Zoning Code, no building, structure, or premises shall be used, and no building or part thereof or other structure shall be erected, reconstructed, enlarged, or altered, contrary to the regulations herein specified for the district in which such premises, building, or structure is located; provided that nothing in this Zoning Code, except as provided in § 150.12, shall require the change of the use made of a building or premises at such time of enactment, or of the height, location, yards, or courts of any such existing building.

## **§ 150.06 USE CHANGE RESTRICTIONS**

It shall be unlawful for any person to use or permit the use of any building or premises or part thereof, hereafter erected, changed, converted, enlarged, put to use, or changed in use, wholly or partly, contrary to the provisions of this Zoning Code.

**§ 150.07 AREA REDUCTION LIMIT**

No lot shall be reduced in area as to make its width or the area of any open space thereof less than the minimum width, area, and open space requirements then prescribed by this Zoning Code relative to the type of structure constructed thereon (or the type of structure for the construction of which thereon any valid building permit is then issued and outstanding) in the zone in which such lot is then located.

**§ 150.08 BUILDING LIMITATIONS**

Every building erected shall be erected upon a lot or lots, and not more than a single detached dwelling house shall be erected upon any one lot in any residence district, nor shall any building be converted to use as a dwelling so as to create habitation for more than one family upon any one lot in any residence district, other than as permitted for firehouses.

**§ 150.09 EXISTING NONCONFORMING USES**

Any building, structure, or use existing at the time of the enactment of this Zoning Code may be continued even though such building, structure, or use does not conform with the provisions of this Zoning Code for the district in which it is located. Such existing nonconforming use may be hereafter extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of enactment of this Zoning Code. No building or premises containing a nonconforming use shall hereafter be extended unless such extension shall conform with the provisions of this Zoning Code for the district in which it is located, except as may hereinafter be provided. No building, structure, or premises shall be vacant for more than 90 days, or with regard to which a nonconforming use is changed, abandoned, or discontinued and then superseded by a use permitted in the district in which it is located, shall again be devoted to any use prohibited in such district. No building, structure, or premises used as a residence in a zone in which such use is nonconforming, the use of which has been voluntarily discontinued for more than 90 days or with regard to which a nonconforming use is changed or abandoned or is superseded, shall again be devoted to any use prohibited in such district. This section is subject to enforcement and penalty as specified in § 150.21.

**§ 150.10 RECONSTRUCTION LIMIT FOR NONCONFORMING USE**

Any nonconforming building or structure, or one or more of a group of nonconforming buildings or structures related to one industry and under one ownership, damaged by fire, flood, earthquake, or other act of God, may be reconstructed and used as before such calamity. All reconstruction of any building or structure and the use of such premises, due to damage by fire, flood, earthquake, and other act of God must be completed within one year following such calamity. Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of the building or structure declared unsafe by the City Manager, or prevent compliance with the lawful requirements of the City Manager. Whenever a district shall be changed hereafter, any lawful use then existing therein may be continued, subject to the same provisions as apply under this Zoning

Code to presently existing nonconforming uses. This section is subject to enforcement and penalty as specified in § 150.21.

## § 150.11 HOUSE AND BUILDING NUMBERING REQUIREMENTS

- (A) **Purpose of Number Control.** The purpose is to establish a reasonable system for the identification of dwelling units and businesses in a manner that will enable immediate recognition of street addresses from the nearest abutting public right-of-way or private street. This is essential for the purposes of locating premises by emergency and safety personnel, day or night, and for the assistance in the delivery of goods and services to the residents and business persons of the city.
- (B) **Location and Visibility Requirements.**
- (1) On each building, dwelling unit, or separate business location which is assigned an identifying number pursuant to this section, the real property number assigned shall be displayed in a manner that makes it easily visible and legible to the average person from a location in the public right-of-way which abuts the front of the building or from the equivalent private drive. These numbers must be displayed in Arabic numerals. The view must be clear and unobstructed from the adjoining street, whether it is a public or private right-of-way. The numbers must be visible both at night and day, and must be reasonably visible at times of inclement weather.
  - (2) In determining whether the display of the real property numbers satisfies the requirements of division (A) above, the following criteria shall be considered:
    - (a) The real property number should be displayed within 50 feet of the abutting right-of-way;
    - (b) The numbers must be Arabic numerals and be not less than three inches in height, and reasonably proportional in width. Script numbers alone are not satisfactory because of the difficulty of immediate recognition;
    - (c) The numbers must distinctly contrast with the background upon which they are mounted;
    - (d) The numbers should be displayed either on the applicable building or on a sign or mailbox in the adjacent front yard. Its location should not be easily susceptible to being blocked by either vegetation, snow, motor vehicles, or other objects that may periodically hinder its view from the public right-of-way. Numbers which are obscured by the flag on a mailbox or displayed on only one side of a curbside mailbox are not generally acceptable;
    - (e) If numbers are displayed on only one side of a rural-type mail box (two side displays are recommended) the numbers should generally be displayed on



the side of the mailbox which faces the on-coming traffic for that side of the street;

- (f) The number must be maintained in good repair, including maintenance of contrasting colors; and
  - (g) Curb painted numbers are not satisfactory by themselves since they may be obscured by vehicles and snow.
- (3) On corner lots, the property numbers shall be displayed so that it is visible from the assigned street address of the property, irrespective of the location of the driveway.
  - (4) Owner or occupant surnames, given names, business, or location names are not acceptable in lieu of the display of Arabic numerals.
  - (5) Numbers on mailboxes or other displays which do not clearly designate which specific building is so numbered are not, by themselves, satisfactory.

(C) **Assignment of Numbers.**

- (1) It shall be the duty of the City Manager or his or her designee to assign the property numbers required by this chapter. Numbers that are not in sequence may be permitted to remain assigned to the property if the City Manager determines that safety personnel are aware of the problem and that changing the numbers will create significant inconvenience.
- (2) The following shall be general guidelines for assignment of property numbers.
  - (a) Principal buildings on streets or avenues shall be numbered eastwardly or northwardly with the even numbers on the north or east side and odd numbers on the south or west side of the street. One hundred numbers shall be allotted to each block of the usual length of blocks, so that the numbers in consecutive blocks shall commence with consecutive hundreds and hundreds and one.
  - (b) On all streets running north and south, numbers shall be given so that the numbers would be in the 7200 series in a block immediately north of Euclid Avenue.
  - (c) On all streets running east and west, numbers shall be given so that the numbers would be in the 7700 series in a block immediately east of Miami Avenue.

(D) **Sub-Property Numbers for Mobile Homes, Apartments, Office Buildings.**

- (1) In addition to the posting and maintenance of property numbers, sub-numbers using Arabic numerals shall be posted whenever more than one dwelling unit or business

is located on a single premises. It is the responsibility of the owner, agent, or occupant, whichever appropriate of a mobile home park, apartment or office building, to assign sub-property numbers to individual lots, apartments or offices, as the case may be, and to procure and install the proper numbers. Sub-numbers shall be assigned in sequence beginning at the main entrance of a mobile home park and from first to top floor in apartment or office buildings.

- (2) Lot numbers of a mobile home park shall be prominently displayed on each mobile home, a post, fence, or otherwise clearly visible from the main drive. Numbers must be located in a manner that clearly indicates which mobile home it identifies.
- (3) Individual apartment or office numbers shall be affixed to the outside of each entrance door, or adjacent thereto.
- (4) The primary property number assigned to the entire mobile home park, apartment, or office building shall be displayed and meet all other provisions of this chapter.

(E) **City Manager Review.**

- (1) In those cases wherein noncompliance with the requirements of this chapter is alleged, the matter shall be first reviewed by the City Manager or his or her designee.
- (2) If it is determined that a property number is displayed that meets the purpose of this chapter and satisfies the need to identify the property by safety personnel, then the City Manager shall issue a variance for that property.
- (3) If it is determined not to be in compliance, a citation may be issued.

(F) **Penalty.** This section is subject to enforcement and penalty as specified in § 150.21.

## § 150.12 ZONING DISTRICTS AND BOUNDARIES

- (A) **Districts.** For the purposes of this Zoning Code, the City is hereby divided into 16 classes of districts as follows:

Table 150-2	
Abbreviation	District
Residential Zoning Districts	
R-1	Residence One “R-1”
R-2	Residence Two “R-2”
R-3	Residence Three “R-3”
Nonresidential Zoning Districts	
B-1	Business One – Downtown District – Main Street Madeira “B-1”
B-2	Business Two – Montgomery Road Enterprise District “B-2”
B-3	Business Three – Makers, Retailers, & Auxiliary District “B-3”
O-1	Outdoor Recreation One – “O-1”
Overlay Zoning Districts	
TOD	Transitional Overlay District – “TOD”
TOD2	Transitional Overlay District #2 – “TOD2”
TOD3	Transitional Overlay District #3 – “TOD3”
TROD	Transitional Residential Overlay District – “TROD”
RSBOD	Residential-Scale Business Overlay District – “RSBOD”

- (B) **Boundaries.** The boundaries of these districts are hereby established as shown on the map, entitled Zoning Map. Except where such boundaries are streets or are fixed by exact dimensions shown on such map, they are intended to follow lot lines as they exist at the time of the enactment of this Zoning Code. However, where such a boundary line divides a lot, the entire lot shall be deemed to be within the least restrictive of the districts between or among which it would otherwise be divided, provided that no such less restrictive district shall be extended in such a manner more than 25 feet.

## § 150.13 LOT REQUIREMENTS

- (A) **Depths and Widths.** For the purposes of this Zoning Code, the depth of a front or rear yard, on any lot, shall be deemed to be the horizontal distance between the front or rear lot line, as the case may be, and the part of the building, on such lot, nearest to such line, and the width of a side yard shall be the horizontal distance between the relevant side lot line and the part of the building, on such lot, nearest thereto. The depth of the front yard on a corner lot shall be not less than the required setback from the front lot line. The width of the side yard on the side street shall be not less than the required front yard setback for said side street.
- (B) **Residence Districts.** The lot requirements listed in Table 150-3 shall apply to the designated residence districts and to each lot therein, as respectively applicable thereto. All figures are in feet unless otherwise stated. All setback measurements shall be to the farthest projections of the foundation wall of the principal building or dwelling but excluding physical projections permitted in § 150.13(E). Graphical illustrations are provided under § 150.13(F).

	R-1	R-2	R-3
Minimum lot width	80	75	50
Minimum lot width at right-of-way	30	30	25
Minimum width at front yard setback	80	70	42
Minimum side yard setback	12	9	6
Minimum total side yard setback	24	20	12
Minimum rear yard setback	40	40	30
Minimum front yard setback	50	50	40
Maximum height of principal building or dwelling	35	35	28
Maximum lot coverage	35%	35%	28%
Minimum lot area sq. ft.	20,000	11,700	7,000
Minimum sq. ft. for new residential construction (includes livable basements but not garages)	2,000	2,000	N/A
Impervious Surface Coverage Limitation	40% (except as provided in (C)(1) below)	40% (except as provided in (C)(1) below)	40% (except as provided in (C)(1) below)

(C) **Impervious Surface Coverage Limitations.**

(1) **Definitions.**

- (a) **Impervious Surfaces.** Surfaces that prevent or substantially impede the passage, absorption, and/or infiltration of water, including stormwater, into the soil, including, but are not limited to, buildings, structures, parking lots, driveways, sidewalks, rooftops, surfaces constructed of asphalt or concrete, brick or concrete pavers, and compacted gravel surfaces.
- (b) **Impervious Surface Coverage.** Impervious surface coverage shall mean that portion of a lot that is, unless otherwise specified, covered by impervious surfaces.

- (2) **Calculation.** Impervious surface coverage shall be calculated by measuring, in a horizontal plane, the outer limits of all impervious surfaces on a lot and comparing the total square footage thereof with the total lot area. For the purpose of determining impervious surface coverage, areas that do not meet the definition of impervious surfaces under (a), such as certain grass pavers, uncovered decks, pervious pavement, specially designed graveled areas, and other innovative surfaces, shall not be included in the calculation. A survey of the property may be required to verify the impervious surface coverage of the property.

- (3) **Limitations.** Impervious Surface Coverage limitations apply as follows:

- (a) **Residence Districts.** The impervious surface coverage for any lot in a Residence District (R-1, R-2, or R-3) shall not exceed fifty percent (50%) of the total gross area of the underlying lot, unless storm water management, existing conditions, or other techniques to control stormwater and runoff are

approved in writing by the City Manager or ARO, but in no case shall the maximum impervious surface coverage exceed sixty percent (60%) of the total gross area of the underlying lot.

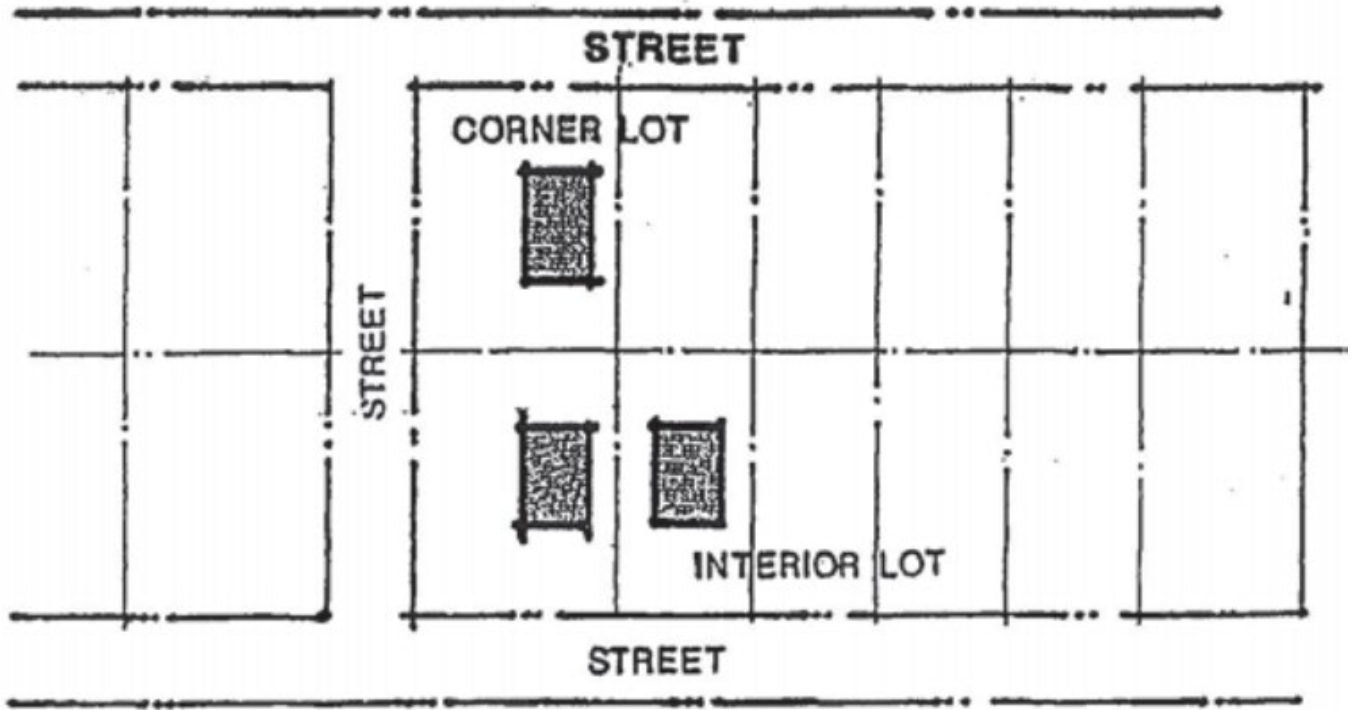
- (b) **Business and Recreation Districts.** The maximum impervious surface coverage for any lot in Business Districts (B-1, B-2, or B-3) and Outdoor Recreation One District (O-1) shall be reviewed and approved in writing by the City Manager and ARO on a case-by-case basis after considering the objectives and standards set forth in subsection (C)(4) below, but in no case shall the maximum impervious surface coverage exceed sixty percent (60%) of the total gross area of the underlying lot.
- (c) **Transitional Overlay Districts.** The maximum impervious surface coverage for any lot in Transitional Overlay Districts TOD, TOD2, or TOD3 shall be reviewed and approved in writing by the City Manager or ARO on a case-by-case basis after considering the objectives and standards set forth in subsection (C)(4) below.
- (4) **Objectives and Standards for Impervious Surface Coverage Limitations.** In establishing maximum impervious surface limitations referenced above, the following objectives and standards shall be considered, weighed, and applied by the City Manager or ARO. Impervious surface coverage on the underlying lot should:
  - (a) Minimize visual impacts from development, including, but not limited to, screening from adjacent properties and protecting scenic views;
  - (b) Preserve trees or vegetation to the extent practicable given the proposed use;
  - (c) Help control and prevent erosion, including but not limited to protecting steep slopes and natural drainage channels; and
  - (d) Preserve and protect stream corridors, natural waterways, and the lots ecological integrity.
- (D) **Sanitary Facilities.** Aerobic household sewage disposal systems are only permitted in R-1.

- (E) **Physical Elements.** The physical elements of a principal building or dwelling, or elements affixed to a principal building or dwelling, may project into the front, side, or rear yard setback as listed in Table 150-4. All figures are in feet, unless otherwise stated. All measurements shall be to the farthest projection of the applicable element. Elements not listed below shall not be permitted to project into any front, side, or rear yard setback.

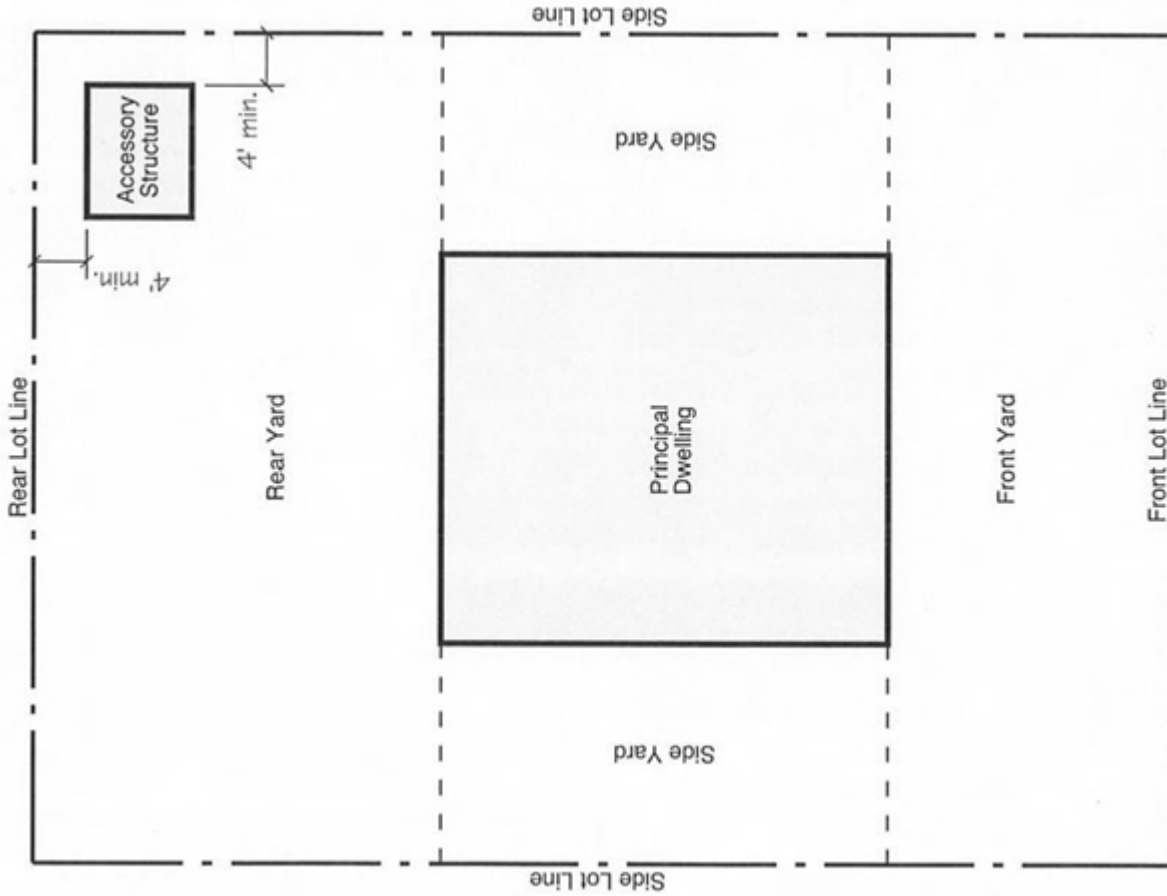
Physical Element	Maximum Depth	Maximum Width	Maximum Total Coverage (per side)
Eaves, cornices, and gutters	2	N/A	N/A
Chimneys, flues, cantilevered walls, and bow/bay windows, window wells	2	6	25%
Landings, stoops, and stairs *	4	N/A	N/A
Mechanical equipment (A/C units, generators, heat pumps, etc.) **	10	N/A	N/A
Sills and belt courses	6 inches	N/A	N/A
*Landings and stoops are also subject to § 150.30.			
**Mechanical equipment shall only be permitted to project into the rear yard setback.			

(F) **Exhibits.**

(1)



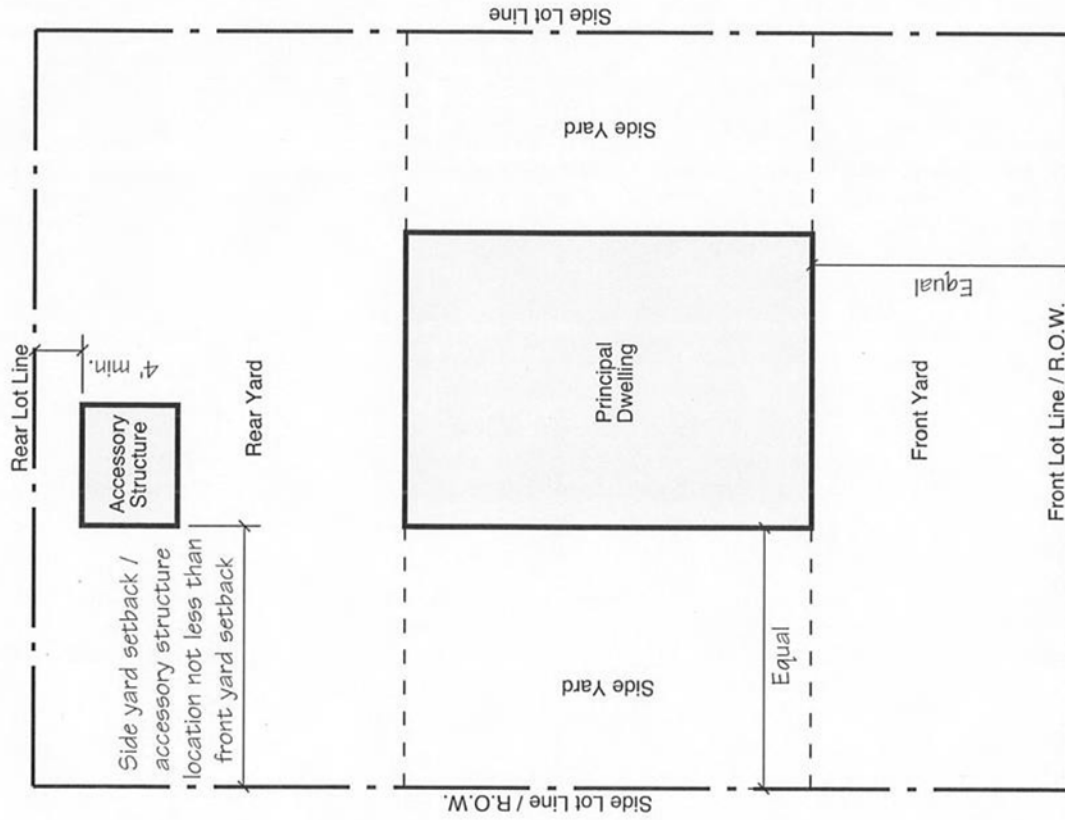
(2)



Example Interior Lot Diagram  
Exhibit 2

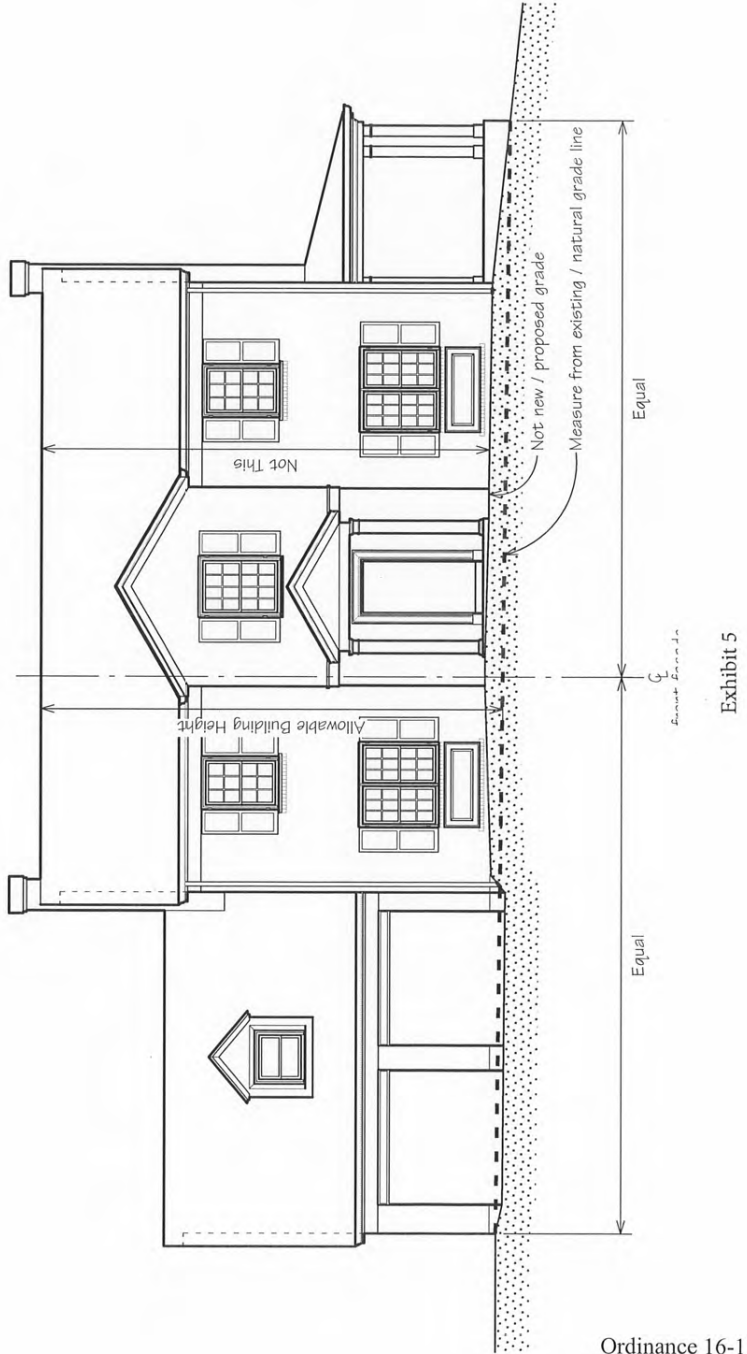


(3)



Example Corner Lot Diagram  
Exhibit 3

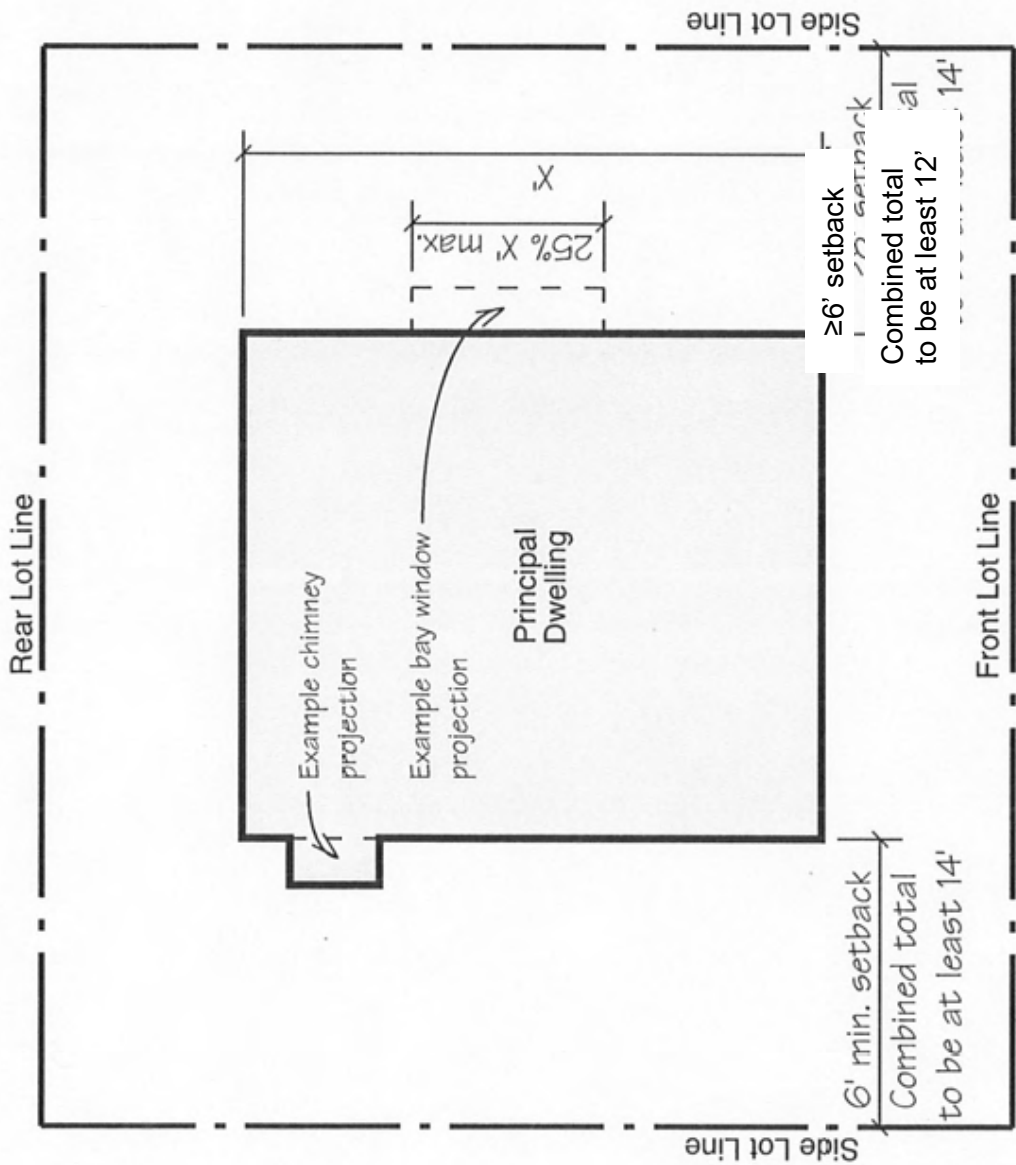
(4)



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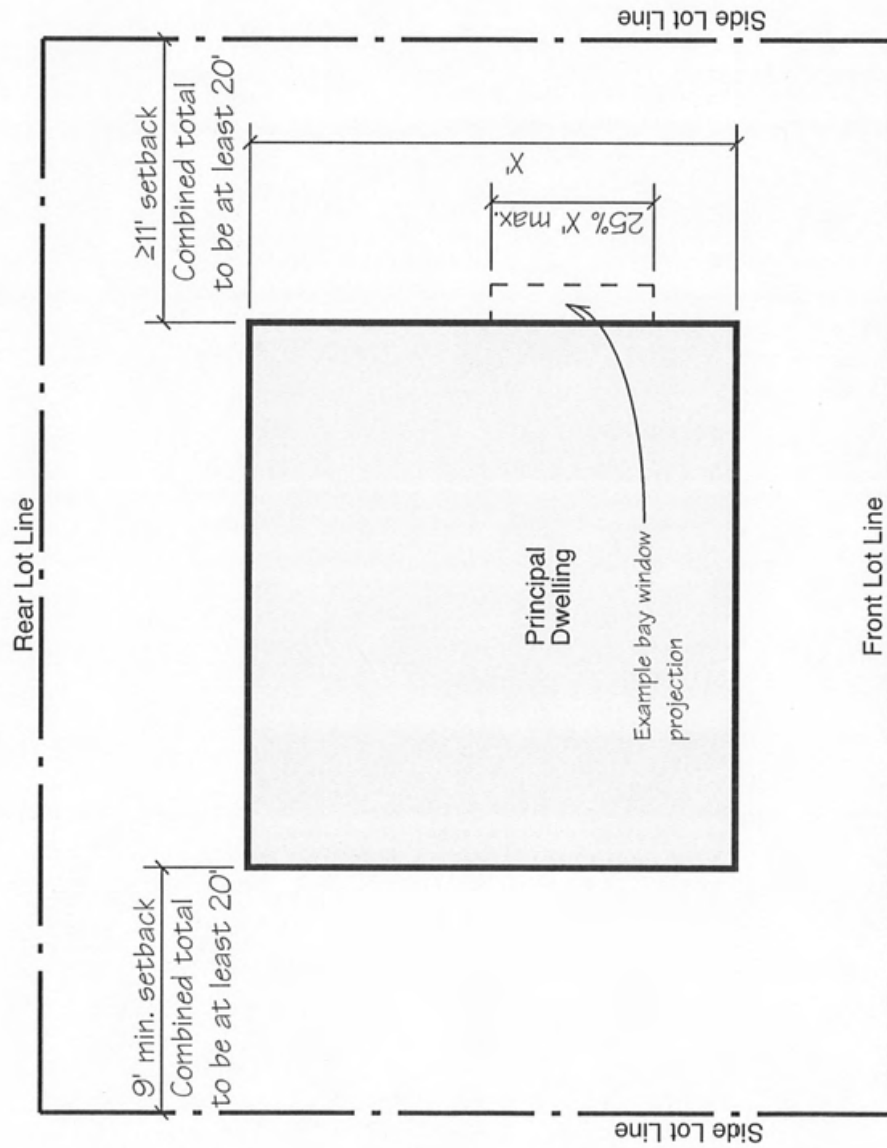
(5)



Example Setback Plan - District B

Exhibit 6

(6)



Example Setback Plan - District A/A2

Exhibit 7

**ADMINISTRATIVE BODIES & PROCEDURE****§ 150.14 PERMITS REQUIRED**

- (A) **Permit.** No construction, alteration, or addition shall be performed unless a permit has been issued by the City Manager.
- (B) **Conform with Zoning Code.** No permit for construction, alteration, or addition shall be issued by the City Manager unless the plans, specifications, and intended use fully conform to the provisions of this Zoning Code.

**§ 150.15 CONDITIONAL USES PROCEDURES**

- (A) **Authorization For Conditional Uses.** The Planning Commission may allow as conditional uses only those uses classified as conditional uses in this Zoning Code.
- (B) **Hearings on Conditional Use Permit.** The Planning Commission shall hold a hearing on an application for conditional use within 45 days after the application has been filed unless otherwise agreed by the applicant. Planning Commission shall make a reasonable effort to substantially comply with the following standards for notice of such hearing. At least ten (10) days before such hearing, public notice of such hearing shall be provided on the City's website or published at least once in a newspaper of general circulation in the City. The property which is the subject of the proposed conditional use shall be posted with a sign indicating that such application has been filed. Notices shall contain the date, time, and place of the hearing and a brief description of the relief sought. Written notice shall be given at least ten days before the hearing to owners of property within 400 feet of the perimeter of the parcel or parcels of land in the application. The Planning Commission may give such additional notice as may be deemed appropriate. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney. However, any failure to send, post, or receive any of the notices set forth herein shall not be basis for denying the application for a conditional use, nor shall it be a basis for reversing or voiding a decision of Planning Commission.
- (C) **Conditions and Restrictions.** In granting a conditional use, the Planning Commission may impose such conditions, safeguards, and restrictions upon the premises benefitted by the conditional use as may be necessary to comply with the standards set forth herein and to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood and to carry out the general purpose and intent of this Zoning Code.
- (D) **Decision and Records.** The Planning Commission shall render a written decision on an application for conditional use without unreasonable delay after the close of the hearing, and in all cases within 45 days from the close of the hearing. The decision of the Planning Commission shall contain specific findings of fact and shall clearly set forth any such conditions, safeguards, or restrictions imposed. The Planning Commission shall maintain

complete records of all actions of the Planning Commission with respect to applications for conditional uses.

- (E) **Conditional Uses.** No use of a building, structure, or land that is designated as a conditional use shall hereafter be changed to another conditional use until a new conditional use permit has been secured in accordance with these procedures. Any use which is a permitted use when established but changed to a conditional use by amendments to this Zoning Code shall be classified as a conditional use and shall have all the rights and limitations of a conditional use. No expansions of buildings, new buildings, or additional parking areas shall be constructed on any existing conditional use without also submitting a plan for approval that demonstrates reasonable efforts to bring existing parking areas, access ways, buffer/landscaping areas, and buildings into conformity with the criteria and guidelines stated herein. No existing conditional use shall be altered, modified, or enlarged unless a new conditional use permit has been secured in accordance with the procedures set forth herein. A conditional use which is voluntarily discontinued for a period of 180 days or more shall not be reestablished unless a new conditional use permit has been secured in accordance with the provisions of this Zoning Code.

## § 150.16 DIMENSIONAL VARIANCE

- (A) **General.** The purpose of this section is to establish the standards of review to be used by the Board of Zoning Appeals in evaluating any request for a dimensional variance from the provisions of this Zoning Code. As used herein, a dimensional or area variance shall not include variances that deviate from the activities regulated within the various zoning districts. Dimensional or area variances shall be considered those variances from a zoning regulation that establish minimum or maximum areas, heights, distances, separation, volume, or any other measurement which is expressed in terms of a geometric measurement.
- (B) **Application.** The Board of Zoning Appeals shall consider an application for a variance only after a properly completed application and fees have been submitted to the City Administration not less than twenty-eight (28) days prior to the meeting of the Board of Zoning Appeals at which the variance is to be considered. The specific form shall include all information determined by Board of Zoning Appeals and the City Manager to be necessary and appropriate for a full and fair consideration of the application for a variance. The information necessary for an application shall include at least the following, unless waived by the City Manager for the reason that it is not essential to the consideration of the variance request and is unduly expensive or burdensome for the applicant to prepare:
- (1) Name, address, and phone number of owner(s) of property;
  - (2) Name, address, and phone number of applicant and relationship to owner (i.e., same, builder, purchaser and the like);
  - (3) If applicant and owner are not the same, authorization of the owner for the applicant to request the variance;

- (4) Street address of subject parcel;
  - (5) Designate zoning district of the subject property and adjoining property;
  - (6) Signatures of owner and applicant;
  - (7) Plat of property depicting existing structures and all proposed structures on the subject property as well as location of structures on adjoining property. Such plat should indicate all relevant distances as well as identify any existing deviations from the current Zoning Code, whether those deviations are nonconforming uses, Zoning Code violations, or dimensional variances;
  - (8) If appropriate, the existing topography and any changes proposed to be made;
  - (9) A determination or evaluation of whether a proposed variance would result in any change of surface water drainage in either direction or volume;
  - (10) Drawing of the proposed improvement, including accurate renderings of the proposed final improvement; and
  - (11) Such additional information as may be determined by the City Manager to be helpful in the evaluation and processing of the application.
- (C) Where the strict application of any provision of this Zoning Code establishing minimum or maximum dimensional requirements would cause practical difficulties upon the owner of specific property, the Board of Zoning Appeals shall have the power, upon application by or on behalf of such owner and after public hearing, notice of which has been given as described in § 3 of Art. VII of the Charter of the city, to modify such provision or to interpret such meaning. Notwithstanding the immediately preceding sentence, no such modification or interpretation shall be made that is not in harmony with the general purpose and intent of this Zoning Code and provided the Board of Zoning Appeals considers each of the following factors, in addition to any other factors deemed appropriate under the circumstances, before deciding whether to grant a variance.
- (1) Will the property in question yield a reasonable return or can there be any beneficial use of the property without the variance?
  - (2) Is the variance necessary to preserve a substantial property right (the reasonable enjoyment and use of the property) which is already possessed by the owners of other properties in the same area?
  - (3) Are there exceptional or extraordinary conditions which apply to the subject property that do not apply generally to other properties in the same area?
  - (4) Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer a substantial detriment as a result of the variance?



- (5) Would the variance adversely affect the delivery of government services (e.g., water, sewer, garbage, safety)?
  - (6) Were the applicable zoning restrictions in place when the property was purchased or acquired by the applicant? Did the applicant have a reasonable means of determining what zoning restrictions were in effect at the time the property was acquired?
  - (7) Can the property owner’s predicament feasibly be obviated through some method other than a variance (such as a zoning change or redesign of the proposed plan)?
  - (8) Can the spirit and intent behind the zoning requirement be observed and substantial justice done if the variance is granted?
- (D) In accordance with the Charter, no variance shall be granted unless a majority of the members appointed to the Board of Zoning Appeals vote affirmatively to grant the variance.
- (E) The Board of Zoning Appeals may impose conditions when granting a variance, but such conditions must have a substantial relationship (essential nexus) to a public purpose or regulations specifically set forth in the Zoning Code. In establishing such a condition, the Board of Zoning Appeals shall set forth in writing the condition and describe the relationship between the variance being granted and the condition being imposed.
- (F) Variance applications are subject to § 150.19.

### § 150.17 PLANNING COMMISSION

- (A) **Appointment.** See Charter Art. VII, § 1.
- (B) **Powers and Duties.** See Charter Art. VII, § 2.
- (C) **Action of Council Necessary.** See Charter Art. VII, § 3.
- (D) **Appeals.** See Charter Art. VII, § 4.
- (E) **Membership.** The Planning Commission shall consist of seven voting members.
- (F) **Terms of Council Appointee.** One Council member appointed to the Planning Commission shall serve until his or her Council term expires.

### § 150.18 BOARD OF ZONING APPEALS

- (A) **Appointment.** See Charter Art. XVII, § 1.

- (B) **Meetings**. See Charter Art. XVII, § 2.
- (C) **Powers and Duties**. See Charter Art. XVII, § 3.
- (D) **Variances**. See Charter Art. XVII, § 4.
- (E) **Membership**. The Board of Zoning Appeals shall consist of five voting members.
- (F) **Direct Review of Variances**. The Board of Zoning Appeals shall have the authority to review applications for variance, and to grant relief from strict application of the Zoning Code.
- (1) **Scope of Review**. Pursuant to this section, an applicant may apply directly to the Board of Zoning Appeals for a variance under the following sections:
- (a) § 150.16, “Dimensional Variance;”
  - (b) § 150.22, “Residence District Uses;”
  - (c) § 150.24, “Home Offices in Residential Districts;”
  - (d) § 150.27, “Conversion of Existing Accessory Buildings;”
  - (e) § 150.29, “Panhandle Lots;”
  - (f) § 150.34 – 150.62, “Business and Enterprise Districts;”
  - (g) § 150.64, “Transitional Overlay District #2;”
  - (h) § 150.67, *et seq.*, “Residential-Scale Business Overlay District Regulations;”
  - (i) § 150.94, “Cellular or Wireless Communication Systems;”
  - (j) § 151.001, *et seq.*, “Subdivision Regulations;”
  - (k) § 152.12, “Variances and Appeals Process for Residential Building Code;”
  - (l) § 154.01, *et seq.*, “Signs;”
  - (m) § 156.001, *et seq.*, “Flood Hazard Reduction;” and
  - (n) Any other section of the City of Madeira’s Zoning Code not referenced above and which permits applications for variance.
- (2) **Review Process**.

- (a) **Public Hearing.** The Board of Zoning Appeals shall hold a public hearing, evaluating the application for variance based upon the standards of review established under Ohio law, within sixty (60) days of receiving applicant’s variance application.
  - (b) **Burden of Proof.** Pursuant to this section, an applicant seeking a variance must demonstrate that a practical difficulty exists in conforming to the applicable Zoning Code provision.
  - (c) **Standard of Review.** In reviewing an application for variance under this section, the Board of Zoning Appeals shall weigh the Duncan Factors:
    - (i) Will the property yield a reasonable return or can there be a beneficial use of the property without the variance?
    - (ii) Is the variance substantial?
    - (iii) Will the essential character of the neighborhood be substantially altered or will adjoining properties suffer a substantial detriment if the variance is granted?
    - (iv) Will the variance adversely affect the delivery of governmental services?
    - (v) Did the property owner purchase the property with knowledge of the zoning restrictions?
    - (vi) Can the problem be resolved by some manner other than the granting of the variance?
    - (vii) Will the variance preserve the “spirit and intent” of the zoning resolution and will “substantial justice” be done by granting the variance?
  - (d) **Decision.** The Board of Zoning Appeals shall issue a written decision to the applicant approving, denying, or conditionally approving an application for variance within thirty (30) days of the public hearing.
- (G) **Appellate Review.** The Board of Zoning Appeals shall have the authority to hear appeals of decision rendered by the Planning Commission, City Manager, and/or ARO while enforcing the provisions of this Zoning Code.
- (1) **Scope of Review.** Pursuant to this section, if the Planning Commission, City Manager, or ARO denies requested relief to an applicant, such applicant may appeal the decision to the Board of Zoning Appeals. The Board of Zoning Appeals shall have jurisdiction to hear appeals brought under the following sections:

- (a) § 150.19, “Architectural Review Office;”
  - (b) § 150.26, “Residence Zone Fencing;”
  - (c) § 150.28, “Parking;”
  - (d) § 150.29, “Panhandle Lots;”
  - (e) § 150.34 – 150.62, “Business and Enterprise Districts;”
  - (f) § 150.63, “Transitional Overlay District;”
  - (g) § 150.64, “Transitional Overlay District #2;”
  - (h) § 150.65, “Transitional Overlay District #3;”
  - (i) § 150.66, “Transitional Residential Overlay District;”
  - (j) § 150.67, *et seq.*, “Residential-Scale Business Overlay District Regulations;”
  - (k) § 151.001, *et seq.*, “Subdivision Regulations;”
  - (l) § 152.01, *et seq.*, “Building Code and Excavation;”
  - (m) § 153.01, *et seq.*, “Property Maintenance Code;”
  - (n) § 154.01, *et seq.*, “Signs;”
  - (o) § 155.01, *et seq.*, “Location of Sexually Oriented Businesses Regulated;”
  - (p) § 156.001, *et seq.*, “Flood Hazard Reduction;” and
  - (q) Any other section of the City of Madeira’s Zoning Code not referenced above and which permits the appeal of a decision rendered by the Planning Commission, City Manager, or ARO.
- (2) **Timing of Appeal.** The applicant appealing a decision of the Planning Commission, City Manager, or ARO must provide notice of his or her intent to appeal such decision to the Planning Commission, City Manager, or ARO, and the Board of Zoning Appeals within thirty (30) days of the provision of written notification of denial to the applicant.
- (3) **Hearing on Appeal.** The Board of Zoning Appeals shall hold a public hearing, evaluating the appeal based upon the standards of review applied by the Planning Commission, City Manager, or ARO to the initial application, within sixty (60) days of receiving applicant’s notice of appeal.

**§ 150.19 ARCHITECTURAL REVIEW OFFICE**

- (A) **Establishment.** There is established an Architectural Review Office (ARO) consisting of one person to be appointed by the City Manager with the approval of Council.
- (B) **Powers and Duties.** The Architectural Review Office shall have the following powers and duties.
- (1) The ARO shall review all proposed exterior construction and alteration plans in the B-1, B-2, and B-3 Business Districts, any parcels granted a variance for business use in any nonconforming areas utilized for business or manufacturing uses, subdivision development and double letter zoning districts now in effect or hereinafter created. No building permit will be granted by the City Manager without the written approval of the ARO after such review. The ARO shall also review all proposed signs or sign changes in all zoning districts in the city.
  - (2) The ARO shall assist and advise the Planning Commission on the design, amenities, quality, relationships to natural features, existing buildings and all other aspects of a site development plan being considered by the Planning Commission which relate to the appearance of an entire project, and all of its parts and surroundings. All standards, regulations and criteria contained in the ordinances of the city shall be considered by the ARO in its review.
- (C) **Terms and Qualifications.** The Architectural Review Officer shall be appointed for a term of two years and shall be a registered architect skilled in the field of aesthetics and design.
- (D) **Appeal.** A building permit denied based upon input from the Architectural Review Office may be appealed to the Board of Zoning Appeals for an administrative hearing. The decision of the Board of Zoning Appeals shall be final.
- (E) **Conflict of Interest.** The person appointed to the Architectural Review Office shall not participate in the review of, or give advice upon, any work in which a partner or professional associate or associates has any direct or indirect interest. In the event that such a conflict of interest may arise, or the ARO is unable to participate in the review, a temporary ARO shall be appointed for such work in the same manner as the ARO is appointed.
- (F) **Compensation.** Compensation shall be paid the Architectural Review Officer as is established by the City Manager for professional services. With the submission of each application the City Manager shall require a deposit to be made to cover a review expense equal to at least 25% of the fee charged for the applicable building permit.
- (G) **Review Procedures of Applications.**

- (1) A preliminary review may be scheduled with the City Manager and the Architectural Review Office to establish the intent and scope of the proposed application and to review the proposal as evidenced schematically by sketch plans. The City Manager and ARO may furnish the applicant written comments regarding such conference including appropriate recommendations to inform and assist prior to the preparation of the formal plan.
  - (2) After receipt of a complete submission of an application for a building permit for construction or alteration in the districts designated in (B) above, the City Manager shall refer such submission to the ARO.
  - (3) Within 30 days following receipt of such submission, the ARO shall advise the City Manager in writing of the approval or disapproval. If disapproved, such writing shall set forth the findings as to the basis for the determination. Such writing shall be open to public inspection.
- (H) **Standards and Criteria.**
- (1) An application or a building permit shall be reviewed by the Architectural Review Officer who shall consider the following:
    - (a) **Materials.** Materials shall be appropriate for the use of building, for weathering, and for relationship to other materials including those used on buildings in surrounding areas;
    - (b) **Colors And Textures.** Colors and textures shall be appropriate for the size and scale of the building, for weathering, and for relationship to the site and surrounding buildings;
    - (c) **Architectural Details And Ornaments.** Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the building and for weathering;
    - (d) **Mechanical Equipment.** Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke, and other nuisance aspects. Also, mechanical equipment shall be considered as it relates to overhead wires, gas and electric meter stations, and any other visible appurtenances;
    - (e) **Approaches, Drives and Parking Areas.** Approaches, drives, and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as safety, drainage, and landscaping;
    - (f) **Landscaping.** Landscaping shall be appropriate for the size and use of the area, and for its relationship to building, street, parking area, walks,

buildings and surrounding areas. An adequate plan for the maintenance of such landscaping shall be submitted;

- (g) **Lighting**. Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas, the building, and its effect upon surrounding areas;
- (h) **Signs**. Signs shall be considered for appropriateness of size, scale, shape, color, content, text, and illumination in relation to building site;
- (i) **Utilities**. Adequate utilities, parking, access roads, drainage, landscape planting, and other essential facilities and amenities will be provided;
- (j) **Ingress and Egress**. Adequate measures will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public streets; and
- (k) **Service**. All service, loading, and shipping areas of commercial and industrial buildings shall be screened by fences or walls and located so as not to create pedestrian or traffic congestion.

(2) The application shall otherwise comply with the standards and criteria of all appropriate and applicable ordinances of the city.

- (I) **Variances**. In the event a zoning variance is required by an applicant to comply with the requirements established by the Architectural Review Office, the ARO may recommend to the Board of Zoning Appeals as to the nature and extent of said zoning variance request. The Board of Zoning Appeals may consider the recommendation as constituting a hardship sufficient to comply with the City Charter.

## § 150.20 SCHEDULE OF FEES

- (A) **Schedule**. There is hereby established as set forth below a schedule of fees for land usage applications and appeals. This schedule shall be applicable to those applications and appeals indicated herein. If there is a conflict between the fee schedule set forth in this chapter and a fee established elsewhere, the fee set forth in this chapter shall be used. However, if a fee is established elsewhere and no fee is set forth in this chapter, then that fee shall be required to be paid.
- (B) **City Manager**. If there is a question concerning which fee is applicable, the City Manager shall review the matter and make a determination as to the applicable fee. The City Manager's decision shall be final.
- (C) **Payment of Fees**.

- (1) No application or appeal shall be considered filed until the proper payment of fees has been received.
  - (2) If any check is returned unpaid for any reason the application or appeal shall be considered withdrawn and the person filing the application or appeal shall be notified without delay.
  - (3) No further consideration shall be given to the application or appeal unless payment is submitted in a form satisfactory to the City Manager, who may require that the payment be made in cash.
- (D) **Fees for Zoning Applications and Appeals.** The fees for certain applications and appeals pertaining to zoning matters are as follows.
- (1) **Variance relating to property used for residential purposes.** Any application or appeal for variance relating to property used for residential purposes which is submitted pursuant to § 150.16 of the Zoning Code shall be the following:
    - (a) Variance for improvements on any buildings or structures. A flat fee of \$50 per application, plus a flat fee of \$1.50 per each \$1,000 of valuation of the improvement; and
    - (b) Variance for lot split and panhandle lots. A flat fee of \$100 per application.
  - (2) **Variance relating to property used for commercial purposes.** Any application or appeal for variance relating to property used for commercial purposes which is submitted pursuant to § 150.16 of the Zoning Code shall be a flat fee of \$150 per application, plus a flat fee of \$1.50 per each \$1,000 of valuation of the improvement.
  - (3) **Lot Splits.** All applications for lot splits that consist of less than five lots (minor subdivisions) shall be charged a flat fee of \$50 per application and \$50 per lot in excess of two lots.
- (E) **Sign Variances.** All applications or appeals for a variance from the Sign Code shall be \$50 per application.
- (F) **Conditional Use Hearings.** Any application (which may or may not include an appeal) for conditional use hearings relating to property used for purposes which is submitted pursuant to § 150.13 shall be a flat fee of \$150 per application, plus a flat fee of \$1.50 per each \$1,000 of valuation of the improvement.
- (G) **Building Code Appeals.** Any application for a Building Code appeal which is submitted pursuant to Chapter 152, Building Code and Excavation, shall be a flat fee of \$50 per application.



**§ 150.21 PENALTIES**

- (A) In addition to the remedies provided in § 150.04, whoever fails to conform to any of the provisions of this Zoning Code, or fails to obey any lawful order of the City Manager issued pursuant to such provisions, shall be guilty of a misdemeanor and shall be fined not to exceed \$150 for each offense, and each day's continuance of the violation shall be considered a separate offense.
- (B) Any person or entity which undertakes to do a specific piece of work or service in construction, alteration, or addition using their own means or methods, without submitting themselves to the control of another in respect to all details of the work or service; who fails to conform to any provision of this Zoning Code; or who fails to obey any lawful order of the City Manager issued pursuant to such provisions, shall be guilty of a misdemeanor and shall be fined not more than \$150 for each offense. Each day's continuation of the violation shall be considered a separate offense. If the violator is a person or entity regularly engaged in construction, alteration or addition, then they shall be fined not more than \$150 for each offense and each day's continuation of the violation shall be considered a separate offense.

## **RESIDENCE AND RECREATIONAL DISTRICTS**

### **§ 150.22 RESIDENCE DISTRICT USES**

- (A) **Purpose.** The following are the purpose statements for each of the established Residence Districts in the City.
- (1) **Residence One “R-1” District.** It is the primary purpose of the Residence One “R-1” District to establish and maintain residential neighborhoods consisting of high quality single-family detached homes with relatively low population and building density while preserving the undeveloped lands within the district for similar types of residential uses.
  - (2) **Residence Two “R-2” District.** It is the primary purpose of the Residence Two “R-2” District to establish and maintain residential neighborhoods consisting of high quality single-family detached homes with relatively moderate population and building density while preserving the undeveloped lands within the district for similar types of residential uses.
  - (3) **Residence Three “R-3” District.** It is the primary purpose of the Residence Three “R-3” District to establish and maintain residential neighborhoods consisting of high quality single-family detached homes with higher population and building density while preserving the undeveloped lands within the district for similar types of residential uses.
- (B) **Primary Permitted Use.** The primary permitted uses of land in a Residence District are for one single-family residential dwelling unit per lot, or for vacant unimproved land.
- (C) **Permitted Accessory Uses.** Permitted accessory uses for Residence Districts are authorized pursuant to § 150.23.
- (D) **Conditional Uses.** Conditional uses for Residence Districts are the conditional uses authorized by § 150.25, upon application and approval by the Planning Commission set forth therein pursuant to the standards and conditions.
- (E) **Uses.** Uses permitted within the Residence Districts are specified in Table 150-5. In any Residence District, no building, structure or premises shall be used, and no building or structure shall be erected that is intended or designed to be used, in whole or in part, except for one of the uses specified in Table 150-5, unless otherwise provided for in this Zoning Code.
- (1) **Permitted Uses.** A “P” in a cell in Table 150-5 indicates that a use is permitted by right in the respective Residence District. Permitted uses are subject to all other applicable provisions of this Zoning Code.

- (2) **Permitted Uses with Standards.** A “PS” in a cell in Table 150-5 indicates that a use is permitted by right in the respective Residence District if such use satisfies additional standards set forth in the referenced section of the Zoning Code. Permitted uses with standards are subject to all other applicable provisions of this Zoning Code.
- (3) **Conditional Uses.**
  - (a) Other than permitted uses, certain other types of uses may be integrated into Residence Districts that will be compatible with the primary single-family use only if the impact of certain activities and improvements are specifically mitigated by regulations and conditions. The activities and improvements of institutional uses which may be incompatible with single-family dwelling use include traffic, ingress and egress, large parking surfaces, noise, lights, large buildings, hours of usage, and other activities that may be inconsistent and have a negative impact upon the primary permitted use of single-family dwellings. Failure to regulate these activities and improvements may result in the reduction of the desirability of single-family dwellings and corresponding reduction in property values. The conditional uses permitted in Residence Districts are those uses which traditionally have complemented and enhanced the desirability of a residential community provided the intensity of the use of the facilities is not permitted to become so disproportionate as to cause a reduction in the desirability and value of single-family dwellings within the vicinity.
  - (b) The conditional uses permitted in Residence Districts are limited to those set forth in Table 150-5.
  - (c) A “C” in a cell in Table 150-5 indicates that a use may be permitted if approved through a conditional use permit, subject to the conditions under § 150.15. Conditional uses are subject to use-specific standards under § 150.15. Conditional uses are subject to all other applicable provisions of this Zoning Code.
- (4) **Prohibited Use.** Notwithstanding any other provision to the contrary under this Zoning Code, no premises, including any dwelling, building, structure, appurtenances, or room thereon, in a Residence District shall be used for short-term rental.

(F) **Table of Residence District Permitted Uses.**

Table 150-5				
Residence Districts Permitted Uses				
P = Permitted PS = Permitted with Standards C = Conditional Use X = Prohibited				
Use Type	R-1	R-2	R-3	Additional Requirements
Dwelling, single-family	P	P	P	

Accessory Buildings and Structures	PS	PS	PS	§ 150.23
Gardening	PS	PS	PS	§ 150.23
Home Offices	PS	PS	PS	§ 150.23; § 150.24
In-Law Suites	PS	PS	PS	§ 150.23
Parking Facilities	PS	PS	PS	§ 150.23
Pets	PS	PS	PS	§ 150.23
Recreational Vehicles	PS	PS	PS	§ 150.23
Signs	PS	PS	PS	§ 150.23
Swimming Pools	PS	PS	PS	§ 150.23
Adult family homes and adult group homes licensed pursuant to R.C. § 3722.02	C	C	C	§ 150.15; § 150.25
City parks and playgrounds	C	C	C	§ 150.15; § 150.25
Educational institutions, but not trade schools	C	C	C	§ 150.15; § 150.25
Family homes and group homes licensed pursuant to R.C. § 5123.19	C	C	C	§ 150.15; § 150.25
Firehouses for serving the City, including living quarters for necessary firefighting personnel	C	C	C	§ 150.15; § 150.25
Foster homes or family foster homes as defined in R.C. § 2159.011(B)	C	C	C	§ 150.15; § 150.25
Government Buildings and Utilities	C	C	C	§ 150.15; § 150.25
Libraries open to the public	C	C	C	§ 150.15; § 150.25
Places of Worship	C	C	C	§ 150.15; § 150.25
Short-Term Rental	X	X	X	

### § 150.23 PERMITTED ACCESSORY USES IN RESIDENCE DISTRICTS

Accessory uses, buildings or other structures customarily incidental to the use of a lot for single-family dwelling purposes may be established, erected, or constructed, provided that such accessory uses shall not involve the conduct of any business, trade, or industry or any private way or walk giving access to such activity, or any billboard, sign, or poster other than authorized herein. Permitted accessory uses in Residence Districts include the following:

- (1) **Accessory Buildings and Structures.** Accessory buildings and structures customarily incidental to any use permitted in the Residence District and located on the same lot with the main use to which they are accessory shall be permitted provided that they comply with the following.
  - (a) **Purpose.** The purpose of the regulations under this division is to control the size and number of accessory buildings or structures located on lots in Residence Districts, and to eliminate conditions which may be detrimental to the residential character and property values of real estate located in such Residence Districts.
  - (b) **Limits and Regulations.** Accessory buildings and structures shall be related, subordinate, and customarily incidental to the use of the principal building or structure located on the same lot. They shall have the same

ownership as the principal building or structure located on the same lot and shall only service the needs of the occupants of the principal building or structure located on the same lot. No accessory buildings, uses, or structures in a Residence District shall include any business activity unless specifically permitted and regulated by express provision of the Zoning Code. Accessory buildings and structures are subject to the requirements and limitations provided in the following Table 150-6 and all other provisions of the Zoning Code:

Table 150-6					
Accessory Buildings and Structures in Residence Districts					
Zoning District	Permitted Location	Minimum Distance From Side and Rear Lot Lines	Maximum Height from Grade	Maximum Square Footage*	Additional Requirements
R-1	Side or Rear Yard	4 feet	20 feet	800 sq. ft.	§ 150.13
R-2	Side or Rear Yard	4 feet	20 feet	600 sq. ft.	§ 150.13
R-3	Side or Rear Yard	4 feet	15 feet	160 sq. ft.	§ 150.13

\* The combined square footage for all accessory buildings and accessory structures located on the same lot shall not exceed the maximum square footage shown in Table 150-6.

- (c) **Structures for Children’s Play or Which Contain Pets or Animals.** Playsets, treehouses, dog houses/runs, chicken coops, or other structures used for play or to contain pets or animals shall not be located in a front yard, and must conform to setback requirements of the relevant district.
- (d) **Permit Process.** No person shall construct, expand, or reconstruct any accessory building or structure regulated by this Zoning Code without first obtaining a building permit from the City Manager certifying compliance with these provisions. If the City Manager determines that the proposed structure does not comply with the zoning code, then the applicant may appeal the decision to the Board of Zoning Appeals.
- (2) **Gardening.** Gardening, hobby greenhouses, the raising of vegetables or fruits exclusively for the use or personal enjoyment of residents of the premises and not for commercial purposes shall be permitted, subject to this Zoning Code.
- (3) **Home Offices.** Home offices are subject to § 150.24.
- (4) **Parking Facilities.** Garages, carports or other parking spaces for the exclusive use of residents of the premises and their guests, subject to this Zoning.
- (5) **Pets.** The keeping of household pets exclusively for the use or personal enjoyment of residents of the premises and not for commercial purposes shall be permitted, subject to this Zoning Code.

- (6) **Recreational Vehicles.** Motor homes, automobile trailers, house trailers, motorcycle trailers, boat trailers, boats, camping trailers, campers and similar units, whether truck- or chassis-mounted or unmounted, shall be permitted in the side and rear yards in Residence Districts and shall be permitted in front yards in Residence Districts for no more than 24 continuous hours and no more than a total of 96 hours in any consecutive thirty day period, but may not be occupied for residence, business, demonstration or any other purposes.
- (7) **Signs.** All signs in a Residence District are subject to the provisions of Chapter 154.
- (8) **Swimming Pools.** Swimming pools, exclusively for the use of the residents and their guests, subject to this Zoning Code and the Building Code.
- (9) **In-Law Suites.**
- (a) **Definition.** In-law suites, as defined in § 150.01, subject to requirements under (9)(b) below.
- (b) **Requirements for In-Law Suites.** In order for an in-law suite to qualify as a permitted accessory use, the in-law suite must satisfy the following requirements:
- (i) The dwelling that contains the in-law suite must maintain a single-family residential appearance which blends with the principal structure and the neighborhood, and the in-law suite may not exceed more than one thousand (1000) square feet in area.
- (ii) The in-law suite shall be located within the buildable area of the lot upon which the dwelling is located, and shall not be detached from the dwelling, be located in a detached garage or within another accessory structure of the dwelling.
- (iii) An in-law suite shall only be permitted on properties that meet minimum lot frontage and minimum lot size requirements in the Residence District in which the dwelling is located. The in-law suite shall be occupied in a manner consistent with single-family dwellings in Residence Districts.
- (iv) An in-law suite is being occupied in a manner consistent with a single-family dwellings in Residence Districts if all of the following factors are present: (i) unrestricted access to the entire dwelling is provided to all occupants; (ii) interior passages connect the in-law suite to the primary residence; (iii) the entire dwelling has no more than one meter and one connection for water, electricity, gas, and other household utilities, respectively; (iv) the in-law suite does not

have a separate mailbox or mailing address from the primary residence; (v) the in-law suite shall not be used for transient accommodations or short-term rentals; and (vi) no leasehold interest has been or will be granted in the in-law suite.

## § 150.24 HOME OFFICES IN RESIDENCE DISTRICTS.

- (A) **Home Offices.** The following standards for home offices in Residence Districts are intended to provide reasonable opportunities for home offices within dwellings in Residence Districts, while avoiding changes to the residential character of a dwelling and deleterious effects on the enjoyment of other residential dwellings in the surrounding Residence District. In order to be permitted under this Code, a home office must satisfy all of the requirements set forth in division (B) of this section and must not engage in any activities set forth in division (C) of this section.
- (B) **Requirements.** A home office shall not be permitted under this Code unless it satisfies all of the following requirements:
- (1) **Character.** The residential character of the exterior of the property shall not be changed, nor shall any structural alterations or construction features be made or used which are not customary in dwellings, and no display or sign pertaining to such use shall be visible from any street;
  - (2) **Residents and Nonresidents.** Members of the immediate family residing within the residence and one nonresident may work, practice, or assist in such office(s) or occupation(s), but, in no case may more than two residents of the actual home where the home office is occurring (whether or not one is the employee of the other) work, practice, or assist in the office or occupation;
  - (3) **Vehicles.** The number of vehicles attracted to the premises, or to a street in the immediate vicinity of the premises, as a result of the home office(s), shall not exceed two at any one time, including vehicles of a nonresident employee and excluding vehicles of residents, but excluding delivery vehicles temporarily stopped for purposes of pick-up or delivery.
  - (4) **Visitors and Entrance.** Not more than four persons, excluding residents of the dwelling, may enter such dwelling as patrons, clients, visitors, or otherwise attracted to the premises as a result of the home office(s) in a single day, and not more than 20 such persons in a single week. Any entrance to any office or area of any home office(s) shall be from within the dwelling;
  - (5) **Merchandise.** No merchandise, product, or commodity may be sold on the premises and no bulk storage of merchandise, products, commodities, or equipment is permitted on the premises,

- (6) **Devices.** Any device equipping the office or occupation shall be only of the type normally used or found in a single-family dwelling, and no mechanical equipment shall be used which creates any dust, noise, odor, light, glare, vibration, or electrical disturbance beyond the lot; and
- (7) **Multiple Home Offices.** Multiple home offices in the same dwelling are permitted, provided that the aggregate impact or effect complies with this section.
- (C) **Prohibited.** Home offices are prohibited from being used for the following activities: gym, fitness, or workout activities, a barber or beauty shop, shoe repair, automotive repair, motorcycle repair, lawnmower repair, heavy equipment repair, commercial breeding, raising or selling of animals, any activities that do not satisfy the requirements of this section, and any other activities as determined by the Planning Commission from time to time.

### § 150.25 CONDITIONAL USES IN RESIDENCE DISTRICTS

The Planning Commission shall not grant a conditional use permit for a conditional use in a Residence District unless it shall, in each specific case, make specific findings of fact directly, based on the particular evidence presented to it, that support the conclusions that:

- (A) Outdoor lighting shall be reflected away from adjacent residential property and installed at the lowest height that is consistent with safety and security intended to be provided by such lighting;
- (B) The minimum lot size shall be three acres, unless the Planning Commission specifically determines that a smaller sized parcel is suitable for the proposed use, that the smaller size will not cause an unreasonable intrusion of institutional activity into property used for residential uses in the vicinity, and is in harmony with the other conditions set forth in this section regulating conditional uses;
- (C) No parking areas or above ground structures shall be closer than 25 feet to adjacent residential areas;
- (D) Screening and buffering along the common boundary or portion thereof shall be provided in accordance with the following regulations and shall be approved as part of the development plan required by this section:
  - (1) **Intent.** It is not intended that such a landscaped buffered area be required to screen out all activity or buildings on the subject property. The Planning Commission may authorize a reduction in the size of the buffer area if it is recommended by the ARO and the Planning Commission determines such reduction will not be inconsistent with the purpose of this section.
  - (2) **When Required.** Screening and buffering shall be required for parking lots, access drives or loading and service areas when adjacent to a residential use or district.



- (3) **Width of Buffer Yard.** Each required buffer yard shall have a minimum width of 25 feet.
  - (4) **Type of Screening.** A brick, stone, or decorative masonry wall of acceptable design along the common boundary, or portion thereof, shall be required. The spaces between the wall and the lot line of the adjoining premises in any Residence District shall be landscaped with grass, hardy shrubs, or evergreen ground cover and maintained in good condition. In lieu of a wall, a solid, continuous, visual screen along the common boundary or portion thereof with one or more of the items listed below can be substituted, only when it is determined by the Planning Commission that such screening can be equally as effective as the solid wall.
    - (a) Existing natural vegetation; or
    - (b) New screening materials consisting of one or a combination of the following:
      - (i) A landscaped mound or berm at least three feet in height, and planted with an evergreen hedge or dense planting of evergreen shrubs not less than six feet in height measured from the natural grade;
      - (ii) A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer; or
      - (iii) A solid fence.
  - (5) **Location.** The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect as determined by the ARO.
  - (6) **Height of Screening.** The height of the screening, measured from the natural grade, shall not be less than six feet in height and shall be maintained in good condition without any advertising thereon. When the screening or a portion thereof is intended to be achieved with vegetation, the required height shall be a minimum of 42 inches at planting, with a height of six feet achieved no later than 24 months after the initial installation. Whenever the required screening is located along the common side lot line of the area extending from the front of the building line of the residential use to the street, the required screening shall not exceed a height of four feet.
- (E) The location of curb cuts for the ingress and egress of motor vehicles shall be approved by the City Engineer and the City Manager. The location and width of such access points shall consider the following. Potential high traffic areas shall be located away from adjacent residential property in order to minimize the intrusion of motor vehicle noise, lights, and high traffic volume into the adjacent residential areas;

- (F) All buildings shall maintain a front, rear, and side yard setback of not less than 50 feet. Buildings in excess of 35 feet in height shall be required to be set back one additional foot for every foot that the building height is in excess of 35 feet. The maximum height of any building shall be 50 feet, including steeples, other appurtenances, or any other architectural features. The height of any building shall also be reviewed and commented on by the Fire Department;
- (G) Interior landscaping of parking lots shall be provided in accordance with the following requirements:
- (1) When any parking area is designed to accommodate 20 or more vehicles, a minimum of 5% of that portion of the parking lot shall be planted as landscaped areas, developed, and reasonably distributed throughout such portion so as to provide visual and climatic relief from broad expanses of pavement:
    - (a) Landscaped islands shall be developed and distributed throughout the parking lot to define major circulation aisles and driving lanes and provide visual and climatic relief from the broad expanses of pavement;
    - (b) Each island shall be a minimum of six feet in any horizontal dimension;
    - (c) Within the landscaped islands, there shall be provided one major shade tree for the first 20 parking spaces and one additional shade tree for every ten additional parking spaces, provided there is no impairment to the visibility of motorists or pedestrians. Each tree, at the time of installation, having a clear trunk height of at least six feet and a minimum caliper of two inches;
    - (d) Shrubs or low, spreading plant materials may be planted within the required landscaped islands provided there is no impairment to the visibility of motorists or pedestrians; and
    - (e) Landscaping needed to meet the perimeter landscape requirement shall not be counted toward interior landscaping.
  - (2) For the purpose of this section, the area of a parking lot shall be the total vehicular surface area including circulation aisles.
- (H) The ARO shall determine the type and location of landscaping that is necessary and appropriate to be placed at the exterior of buildings in order to minimize the visual impact of large expanses of all areas of buildings. The Planning Commission shall determine that the application is consistent with the recommendations of the ARO;
- (I) Adequate utility, drainage, and other necessary facilities will be provided per city stormwater regulations to assure that other parcels in the vicinity shall not be unreasonably burdened with surface water runoff from the subject parcel;

- (J) Adequate access roads or entrance or exit drives will be provided and will be designed so as to prevent traffic hazards and to minimize traffic conflicts in congestion in public streets and alleys;
- (K) The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located;
- (L) The location, nature, and height of buildings, structures, walls, and fences of the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings, and structures for the primary permitted use of this district, single-family residential use; and
- (M) The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.

## § 150.26 RESIDENCE ZONE FENCING

### (A) Permits and Inspections.

- (1) No person shall construct or erect a fence or wall without first obtaining approval from the City Manager and a building permit, if applicable. The City Manager's approval is subject to the City's Manager's sole discretion and such approval may be withheld for any reason.
- (2) Approval from City Manager is not required for repairs of existing fences, for replacement of a fence for which the original approval can be produced, or for invisible fences.
- (3) Approval from City Manager shall not be required for vegetative hedges or invisible fences but they shall be subject to any applicable requirements of this section.
- (4) Where a building permit is required, the application for such permit shall include payment of any required fee.
- (5) The City may furnish a necessary inspection of any fence or wall.
- (6) Appeals from the City Manager's decision with respect to any wall or fence shall be to the Board of Zoning Appeals and the decision of the Board of Zoning Appeals shall be final.

### (B) General Requirements.

- (1) All fences and walls, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. Property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.
  - (2) It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the City issuing any applicable certificate or permit, and that the fence or wall does not encroach on another lot or existing easement. The issuance of the certificate or permit, and any inspection by the City, shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.
  - (3) All fences, walls, and hedges shall be subject to visibility clearance requirements as determined by the City Manager's aesthetic discretion, which will be based upon Planning Commission's periodic approval of preferred templates.
  - (4) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. All supporting posts must be located on the side facing the interior of the property upon which the fence or wall is located. If a fence has two similarly finished sides (including supporting posts), either side may face the adjacent property.
  - (5) Both sides of all fences or walls and the surrounding property, where reasonably accessible, shall be maintained in equally good condition in accordance with City maintenance standards.
  - (6) Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Replacement of the fence shall be at the property owners' expense.
  - (7) Fences, walls, and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.
  - (8) If any provision of this section is violated, the City may order that the fence or wall be removed. No property owner shall fail to remove such fence or wall within ten days of the order.
  - (9) Adjacent properties shall not be materially affected with any fence or wall.
- (C) **Measurement.**

- (1) Fences or walls in the front or side yard shall be no more than four (4) feet in height, with the exception that retaining walls in the front or side yard shall be no more than six (6) feet in height.
  - (2) Fences or walls in the rear yard shall not exceed six (6) and one-half (1/2) feet in height, with the exception that retaining walls in the back yard shall be no more than eight (8) feet in height.
  - (3) The maximum fence or wall height shall be measured from the lowest point within three feet on either side of the fence to the top most portion of the fence between posts.
  - (4) Supporting posts, including decorative features, may exceed the fence or wall height a maximum of six inches in Residence Districts, and 12 inches in Business Districts.
  - (5) Fencing or walls should follow the natural contour of the land on which it is located.
- (D) **Materials and Design.**
- (1) No fence shall be composed of scrap materials, tires, canvas, cardboard, asphalt-style shingles, electrically charged fencing, corrugated metal, wire mesh, welded rolled wire, chicken wire, or sheet metal.
  - (2) Chain link style fencing shall all be required to be vinyl coated and shall only be permitted in rear yards.
  - (3) Fencing that includes barbed wire, razor wire, or other sharp-pointed material shall be prohibited.
  - (4) Picket fences shall have blunt points.
  - (5) Materials used for fences or walls shall be of weather resistant materials or treated so that they are weather resistant.
- (E) **Nonconforming Fencing.** If more than 50 percent of a nonconforming fence is to be removed replaced, the entire portion of a fence that is nonconforming shall either be completely removed or replaced with fencing that complies with the standards of this section.
- (F) **Penalty.** This section is subject to enforcement and penalty as specified in § 150.21.

## § 150.27 CONVERSION OF EXISTING ACCESSORY BUILDINGS.

- (A) **Purpose.** There are three primary purposes for authorizing certain existing accessory buildings to be converted to permit habitation that is accessory and incidental to the habitation of the principal dwelling.

- (1) The limited conversion of existing accessory buildings for habitation is intended to enable an extension of the residential use of a lot that is compatible with existing residence district uses. This means that the habitation of an existing accessory building is intended and shall be limited to uses that are incidental and accessory to the occupation of the principal building for residential purposes. Furthermore, this means that a property owner who chooses to extend the habitation to an existing accessory building shall not permit the occupation of such building unless it is consistent with one or more of the limited uses set forth in this section. **CONVERSION**, as used in this section, does not mean or require that an applicant prove that a portion of the existing accessory building is actually used or has been used for habitation previously.
  - (2) The conversion of certain existing accessory buildings is intended to slow the assemblage of existing parcels for subdivision development and thus slow the acceleration of increased density within residence districts. This purpose is consistent with maintaining existing green space in residence districts.
  - (3) Permitting the extension of habitation to certain existing accessory buildings will provide an incentive to preserve some of the historical aspects of the city. In lieu of the removal and/or replacement, immediate neighbors can benefit by the continuity of buildings that reflect and maintain the historical fabric of the community. As used in this section **HISTORICAL ASPECTS** and **HISTORICAL FABRIC** are intended to mean the reasonable preservation of the exterior appearance of the accessory building. The terms are not intended to be a total prohibition from replacing siding, painting, replacing windows or roofing. However, any expansion of the volume of the building, as measured by the exterior walls shall not be considered consistent with this historical purpose, nor shall such expansion be permitted as part of any requested conversion.
- (B) **Conversion of Existing Accessory Buildings.** Existing accessory buildings may be converted to use primarily for habitation as a dwelling on the condition that the property owner files an application with the City Manager and the Board of Zoning Appeals approves of such conversion, as determined by the Board of Zoning Appeals, after a public hearing, which shall be advertised and noticed in the same manner as requests for variances. In reviewing such application, the Board of Zoning Appeals shall carry out the spirit and intent of this Zoning Code to protect the fundamental single-family residential nature of the city and in furtherance of the aforesaid purposes. As mandated in the City Charter, the Board of Zoning Appeals is not authorized to grant a variance in any cases in which the deviation from an existing zoning ordinance is so substantial that it is equivalent to a change in the zoning district.
- (C) **No Additional Accessory Buildings.** Approval of the conversion of an accessory building for dwelling purposes shall not be construed to permit or create the right to any additional accessory buildings.

- (D) **Penalties.** In the event that the owner(s) or occupant(s) of a lot violates any provisions of the section, above, the owner(s) or occupant(s) shall be subject to all civil or criminal penalties provided in §§ 150.04 and 150.21 of this code.

## § 150.28 PARKING

- (A) **Parking Requirements in Residence Districts.** Parking space or spaces shall be provided on each lot on which a residence structure is erected in a Residence District, and the number of such spaces that shall be so provided shall be at least two in the case of a single-family dwelling. No driveway entrance, in any Residence District, shall be constructed with, or altered to, a width of less than ten feet or more than 26 feet at the curb or roadway. Driveway entrances shall not hereafter on any lot be constructed or widened to occupy more than an aggregate of 26 feet of such lot's frontage on the same street. On any lot in a Residence District that has or shall have more than one driveway entrance from all abutting streets combined, no such entrance or part thereof shall hereafter be provided within ten feet from the adjacent side line of the nearest such entrance on the same lot.
- (B) **Parking and Storing of Commercial Vehicles in Residence Districts.**
- (1) **Purpose.** The parking and storage of motor vehicles in residence districts should be consistent and incidental to the residential use of those properties. The purpose of this section is to prohibit the parking and storage of large commercial vehicles which are not providing a service that is incidental to the residential use of the property. Large commercial vehicles, unless providing a service, detract from the residential atmosphere of such districts by creating visual clutter and projecting an image more consistent with commercial or industrial usage.
  - (2) **Prohibition.** No person shall cause to stand, park, store, or permit the standing, parking, or storage of any commercial vehicle in or upon any driveway, side yard, front yard, or rear yard, unless enclosed within a garage within any residence district.
  - (3) **Exception.** The foregoing prohibition shall not apply to commercial vehicles which are temporarily parked incidental to providing maintenance, construction, repair, or delivery services at or upon the premises, including the delivery or loading of property or passengers.
  - (4) **Enforcement.** For the purpose of enforcement with respect to the foregoing, citations or summons shall be issued for such violations through the Police or Building Departments. Any appeal regarding the within sections shall be submitted to the Board of Zoning Appeals which shall not grant a variance unless a hardship is demonstrated by the applicant. If the Board of Zoning Appeals does grant a variance, it shall impose sufficient conditions for the screening of such vehicle from adjacent properties and for minimizing the duration that such vehicle may be parked or stored on the premises, as well as such other conditions to mitigate the impact of the vehicle on the residential area. The mere fact that the commercial vehicle is

essential to one's employment or occupation shall not constitute hardship. This section is subject to enforcement and penalty as specified in § 150.21.

## § 150.29 PANHANDLE LOTS

- (A) **Generally.** Panhandle lots do not enhance residential communities unless their creation, development, and/or redevelopment are strictly regulated to ensure they do not negatively impact surrounding properties, access points, service of utilities, or public safety requirements. Accordingly, the creation, development, and/or redevelopment of a panhandle lot is discouraged. Applications hereunder should only be approved by the Planning Commission if an applicant both (i) satisfies the administrative prerequisites to obtaining approval and, (ii) on balance, the evidentiary factors set forth below weigh in favor of granting the applicant's request. Notwithstanding the foregoing, all creation of and development and redevelopment on panhandle lots are expressly prohibited unless located in an R-1 or R-2 single-family district.
- (B) **Application.** Prior to appearing before the Planning Commission, applicants must complete an application form, which specifies whether the request is for the creation, development, or redevelopment of a panhandle lot. The application shall be in compliance with the requirements of this chapter and in such form as approved by the Planning Commission, and shall include such additional information and documentation as may be determined by the City Manager to evaluate and process the application.
- (C) **Procedure.**
- (1) Once the completed applications and documentation have been received, the City Manager shall seek reports from City officials, as determined by the City Manager. In addition, the City Manager shall confirm that the criteria set forth within section (D) and/or (E) of this § 150.29 are satisfied prior to submitting the subject application to Planning Commission for review. The City Manager shall create a report indicating his or her determination with respect to each criterion, incorporating suggestions from the ARO, if any.
  - (2) The applicant shall be advised regarding the contents of the reports, including the City Manager's determination as to whether the criteria have been satisfied, and may withdraw the application, resubmit an amended application, or proceed with the application. If applicant elects to proceed, he or she shall provide 15 copies of all plats and development plans to the City Manager. Once a hearing date in connection with the subject application has been set, the City Manager shall notify all property owners within 200 feet of subject property of such hearing.
- (D) **Criteria for Creation of Panhandle Lots.** In order to approve the creation of a panhandle lot, the applicant must satisfy the following criteria:



- (1) The lot or lots that would front the dedicated street if the panhandle lot is approved (hereinafter referred to as the front lot or lots) shall, after being subdivided, meet all the requirements of the district in which they are situated;
- (2) The proposed rear lot (i.e., the panhandle lot) shall meet all zoning requirements for the district in which it is located except that:
  - (a) The minimum area requirements shall be as follows:
    - (i) Zoning district R-1: 300% of the minimum zoning requirements of the district or 100% of the area of the remaining front lot, whichever is larger in size; and
    - (ii) Zoning District R-2: 400% of the minimum zoning requirements of the district or 100% of the area of the remaining front lot, whichever is larger in size.
  - (b) In calculating the area of a panhandle lot for purposes of determining whether it meets the minimum area requirements, the access strip to the rear lot shall not be considered part of the area of the rear lot.
  - (c) Any portion of a lot (front or rear) which is located in a public right-of-way easement shall not be included when calculating minimum area.
- (3) No additional panhandle lots shall be created behind a rear lot (i.e., the stacking of panhandle lots shall be prohibited).
- (4) The minimum width of the entrance to rear lots (along the entire length of the panhandle) shall be 20 feet and the maximum width shall be 40 feet (along the entire length of the panhandle). In order to assure that the drive to the rear lot shall support all emergency vehicles, the depth/thickness of the drive shall be not less than the depth/thickness required for a public street, as set forth in the city's subdivision rules and regulations. However, curbs and gutters shall not be required unless such a condition is later imposed by the Planning Commission to mitigate drainage problems. The location of any curb cut must be identified on the application to be approved by the Planning Commission. In addition, adequate pavement must be provided for turning vehicles, including emergency vehicles, around on the rear lot. The improved surface of the driveway shall be at least 12 feet in width, unless a greater width is directed and authorized by the Architectural Review Officer or, ultimately, the Planning Commission. The Architectural Review Officer and Planning Commission may require that landscaping, walls, drainage areas and other improvements be placed and maintained in the unpaved areas of the panhandle.
- (5) A single access to public right-of-way, shared by the front lot and the panhandle lot, shall be required, unless it is not practicable for reasons of safety, aesthetics,

economics, engineering, or because this requirement would be inconsistent with accepted land planning concepts. The driveway to a rear lot shall limit changes of direction, so as to permit the easy entrance and exit of emergency vehicles. An alternative access to the rear lot over the panhandle may be approved for reasons of safety, aesthetics, benefit to adjoining properties or other reasons that are consistent with valid land planning and zoning within this community.

- (6) Except as provided otherwise herein, all zoning and subdivision requirements, such as sewer connections, shall apply to front and rear lots. No panhandle lot shall be created unless sewer connections are available for front and rear lots.
- (7) A minimum of two outdoor parking spaces must be provided in addition to a minimum of two garaged parking spaces. None of these spaces shall be located in the panhandle portion of the lot.
- (8) If either the Fire Chief, Police Chief or City Engineer identify any specific concerns for safety, such as may be caused by the location of curb cuts, the topography of the access drive, or such other factors as may raise concern regarding public health, safety, and welfare, including the rendering of public safety services to the proposed front or rear lots, the Planning Commission may deny the application for this reason alone if it determines that such safety issue is a valid concern. In any event, this section does not create liability on the part of the city for any damages that may arise as a result of the granting of any application for the creation of a panhandle lot. Any review of such applications is intended only for the safety, health and welfare of the general public, and is not intended as a representation of safety to any specific party or person.
- (9) Adequate provisions must be shown to ensure the proper disposal of surface water runoff from the front and rear lots. If the Planning Commission is not satisfied with an applicant's plan for disposal of surface water, Planning Commission may condition its approval upon an alternative plan for handling surface water discharge. In making such a determination, Planning Commission may consider the relative costs, relative impact on adjoining property, capacity of systems and ease the cost of maintenance of systems.
- (10) No structures, except for fences and walls permitted under this code, shall be permitted in the panhandle portion of the lot.
- (11) The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot.
- (12) If there are nonconforming uses on a proposed front lot, Planning Commission, as a condition for approval, may require that one or more of the nonconformities be discontinued or reduced.

- (E) **Criteria for the Development or Redevelopment of Structures on a Panhandle Lot.** In order to approve the development or redevelopment of any structure on a panhandle lot, the applicant must satisfy the following criteria:
- (1) The Architectural Review Officer shall review the application, including the architectural plans, to ensure that the proposed new building(s) and structures are compatible and complement the existing buildings in the vicinity, including architectural style, exterior construction materials, size of building, and the height and relative elevation of the buildings. In addition, the Architectural Review Officer shall review the application to ensure that the principal building meets the minimum square footage required by this Zoning Code and, also, that the proposed building is no larger than 120% of the largest conforming building on a lot contiguous to the proposed panhandle lot, including the principal building (existing or proposed) on the front lot.
  - (2) The front of the dwelling on the rear lot shall face toward and be substantially parallel to the rear yard line of the front lot, unless the City Manager determines a different alignment is preferable and will have no greater impact on the use and enjoyment of adjoining properties, and Planning Commission approves such alignment.
  - (3) The principal dwelling on the rear lot shall not be constructed closer than 50 feet from the front property line of the subject panhandle lot.
  - (4) The principal dwelling on the rear lot shall not be constructed closer than 40 feet from the rear and side property lines of the subject panhandle lot.
- (F) **Motor Vehicles on Panhandle Lot.** No parking of motor vehicles shall be permitted on any shared portion of a common access unless within the designated parking spaces on improved paved surfaces.
- (G) **Decision.** In determining whether to approve, approve with conditions, or deny any application hereunder, the Planning Commission shall consider the City Manager’s report and determine whether any of the circumstances set forth in sections (1)-(6) below exist with respect to the subject application. Planning Commission shall designate, in writing, any specific conditions of approval, and no building permit shall be issued for the subject lot unless adequate assurance is provided that all conditions imposed by the Planning Commission will be met. If the Planning Commission determines, by a majority vote, that one or more of the circumstances set forth below exist with respect to the subject application, then such vote shall constitute a denial of the subject application:
- (1) Considering the lots, structures, building, topography, and uses of real estate in proximity to the proposed panhandle and the front lot, the application does not depict a future development that is significantly compatible with surrounding areas;

- (2) The natural or existing surface water drainage will likely be altered (increased, retained or diverted) to such an extent that an adverse impact to other properties or to any public rights-of-way will occur under some circumstances;
  - (3) The height, elevation, orientation, location, or architectural features of any proposed building or structure intended to be placed on either a panhandle or a front lot is unreasonably inconsistent with the orientation, location, or architectural features of existing buildings or structures in the vicinity;
  - (4) The location of the access point, the length, the width, or the grade of a proposed driveway presents features that are not consistent with safety, in any and all weather, or will cause the creation of an impervious driveway/parking surface that will cover such a large area of open ground or require removal of significant trees or other landscaping that existing green spaces will suffer excessive reduction;
  - (5) Proposed grading of site, proposed walls, fences, terraces, or the proposed location of other structures or buildings will unreasonably interfere with natural topographic patterns which contribute to the appearance of the existing site; and
  - (6) The proposed panhandle lot, if created, would unreasonably inhibit future uses, structures or buildings on adjacent lots which would be permitted by the existing zoning regulations. Such structures, buildings, or uses need not actually exist at the time this condition is considered.
- (H) **Final Approval.** Final approval of any application for creation of a panhandle lot and/or dwelling shall be put in the form of a written resolution by Planning Commission with appropriate attachments. Any conditions, restrictions, or limitations on said property which are imposed as a consideration of granting the application shall be set forth or referenced in the resolution. The resolution must be approved by a majority of vote of the members attending the meeting.
- (I) **Contingent-Approval Permitted.** In circumstances where an applicant needs a variance from the objective requirements of this section, the Planning Commission may provide contingent-approval of an application. Such contingent-approval shall mean their approval of the application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of an application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the application, altogether.
- (J) **Appeals.** Any applicant that seeks approval from Planning Commission of his or her application, pursuant to this section, and whose application is denied by the Planning Commission, may appeal such decision to the Board of Zoning Appeals.
- (1) **Timing of Appeal.** The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission and the Board of

Zoning Appeals within thirty (30) days of the Planning Commission’s provision of written notification of its denial to the applicant.

- (2) **Hearing on Appeal.** The Board of Zoning Appeals shall hold a public hearing evaluating the appeal based upon the standards of review applied by the Planning Commission to the initial application, within sixty (60) days of receiving applicant’s notice of appeal.

### § 150.30 STRUCTURES ATTACHED TO THE PRINCIPAL RESIDENCE

- (A) **Purpose.** The purpose of this section is to establish standards for the construction or reconstruction of porches, decks, and other structures that may be attached to the principal dwelling units within the city. Building materials as well as the style of construction of such structures determine whether the structure adds to the value of the residence and the surrounding properties or detracts such value. It is also the purpose of this section to identify certain modest structures that serve a useful purpose and provide minimal visual impact from surrounding properties. Such minimal structures are intended to be exempt from the zoning setback requirements, provided they meet the standards set forth in this section. The structures identified in this regulation are intended to be regulated in such a manner as to protect or increase the value of residential properties within the city, while permitting reasonable use of properties in a manner that enhances the residential lifestyle. This section shall also provide guidance to the Planning Commission and the administration in determining if a proposed structure conforms to the Zoning Code or whether a variance needs to be requested.

- (B) **Requirements and Permitted Location of Structures.** The following requirements shall apply to the following structures.

- (1) **Decks or Ramps.**

- (a) A deck or ramp may be erected in the side or rear yard only, unless such ramp or deck is for resident’s medical necessity, and constructed in compliance with The Americans with Disability Act, 42 U.S.C. § 12101, *et seq.*
- (b) A deck or ramp shall meet all the setback requirements for the rear and side yard, unless such ramp or deck is for resident’s medical necessity, and constructed in compliance with The Americans with Disability Act, 42 U.S.C. § 12101, *et seq.*
- (c) If at any point a deck or ramp is not for resident’s medical necessity or constructed in compliance with The Americans with Disability Act, 42 U.S.C. § 12101, *et seq.*, then such deck or ramp must satisfy the requirements under (a) and (b) above or such deck or ramp shall be considered in violation of § 150.30(B)(1).

- (d) If the deck or ramp encroaches within the minimum rear or side yard setback and thus requires a variance, it shall meet the following standards.
    - (i) The deck or ramp materials must be finished with paint or an opaque stain and shall not include raw decking material.
    - (ii) The deck or ramp must have skirting or an apron at the bottom.
  - (e) **Size Limitation.** Decks shall be no larger than twenty-five percent (25%) of the footprint of the principal building or dwelling.
- (2) **Landings or Stoops.**
- (a) The landing or stoop may be located in the front, side or rear yards.
  - (b) A landing or stoop is exempt from the setback requirements and cannot be built more than four (4) feet from the principal building or dwelling or accessory building or structure to which it abuts and shall not be any larger than 32 square feet.
  - (c) Landings and stoops located in a front yard setback must be constructed of concrete or masonry.
- (3) **Porches.**
- (a) A porch may be erected in the front, side or rear yards.
  - (b) A porch shall meet all the setback requirements as stipulated in these regulations.
  - (c) A porch shall be a one-story structure.
  - (d) If the porch encroaches within the front, side or rear yard setback and thus requires a variance, it shall meet the following standards.
    - (i) If constructed of wood or similar material, the porch must be finished with paint or an opaque stain and shall not include raw decking material.
    - (ii) The porch must have skirting or an apron at the bottom.
    - (iii) The porch must contain appropriate roofing materials that are compatible with the design of the porch and principal building or dwelling.

- (iv) The porch flooring materials must be constructed from concrete, masonry or finished tongue-and-groove type wood or composite flooring.
- (4) **Balconies.**
- (a) A balcony may be erected in the front, side or rear yards.
  - (b) A balcony shall meet all the setback requirements as stipulated in these regulations.
  - (c) If a balcony encroaches within the front, side or rear yard setback and thus requires a variance, it shall meet the following standards.
    - (i) If constructed of wood or similar material, the balcony must be finished with paint or an opaque stain and shall not include raw decking material.
    - (ii) The balcony flooring materials must be constructed from concrete, masonry or finished tongue-and-groove type wood or composite flooring.

### § 150.31 GARAGE SALES

(A) **Regulation of Garage Sales.**

- (1) No person, firm, or corporation shall conduct a garage sale within the city in violation of the sections in this chapter.
- (2) No garage sale shall be permitted for more than two (2) consecutive days.
- (3) No resident or property owner may conduct more than two (2) garage sales at any residential premises during any calendar year.
- (4) Garage sales shall be permitted during daylight hours only.
- (5) Advertising signs for a garage sale shall conform to all applicable provisions of the Sign Code.

- (B) **Penalty.** Any person who violates the provisions of this section shall be fined not more than \$150 per occurrence for each day said violation continues.

### § 150.32 SWIMMING POOLS

- (A) **Location.** No person shall hereafter construct, install, or erect or attempt to construct, install, or erect within the city on any parcel of real property having an area of less than five acres, any pool or other water-containing enclosure (for purposes of this § 150.32, an

“enclosure”), whether above or below the surface of the ground, designed or intended to be used for the purpose of swimming, recreational bathing, wading, or other recreational water activity unless the area of the surface of the water contained therein does not exceed one-fourth of the area of the rear yard of any structure on the same lot or parcel, and unless no part of the water-containing portion of the pool or enclosure lies within 15 feet of the side line or within 15 feet of the rear line of the lot or parcel on which it is constructed or placed. No part of any pool or enclosure shall be constructed in the front yard of any structure on the same lot or parcel.

(B) **Requirements for Swimming Pool Construction.**

- (1) No owner or occupant of any parcel of real property within the city shall hereafter construct, install, erect, maintain, use or permit the use of, or permit the continued existence of, any private pool or enclosure on the parcel unless the pool or enclosure has a perimeter not exceeding 25 feet and a depth not exceeding two feet, or unless the pool or enclosure is screened during all hours in which it is not in use and is surrounded by a fence or wall:
  - (a) Not less than 42, nor more than 78 inches in height above grade;
  - (b) Located in reasonably close proximity to the pool or enclosure; and
  - (c) The structure of which is sufficiently rigid to prevent the passage of small children. Any required fence or wall erected to a height of 78 inches, or any lesser height, may be of solid construction and without interstices for its entire height, provided the pool or enclosure it surrounds is located in the yard to the rear of and on the same premises with a dwelling, and that the fence or wall does not at any point extend forward of the rear line of the dwelling.
- (2) No owner or occupant shall hereafter maintain, use or permit the use of, or permit the continued existence of, any ladder as a means of access to any pool or enclosure that is erected, located, or maintained above the surface of the ground, and has a perimeter in excess of 25 feet and a depth in excess of two feet, unless the ladder is readily detachable from the pool or enclosure. The owner or occupant shall detach and remove the ladder from the pool or enclosure promptly upon each termination of the use of the pool or enclosure and shall store the ladder in the dwelling or garage on the same premises with the pool or enclosure during all hours in which the pool or enclosure is not in use. Use of the pool or enclosure shall be deemed to terminate at the end of each season and each day, and of each lesser period of actual use.
- (3) No fence or wall required under this section shall be erected or constructed without securing a permit therefor from the City Manager. The City Manager shall, in that connection, have the right to require that plans and specifications be submitted by any permit applicant prior to the issuance of any permit.



- (C) **Building Permits.** Pools and enclosures subject to the provisions of this section shall not be constructed except pursuant to building permits lawfully issued in accordance with Chapter 152.
- (D) **Violations.** In addition to the remedy provided in this chapter and any remedy provided under the Ohio Revised Code, the City Law Director shall have the authority and is authorized to institute any appropriate action or proceeding in law or in equity on behalf of the city, any board or official thereof, to prevent the construction, installation or erection of any pool or enclosure, including any club pool, in violation of this chapter, or to force the removal of any pool or enclosure, including any club pool, so constructed, installed, or erected, or to restrain, correct or abate the violation, or to restrain the use of any pool or enclosure, including any club pool, that does not in its construction and facilities and in the facilities connected therewith or in its operation, comply with requirements of this chapter.

### **§ 150.33 OUTDOOR RECREATION ONE DISTRICT USES (O-1)**

In the Outdoor Recreation One District (O-1), no building, structure, facility, or premises shall be used, and no building or structure shall be erected that is intended or designed to be used, in whole or in part, except for one or more of the following specified uses:

- (A) Facilities for the use of the general public, including residents, and members and guests of nonprofit organizations, sports organizations, school organizations, and the like, including, but not limited to, tennis courts, basketball courts, baseball diamonds, soccer fields, playground equipment, handball courts, swimming pools, and picnic shelters and areas; provided, however, that reservations may be required for the use of such facilities, as determined by the City from time to time;
- (B) Facilities for members on a membership basis;
- (C) Structures and facilities for the use of Camargo Canyon Reserve by the general public, including residents and nonresidents; and
- (D) Other uses as may be approved by the City from time to time.

## **BUSINESS AND ENTERPRISE DISTRICTS**

### **§ 150.34 BUSINESS AND ENTERPRISE DISTRICTS**

- (A) **Districts.** For the purposes of this Zoning Code, the City is hereby divided into 3 classes of Business Districts as follows.

Table 150-7	
Abbreviation	District
Nonresidential Zoning Districts	
B-1	Business One – Downtown District – Main Street Madeira “B-1”
B-2	Business Two – Montgomery Road Enterprise District “B-2”
B-3	Business Three – Makers, Retailers, & Auxiliary District “B-3”

(B) **Purpose.** The following are the purpose statements for each of the established Business Districts in the City.

- (1) **Business One – Downtown District – Main Street Madeira “B-1”.** It is the primary purpose of the Business One – Downtown District – Main Street Madeira “B-1” to be the commercial and cultural heart of the city and be considered a destination spot for residents and visitors, where a mix of businesses can thrive while maintaining a “small town” character and providing an aesthetically cohesive and pedestrian friendly environment.
- (2) **Business Two – Montgomery Road Enterprise District “B-2”.** It is the primary purpose of the Business Two – Montgomery Road Enterprise District “B-2” to be a commercial district with a mix of restaurants, retail establishments, offices, and other businesses.
- (3) **Business Three – Makers, Retailers, & Auxiliary District “B-3”.** It is the primary purpose of the Business Three – Makers, Retailers, & Auxiliary District “B-3” to be a commercial and manufacturing district with a mix of retail establishments, offices, and manufacturers, including retail establishments that manufacturer, finish, and assemble products and materials on site.

### § 150.35 OUTDOOR DINING

(A) **Purpose.** The purpose of this section is to permit, subject to certain guidelines and standards, outdoor dining as an accessory use to buildings occupied by a business that serves food or drink for on dining premises consumption.

(B) **Criteria.** Outdoor dining shall be permitted as an accessory use only if an outdoor dining permit is obtained under (C) below and all of the following criteria are met:

- (1) Outdoor dining areas shall be located along a sidewalk or on property adjacent to the principal building or between the principal building and parking area;
- (2) Outdoor dining areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the dining area and the principal building;
- (3) If no grade separation is provided between vehicular traffic and the outdoor dining area of a height sufficient enough to stop a vehicle, permanent railings or fencing

shall be provided around the dining area to provide safety protections from moving vehicles. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required;

- (4) If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of five feet of clearance adjacent to the dining area to allow for pedestrian circulation;
- (5) Outdoor dining equipment must be constructed of non-reflective materials;
- (6) No part of the outdoor dining area may be within 50 feet of any Residence District;
- (7) Signage in the outdoor dining areas shall be in compliance with the Sign Code. However, directional signs may be permitted if specifically approved by the ARO as conducive for safety;
- (8) The outdoor dining area shall be consistent with any other development plans, conditions, variances, or other special restrictions that apply to the property; and
- (9) The outdoor dining area meets all applicable laws and regulations, including Board of Health Regulations, Department of Liquor Control Regulations, and building and zoning regulations of the city.

(C) **Application and Permit.**

- (1) **Application.** No person shall provide outdoor dining in a Business District without first obtaining an outdoor dining permit from the City Manager, and, if applicable, a variance as required under this chapter. Application for an outdoor dining permit shall be made to the City Manager and shall include an outdoor dining plan. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager and shall include such additional information and documentation as may be determined by the ARO and the City Manager to evaluate and process the application.
  - (a) **Outdoor Dining Plan.** An outdoor dining plan must be submitted as part of the application for the permit. The plan shall include the following items:
    - (i) A sketch to scale of the dining premises clearly defining the area proposed for outdoor dining including any dining encroachment into a public right-of-way and/or sidewalks. The sketch must depict the proposed location of each item to be placed within the area, such as chairs, tables and umbrellas;
    - (ii) Pictures or other adequate description of chairs, tables, umbrellas, fencing, screening, plantings, and other changes proposed for the area;

- (iii) Description of service to be provided in the outdoor dining area, including the proposed hours of operation, whether alcoholic beverages will be served, consumed, or mixed in the area, and the type of food to be served or brought into the area; and
    - (iv) If the applicant is not the owner of the dining premises, an authorization of the owner of the dining premises to apply for the outdoor dining permit is required.
- (2) **ARO Approval of Outdoor Dining Plan.** Upon submission of the application for an outdoor dining permit to the City Manager, the City Manager shall forward the application, including the outdoor dining plan, to the ARO for the ARO's review. The outdoor dining plan shall be subject to the ARO's written pre-approval, which shall be determined in the ARO's sole discretion. If the outdoor dining plan is approved by the ARO, the outdoor dining area shall be in accordance with the standards and criteria approved in writing by the ARO and countersigned by the applicant.
  - (a) **Criteria.** In determining whether to approve or deny an outdoor dining plan, the ARO shall consider all criteria it deems necessary, including, but not limited to, the following criteria before approving or denying the plan: (i) the type of activity that will occur in the outdoor dining area; (ii) pedestrian traffic patterns; (iii) waste receptacles; (iv) distractions to vehicular traffic; (v) lighting, proximity to roadways, color schemes, and desirability of screening or fencing the outdoor dining area; (vi) zoning setback requirements; (vii) visual and aesthetic impact of chairs, tables, umbrellas, and other items placed within a required setback area; (viii) screening of lights, noise, and other activity in outdoor dining area from nearby residences; and (ix) any other additional information or factors as determined by the ARO.
  - (b) **Public Right-of-Way.** The ARO shall not approve any outdoor dining plan that will cause any public sidewalk to be unreasonably impeded by the proposed plan. Any outdoor dining permit which approves the use of any public right-of-way (including sidewalks) shall be revocable at any time, without cause, by the city.
  - (c) **Consultation.** The ARO shall consult, as appropriate, with the Fire Chief, Police Chief, Building Inspector, or City Manager for advice and recommendations on the outdoor dining plan.
- (3) **City Manager Approval.** Each application for an outdoor dining permit shall be subject to the City's Manager's review and written approval, which shall be determined in the City Manager's sole discretion. The approval of the City Manager shall signify that the outdoor dining plan has been approved by the ARO and that it meets the criteria set forth in this section.

- (4) **Permit.**
- (a) If the application is approved by the City Manager, the required permit fee has been paid, and all other requirements of this section are satisfied, the City Manager shall issue the outdoor dining permit.
  - (b) The fee for the initial outdoor dining permit shall be \$150. Annual renewals of the permit shall be \$100 unless modifications to the plan have been made, in which case the permit fee shall be \$150.
  - (c) No outdoor dining permit shall be issued for any plan that does not comply with the City Zoning Code.
  - (d) No variances shall be permitted except by appeal to the Board of Zoning Appeals.
  - (e) Each permit shall be annual and shall expire on December 31 of the calendar year in which it is issued.
- (D) **Violation and Enforcement.** The outdoor dining permit may be revoked upon written notice if the outdoor dining area is determined to violate the provisions of this Zoning Code or the terms and criteria approved by the ARO and/or City Manager. The permit holder will have ten days to correct the specified violations unless there is determined to be a public hazard which will require the immediate removal or correction of the violation. Failure to correct the violations shall cause the permit to be revoked. This section is subject to enforcement and penalty as specified in § 150.21.
- (E) **Appeal.** If application for a permit for an outdoor dining area is denied by ARO and/or City Manager, the applicant may appeal the decision to the Board of Zoning Appeals within 30 days from the denial. Such appeal shall be filed in writing with the City Manager.

### § 150.36 PARKING IN BUSINESS AND ENTERPRISE DISTRICTS

- (A) **Purpose.** The purpose of this section is to establish regulations and standards for the development of off-street parking and loading facilities, to prevent or alleviate the congestion of public streets, and to minimize any detrimental effects of off-street parking and loading areas on adjacent properties.
- (B) **Exemptions in B-1 Business District.** In order to avoid traffic congestion and to provide for safe circulation of motor vehicles and pedestrians, and for the protection and convenience of the general public, any properties and uses in B-1 are exempt from § 150.36(C), § 150.36(D), § 150.36(E), and § 150.36(J).
- (C) **Required Parking Spaces.** All businesses in B-2 and B-3 are required to provide an adequate number of parking spaces for the business, which shall be determined based upon the property's use and as provided for in this section.

(D) **Applicability.**

- (1) **New and Expanded Uses.** The off-street parking and loading requirements of this section shall apply to the following:
  - (a) A new building;
  - (b) An alteration, addition, or change of use of an existing building; or
  - (c) An alteration or change of land that requires a change in parking.
- (2) **Existing Uses.** The off-street parking and loading requirements of this section shall not apply to buildings and land uses legally in existence on the effective date of this Zoning Code unless modified in a manner stated in (1) above. Any parking or loading facilities now serving existing buildings shall not be reduced below the requirements set forth in this section.
- (3) **Maintenance.** The duty to provide and maintain all off-street parking and loading areas shall be the joint and several responsibilities of the owner, operator, and lessee.
- (4) **Parking Plan**
  - (a) **Plan Parking Plan Review.** A parking plan is required for any change set forth in § 150.36(D)(1) and any new, expanded, or reduced off-street parking area within the City. The parking plan shall be submitted with an application for a building permit to the City for the City’s review for compliance with this section and any other applicable laws or regulations.
  - (b) **Requirements.** The parking plan required under (a) above shall include the following:
    - (i) Number of parking spaces;
    - (ii) Arrangement of parking aisles;
    - (iii) Location of driveway entrances;
    - (iv) Provisions for vehicular and pedestrian circulation;
    - (v) Location or typical location of sidewalks, wheel stops, curbs, lighting, and other similar amenities;
    - (vi) Location of utilities, barriers, shelters, and signs;
    - (vii) Location of landscaped areas and the types and location of vegetation to be planted in them;

- (viii) Typical cross sections of pavement;
  - (ix) Stormwater drainage facilities;
  - (x) An analysis of an adequate number of parking spaces in accordance with (c) below; and
  - (xi) Any other relevant information or documentation requested by the Planning Commission.
- (c) **Written Analysis of Parking Requirements.** Each applicant is required to provide an adequate number of parking spaces for the proposed use or expansion of uses. As part of its parking plan, the applicant shall provide a written analysis of parking requirements based on the following information:
- (i) Building square footage for each specific use to be served by off-street parking;
  - (ii) Hours of operation.
  - (iii) Estimated number of patrons/customers at peak hours of operation.
  - (iv) Maximum number of employees present on one shift.
  - (v) Availability of joint parking areas.
  - (vi) Building occupancy loads.
  - (vii) Any additional relevant information or documentation requested by the Planning Commission.
- (d) **Denial.** The Planning Commission has the authority to deny a parking plan if it deems that an adequate amount of parking has not been provided. The Planning Commission shall provide, in writing, the reasons for the denial.
- (e) **Appeal.** The applicant may appeal the decision of the Planning Commission within thirty (30) days of the written notification of denial in accordance with § 150.18(G).
- (E) **Shared Parking.** Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. Shared parking shall be subject to the following requirements:
- (1) **Joint Use.** Joint use of up to seventy-five percent (75%) of parking spaces may be permitted for two or more uses located on the same, adjacent, or nearby parcels

provided that the applicant can demonstrate to the City Manager that the uses will not substantially overlap in hours of operation or in demand for the shared spaces.

- (2) **Residence District.** Shared or off-site parking shall not be permitted on a vacant lot in a Residence District unless approved by the Planning Commission as part of the application.
- (3) **Planning Commission Review and Approval.** The Planning Commission shall review and approve all shared parking facility plans and may place such conditions upon such plans as it deems necessary to ensure that adequate off-street parking spaces will be provided for all involved uses. Violations of these conditions may nullify the approved shared parking facilities plan and shall be deemed a violation of this section. Any change in use of the activities served by a shared parking facility will be deemed an amendment to the shared parking facility plan and will require Planning Commission review and approval.

(F) **Parking Spaces.**

- (1) **Dimensions.** Each off-street parking space shall meet the minimum dimensional requirements and shall have direct and unrestricted access to an aisle of the minimum width set forth in the below table.

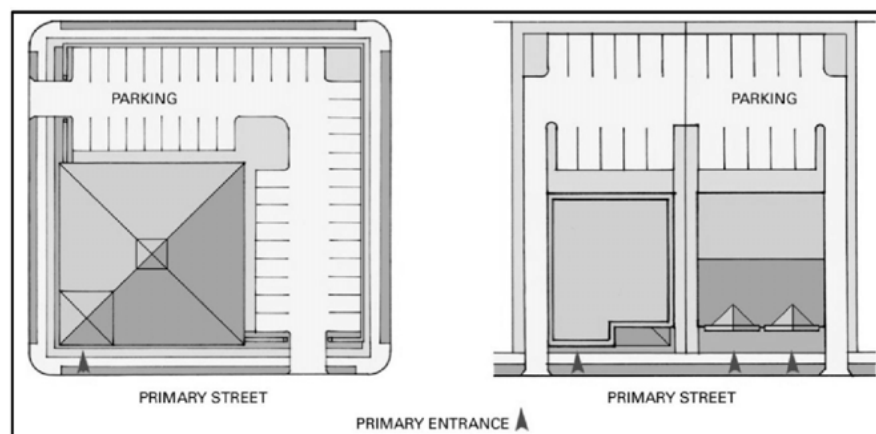
Table 150-8							
Parking Stall and Aisle Dimensions							
Parking Angle	Stall Width	Length of Stall	Aisle Width		Width of Access Drive	Bay Width (center to center width of two row bay with aisle between)	
			One Way	Two Way		One Way	Two Way
0 degrees	9 feet	22 feet	12 feet	18 feet	20 feet	24 feet	30 feet
30-53 degrees	9 feet	18 feet	13 feet	20 feet	20 feet	42 feet	49 feet
54-75 degrees	9 feet	18 feet	18 feet	22 feet	20 feet	52 feet	56 feet
76-90 degrees	9 feet	18 feet	22 feet	24 feet	20 feet	60 feet	62 feet



- (2) **Entrances and Exits.** Where room permits, parking spaces should be entered and exited along parking aisles and not along main access drives for the purposes of safety and to prevent traffic congestion.
  - (3) **Accessible Parking.** The number and dimensions of accessible parking spaces shall conform to the requirements of the Ohio Building Code.
  - (4) **Surfaces.** Every off-street parking lot shall be surfaced with a hard surface such as asphalt, concrete, or pavers. Pervious pavement and other sustainable surface options may be proposed by the applicant and are subject to the review and approval of the Planning Commission, in consultation with the City Engineer.
  - (5) **Markings.** All parking spaces shall be clearly marked with white pavement markings, and markings shall be maintained.
- (G) **Parking Standards.**
- (1) **Location.** Parking areas should be located in the side or rear yard to the greatest extent feasible, except in B-1 in which case parking areas must be located in the side or rear yard unless such requirement is waived by the Planning Commission under § 150.36(H) below.
  - (2) **Curbs.** Curbs shall be provided along all drives that do not abut parking spaces. All parking areas shall be edged with curbs. All parking areas shall be designed to preclude parked vehicles from encroaching on or over a sidewalk, bike path, or street. Lack of curbs to incorporate sustainable parking area design options may be proposed by the applicant and are subject to the review and approval of the City Engineer.
  - (3) **Ingress/Egress.** Whenever possible, parking lots, with bays containing more than 20 spaces, shall provide ingress and egress at both ends of each parking bay or parking lot. Whenever possible and practical, adjacent developments shall share ingress and egress.
  - (4) **Inoperable Vehicles.** No trucks, truck trailers, automobiles or vehicles of any type shall be on skids, jacks, or any other device that will make them immobile or inoperable, except for emergency repairs.
  - (5) **Trucks or Trailers.** No trucks or trailers of any kind shall be used for storage purposes.
  - (6) **Screening.** Off-street parking areas for more than one vehicle and that are within 100 feet of, or across the street from, any premises situated in any Residence District (unless such premises are developed with a nonresidential use), shall have on the same premises a fence or wall, of such height (not less than six feet) and so made or constructed and so placed as to completely obscure such vehicles from the

ordinary view at grade from the residence district premises adjoining the premises on which such vehicles are parked. To the extent, however, that such vehicles are obscured by natural objects or topographical features or by structures, no such fence or wall shall be necessary. Any and all fences and/or walls shall be of commonly accepted type and construction for such applications and the type and construction shall be subject to the approval of the City Manager. Such fence, wall, or shrubbery shall be maintained in good condition and the decorated side of the fence shall face outside. A violator of this division may be permitted a maximum of six months, at the discretion of the City Manager, and after notification of the violation, to comply with this provision.

- (7) **Lighting.** Any and all lighting used to illuminate any parking lot shall be equipped so as to reflect light away from all premises in any adjoining Residence District.
- (8) **Access.** Every parking space provided in compliance with this Zoning Code shall be accessible to and from a public way abutting some part of the premises, and shall be so situated and arranged as to permit the practicable and reasonable expeditious turnaround of standard automobiles when all such parking spaces on such premises are filled.
- (H) **Downtown District (B-1).** Without limiting any standards set forth in (G) above, the following standards shall apply solely to the Downtown District (B-1):
- (1) **Reduce Visual Impact.** Parking garages and surface parking lots shall be designed in a way to reduce the visual impact from Miami Avenue, Laurel Avenue, and/or Camargo Road and accommodate parking for local businesses.
- (2) **Location.** Parking lots shall be located to the rear of buildings on the premises, or, with advance written approval from the City Manager, to the side of buildings on the premises (See Figure 5.)



**Figure 5: These diagrams show the preferred lot configurations for drive, parking and buildings.**

- (3) **No Parking in Front.** No surface parking shall be permitted between the front of the building and right-of-way.
  - (4) **Access Drives.** Access drives and pavement for vehicular movement shall be prohibited between the front of the building and the right-of-way.
  - (5) **Driveways.** Driveway or alley openings to public streets shall be limited to one driveway per 200 feet of project frontage, and driveway or alley openings shall not exceed 30 feet in width.
  - (6) **Lighting.** All parking lots shall be illuminated as necessary to provide for safety and an aesthetic appropriate for the land use. All fixtures shall be full cut-off and shall be shielded to prevent the light source from being visible from adjacent residential uses. All lighting shall be served with underground cable and underground served poles. Pole lighting shall be compatible with the city street lights, with a maximum pole height of 24 feet (in addition to the possibility of a two-foot City approved concrete base).
  - (7) **Waivers.** The Planning Commission may waive any of the foregoing requirements in (1)-(6) above, to the extent otherwise not inconsistent with any other provisions of this Code.
- (I) **Parking Structures.** Above-ground parking structures shall comply with the following standards:
- (1) Parking structures shall meet the minimum setback requirements for principal buildings in the Business District where they are located.
  - (2) Parking structures shall be located to the rear of the buildings on the premises, unless this requirement is waived by the Planning Commission.
  - (3) Parking structures shall be designed to architecturally screen the view of parked cars and shall be visually similar in character and scale to the adjacent buildings.
  - (4) Vehicle entries to parking structures shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage.
  - (5) One-half of the area occupied by supporting columns may be included in determining the width and area of each adjacent parking space. The minimum height above each parking space shall be seven feet.
- (J) **Loading Space Standards.** There shall be provided at the time any building is erected or structurally altered, off-street loading spaces in accordance with the following:

- (1) Before any building hereafter erected or structurally altered within any Business District, or any part of such building, is put to any use that customarily requires the receiving or distributing of material or merchandise by vehicle, at least one off-street space, suitable for truck use, not less than ten feet in width and 25 feet in length, shall be provided within or contiguous to such building.
- (2) Unless waived or modified by the Planning Commission, where such a use is located in a manner that a truck must back directly from a major street into the loading space, a maneuvering space of not less than 49 feet shall be provided.

### § 150.37 SETBACKS

- (A) In any Business District which borders on a federal highway or a state highway, there is required a setback of 30 feet from the street or highway right-of-way. Within this 30-foot setback there shall also be provided a ten-foot-wide planting strip.
- (B) In any Business District, which borders a county highway, there is hereby required a setback of 18 feet from the street or highway right-of-way. Within said 18-foot setback, there shall also be provided a ten-foot wide planting strip.

### § 150.38 BUSINESS ONE – “THE DOWNTOWN DISTRICT (‘MAIN STREET MADEIRA’)” (B-1)

- (A) **Permitted Uses in Business One – Downtown District – Main Street Madeira “B-1”.** The following uses are permitted, subject to all other provisions of this Zoning Code, in the Downtown District (B-1):
  - (1) Offices for professional use such as accountants, attorneys, counseling, consulting, doctors, architects, dentists, engineers, opticians, real estate, insurance and manufacturers’ representatives;
  - (2) Commercial uses such as retail, restaurants, bars, banks, media studios and dry cleaners (where dry cleaning is not done on-site) and bakeries employing less than six bakers;
  - (3) Libraries, museums, theaters;
  - (4) Daycares, preschools, nursery schools, and childcare businesses;
  - (5) Brewery or brewpub that produces less than 5,000 barrels of beer a year and that sells beer for on-premises consumption in the regular course of business, a distillery that produces less than 2,000 gallons of alcoholic spirits per year and that sells alcoholic spirits for on-premises consumption in the regular course of business, and a wine manufacturer that produces less than 50,000 gallons of wine per year and that sells wine for on-premises consumption in the regular course of business; and

- (6) Products retailed and sold on the premises, may be manufactured, finished, or assembled on the premises, provided that such products are of the type sold primarily to the general or consumer public, at retail, and in relatively small quantities per sale and no use that may be obnoxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, water-carried waste, noise, or vibration is made in connection therewith.
  - (7) Public or commercial parking lots or structures, subject to § 150.36.
- (B) **Conditional Uses in Business District B-1.**
- (1) Manufacturing uses provided they are accessory to a primary permitted use (such as manufacture and sale of dental accessories for and to a patient). As an accessory use, the manufacturing activities may not exceed the total floor area allowed by the Ohio Building Code for an accessory use.
  - (2) Residential units provided they are located on second or third stories of mixed-use buildings and do not exceed 12 units per acre or more than six units per structure. The minimum square footage for a single bedroom unit shall be 900 square feet and 700 for a studio.
- (C) **Accessory Uses in Business District B-1.**
- (1) Outdoor dining shall be permitted as an accessory use in B-1, subject to § 150.35.
  - (2) Outdoor sales may be permitted for temporary periods seasonally or on a daily basis with displays. Daily set up and indoor storage may be required. Permanent outdoor sales areas shall be integrated into the building and may include tables under awnings for the display of produce or goods.

### **§ 150.39 BUSINESS TWO – “MONTGOMERY ROAD ENTERPRISE DISTRICT” (B-2)**

- (A) **Permitted Uses in Business Two – Montgomery Road Enterprise District “B-2”.** The following uses are permitted, subject to all other provisions of this Zoning Code, in a B-2 Business District:
- (1) All uses permitted in B-1 with the exception of the conditional use provided in § 150.38(B)(2);
  - (2) Notwithstanding § 150.38(A)(5); a brewery or brewpub that produces less than 10,000 barrels of beer a year and that sells beer for on-premises consumption in the regular course of business, a distillery that produces less than 10,000 gallons of alcoholic spirits per year and that sells alcoholic spirits for on-premises consumption in the regular course of business, and a wine manufacturer that produces less than

50,000 gallons of wine per year and that sells wine for on-premises consumption in the regular course of business; and

- (3) Facilities for boarding only small animals that are not closer than 200 feet of any Residence District.

(B) **Accessory Uses in Business District B-2.**

- (1) Outdoor dining shall be permitted as an accessory use in B-2, subject to § 150.35.
- (2) Outdoor sales shall be permitted as an accessory use in B-2, subject to § 150.38(C)(2).

**§ 150.40 BUSINESS THREE – “MAKERS, RETAILERS, & AUXILIARY DISTRICT” (B-3)**

(A) **Permitted Uses in Business Three – Makers, Retailers, & Auxiliary District “B-3”.**

The following uses are permitted, subject to all other provisions of this Zoning Code, in a B-3 Business District:

- (1) All use permitted in B-2; and
- (2) The assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process that typically does not include or generate objectionable or hazardous elements such as, but not limited to, smoke, odor, vibration, water pollution, or dust and which is operating and storing products and materials in a completely enclosed structure.

(B) **Accessory Uses in Business District B-3.**

- (1) Outdoor dining shall be permitted as an accessory use in B-3, subject to § 150.35.
- (2) Outdoor sales shall be permitted as an accessory use in B-3, subject to § 150.38(C)(2).

- (C) **Prohibited Uses.** In B-3, no building, structure or premises shall be used, and no building or structure shall be erected that is intended or designed to be used, in whole or in part, for any of the uses specified in the following Table 150-9:

Table 150-9	
(1)	Abattoirs and slaughterhouses or fertilizer manufacture
(2)	Ammonia, bleaching powder, and chlorine manufacture
(3)	Asbestos manufacture
(4)	Asphalt manufacture or refining
(5)	Babbitt metal manufacture
(6)	Bag cleaning
(7)	Blast furnace, cupola, metal smelting furnace, or metal melting furnace

(8)	Boiler shops, structural steel fabricating shops, steel car or locomotive shops, railway repair shops, and metal-working shops operating machine driven hammers or chisels
(9)	Brewer that produces 10,000 or more barrels of beer per year, distillery that produces 10,000 or more gallons of alcoholic spirits per year, and a wine manufacturer that produces 50,000 or more gallons of wine per year
(10)	Brick manufacture
(11)	Carbon, lampblack, or graphite manufacture
(12)	Celluloid or pyroxylin manufacture or explosive or flammable cellulose or pyroxylin or other explosive products manufacture
(13)	Coal tar manufacture, tar distillation or mineral dye manufacture, except as accessory to a permitted use, and upon condition that any emission of odor, dust, smoke, gas, fumes, water-carried waste, noise, or vibration in connection therewith is so controlled as not to be obnoxious or offensive
(14)	Coal yards, coke ovens, or distillation of coal
(15)	Crematory
(16)	Creosote manufacture or treatment
(17)	Disinfectant or insecticide manufacture, preparation, or compounding on a commercial scale
(18)	Dwellings, tourist homes, apartment hotels, hotels and motels
(19)	Emery cloth or sandpaper manufacture, except where dust or grit is not allowed to escape from the building;
(20)	Enameling, japanning or lacquering, except: (a) Where incidental to permitted uses; (b) In repair operations in a garage; or (c) Where used in jewelry, artwork, or novelty manufacture.
(21)	Excelsior and fiber manufacture
(22)	Explosive or fireworks manufacture, or the storage or loading of explosives in bulk
(23)	Fat rendering, tallow, grease, or lard refining, or manufacture of candles from fats
(24)	Felt manufacture, except where dust is not allowed to escape from the building
(25)	Fertilizer manufacture from organic material or bone distillation or compounding on a commercial scale
(26)	Flour milling
(27)	Foundry or forge shop, except as accessory to a permitted use
(28)	Gas manufacture
(29)	Glucose manufacture
(30)	Glue or size manufacture or processes involving recovery from fish or animal offal, or fish smoking or curing
(31)	Gypsum, cement, plastic, or plaster of paris manufacture
(32)	Incineration, or reduction or dumping of offal, dead animals, garbage, or refuse on a commercial basis, including loading and transfer platforms
(33)	Junk yards, dumps, or scrap car storage, automobile junk yards, used automobile part yards and storage of wrecked automobiles and automobiles undergoing scrap or salvage operations
(34)	Lime or lime products manufacture
(35)	Match manufacture
(36)	Metal powder manufacture
(37)	Nitrating processes
(38)	Oil cloth, oiled clothing manufacture, or the impregnation of any fabric by oxidizing oils;
(39)	Ore reduction, or the smelting or corrosion of lead, aluminum, copper, iron, tin, or zinc ores
(40)	Paint, oil, shellac, varnish, or enamel manufacture
(41)	Penal or correctional institutions, or institutions for the care and treatment of drug or drink addicts or the insane
(42)	Petroleum refining
(43)	Poison manufacture, except for pharmaceutical or medical purposes
(44)	Potash refining

(45)	Pulp or paper manufacture
(46)	Radium or other radioactive material extraction
(47)	Rock crushing
(48)	Rolling or blooming mills
(49)	Rubber and gutta-percha manufacture from crude or scrap material, or the manufacture of articles therefrom or from balata
(50)	Salt works
(51)	Sand blasting or cutting, except where the dust is controlled by effective devices
(52)	Sewage disposal plants
(53)	Soap, soda ash, caustic soda, or washing compound manufacture
(54)	Starch, glucose, or dextrin manufacture
(55)	Stock yards, stables, livery stables, and riding academies or stables
(56)	Storage above ground of gasoline or other combustible liquids in quantities in excess of 60 gallons per type of liquid stored
(57)	Storage, baling or treatment of junk, iron, rags, bottles, or scrap paper
(58)	Sugar refining
(59)	Sulphurous, sulphuric, nitric, picric, hydrochloric, or other corrosive acid manufacture, or use of any such acid (except as incidental to a manufacturing process), or the storage of any such acid for sale, shipment, or distribution
(60)	Tar or asphalt roofing or waterproofing manufacture
(61)	The operation of nuclear reactors
(62)	The use of alpha ray, beta ray, gamma ray, X-ray or other radiation devices, except as an accessory to a permitted use and then only when properly shielded and controlled in accordance with standards as established from time to time by the United States, the United States Atomic Energy Commission, the state, the county, the city or any agency or instrumentality of any of the foregoing authorities
(63)	Turpentine manufacture
(64)	Unenclosed storage of materials, goods, articles, machinery, equipment, appliances, vehicles (not including school buses), junk or other objects, unless such are required as an accessory to a permitted use and unless there exists and is maintained on the same premises, screening, as specified in division (65)(b) below. A violator of this division may be permitted a maximum of six months, at the discretion of the City Manager, and after notification of the violation, to comply with any and all of the provisions of this division (64);
(65)	<p><u>Vehicles and Parking Lots.</u></p> <p>(a) The use of house trailers, mobile homes, mobile offices, mobile shops, automobile trailers, truck trailers, temporary structures and similar units (whether truck or chassis mounted or not), when occupied for residence, demonstration or business purposes (except when under construction or modification as part of a permitted manufacturing operation);</p> <p>(b) Parking lots for the above and for trucks, truck trailers, horse trailers, motorcycle trailers, boat trailers, tractors of any type, road machinery, or similar units (with school buses expressly exempted), unless such are required as an accessory to a permitted use, in which event there shall exist and be maintained on the same premises a fence or wall, of such height (not less than six feet) and so made or constructed, and so placed, as to completely obscure such property from ordinary view at grade from the premises adjoining the premises on which such property is stored. To the extent, however, that such property is obscured by natural objects or topographical features or by structures, no such fence or wall shall be necessary. Any and all fences and/or walls shall be of commonly accepted type and construction for such applications and the type and construction shall be subject to approval of the City Manager. Appeals from the City Manager's decision in this regard shall be to the Board of Zoning Appeals and the decision of the Board of Zoning Appeals shall be final. Fences and walls shall be maintained in good condition, and wherever possible the decorative side of such fence or wall shall face away from the objects obscured from view; and</p>



	(c) None of the above vehicles, mobile units or boats may be parked on the street for longer than necessary to load and/or unload and in no event longer than 24 hours at any one time.
(66)	Wood distillation
(67)	Wool pulling, or scouring or shoddy manufacture
(68)	<b>General Prohibition.</b> Any use that may be hazardous, obnoxious, or offensive, by reason of the emission of odor, dust, smoke, gas, fumes, water-carried waste, refuse matter, noise or vibration in connection therewith, to a degree equaling or exceeding that to which any of the uses specifically prohibited in this Table 150-9 would be hazardous, obnoxious or offensive. The standard by which any use that is not specifically prohibited in this Table 150-9 is to be judged for the purposes of this division (68) shall be that of the use that is, of those that are specifically prohibited by this section, the least hazardous, obnoxious or offensive by reason of the factors listed above in this division (68).

### § 150.41 THE DOWNTOWN DISTRICT (B-1) PURPOSE AND USES

- (A) The Downtown District (B-1) will maintain a “small town” character and provide an aesthetically cohesive and pedestrian friendly environment. It is the commercial and cultural heart of the city and is considered a destination spot for residents and visitors, where a mix of businesses can thrive.
- (B) The regulations will guide development and redevelopment and provide the basis for consistency and objective decision making for Planning Commission and staff when evaluating proposed development. The regulations will also protect neighboring residential areas adjacent to B-1 so that these areas can maintain their character. To achieve the purpose, measures will be taken to:
- (1) Create a cohesive street view by setting buildings consistently close to the street and without major gaps;
  - (2) De-emphasize the impact of surface parking by locating on-site parking to the rear of buildings and by screening from Miami Avenue;
  - (3) Create visual interest with real and not faux, well-articulated facades, including fenestration and floor demarcation;
  - (4) Reflect human scale through small and medium sized elements;
  - (5) Provide aesthetically pleasing lot-to-building proportions by addressing lot coverage and floor area ratios and minimum building frontage requirements for lots and blocks;
  - (6) Create a visually attractive color scheme with a palette of building materials and finishes including traditional and modern high-quality sustainable materials;
  - (7) Create pedestrian friendly and attractive signage; and

- (8) Support private development improvements with high quality streetscaping, including landscaping where appropriate, outdoor dining, pedestrian scale furniture, and lighting.

#### § 150.42 THE DOWNTOWN DISTRICT (B-1) BOUNDARIES

The Downtown District (B-1) is shown on the official zoning map.

#### § 150.43 THE DOWNTOWN DISTRICT (B-1) APPLICABILITY

All properties in the Downtown District (B-1) on the official zoning map of the city shall be subject to the provisions of sections § 150.41 – § 150.62. Where the standards in these sections are in conflict with other sections of the Code, the standards in sections § 150.41 – § 150.62 shall control.

#### § 150.44 REVIEW PROCEDURES IN THE DOWNTOWN DISTRICT (B-1)

The Downtown District (B-1) regulations are intended to provide guidance to property owners and city officials in the general aesthetic and functional improvement of the city’s central business district. These regulations are intended to promote community investment while not posing a financial burden on property owners or the city. The following review procedure is established to identify the extent to which a project must comply with the Downtown District (B-1) regulations.

#### § 150.45 THE DOWNTOWN DISTRICT (B-1) PERMITTING

The City Manager or his or her designee has sole discretion to require that a zoning permit be obtained before conducting any exterior work.

#### § 150.46 THE DOWNTOWN DISTRICT (B-1) PROCESS

(A) **Overview.**

- (1) **Building and Zoning Permit Required.** Any modification, alteration or enhancement of a site or structure exterior within the Downtown District (B-1) shall require a building and zoning permit.
- (2) **Essentially Minor Projects.** Projects designated by the City Manager or his or her designee as “essentially minor” shall be granted a building and zoning permit with administrative approval.
- (3) **Projects Not Identified as Essentially Minor.** Any project not designated as “essentially minor” by the City Manager or his or her designee shall require the submission of the application to the Planning Commission for review and approval.
- (4) **Procedure.** All applications submitted under § 150.41 – § 150.62 of this chapter shall be reviewed in accordance with the following procedure.

- (B) **Stage 1: Initial Application.** A pre-application meeting is recommended with the City Manager or his or her designee to discuss the submission requirements for the initial application. Applicants for any projects in the Downtown District (B-1) shall provide the following information and materials to the City Manager as part of the applicant’s initial application:
- (1) **Site Plan.** A conceptual site plan at a minimum scale of one inch equals 50 feet showing the size and location of all existing and proposed structures, indicating dimensions and square footage. The site plan shall also show the location of access and drive aisles, and the number of parking spaces;
  - (2) **Photographs.** Photographs or illustrations showing all four elevations of existing and proposed buildings;
  - (3) **Costs.** A hard cost estimate for the new construction or alterations;
  - (4) **Building Materials.** An external finish building materials and colors list, with samples or examples; and
  - (5) **Other Information and Materials.** Any other information or materials deemed necessary by the City Manager to process the application.
- (C) **Stage 2: Determination of Essentially Minor.** The purpose of Stage 2 is for the City Manager or his or her designee to determine whether the project’s proposed construction (including renovation, repair, maintenance, or other similar activities therein): (1) shall be designated “essentially minor,” which shall require administrative review; or (2) shall not be designated as “essentially minor,” which shall require review by the Planning Commission.
- (1) **Consultation.** The City Manager or his or her designee shall review the proposed construction and may consult with the ARO or the Chair of the Planning Commission before he or she makes the decision whether the proposed construction shall be designated essentially minor.
  - (2) **Factors in Making Designation.** The following factors shall be weighed and considered in determining whether the construction is designated essentially minor.
    - (a) Will the proposed construction significantly alter the exterior appearance of the existing building or site design in one or more of the following ways: (i) Height; (ii) Setbacks; (iii) Footprint; (iv) Entrance; (v) Fenestration; (vi) Envelope (volume); (vii) Exterior materials or colors; and (viii) Landscaping or parking.
    - (b) Will the construction essentially preserve the form and use of the existing building and site?

- (c) Is the estimated cost of the construction to the exterior of the building and site sufficient to justify that the modifications be compatible with the aesthetic vision of the Downtown District (B-1) regulations?
- (3) **Requirements for Essentially Minor Designation.** For the City Manager or his or her designee to determine that a project is essentially minor, the City Manager or his or her designee must find that:
- (a) The construction, when completed, will have primarily preserved the use, function, form, scale, and accessory uses of the property that existed prior to the construction.
  - (b) The construction will not increase the dimensions of a building or structure by more than 40% of the square footage of the existing building or structure, exclusive of the alteration or expansion;
  - (c) The cost of the exterior renovation of the structure does not exceed 50% of the assessed value of the building or structure to be altered, prior to the renovations; and
  - (d) The alterations do not require dimensional variances from the regulations of this chapter.
- (4) **Essentially Minor – Certification.**
- (a) **Issuance.** If the City Manager or his or her designee determines that the construction is essentially minor, he or she shall so certify in writing. Construction designated essentially minor shall be granted an essentially minor certificate. Once construction of a project has been certified essentially minor, the applicant may apply for a building and zoning permit, subject to administrative review, without requesting approval of the Planning Commission.
  - (b) **Five Year Requirement.** A file containing the certificate, copies of the proposed construction, and staff comments and recommendations shall be assembled and retained for not less than five years after completion of the proposed construction. For the purposes of this chapter, it shall be presumed that any additional construction proposed by the same owner within five years of an essentially minor certification will not qualify as essentially minor, unless the City Manager grants an exception. The intent of this presumption is to prevent or discourage circumvention of ultimate design guidelines of this chapter through the cumulative effect of multiple minor improvements.

- (5) **Not Designated as Essentially Minor – Planning Commission Review.** All construction not designated as essentially minor shall require Planning Commission review and approval prior to the issuance of a building and zoning permit.
- (D) **Stage 3: Final Application for a Building and Zoning Permit.**
- (a) **Requirements.** All final applications for building and zoning permits shall include:
- (i) A land survey;
  - (ii) A site plan depicting the exact dimensions of the site and all buildings, structures, and parking areas;
  - (iii) A landscaping plan showing the location and type of all proposed landscape areas, plantings, and screening/buffering;
  - (iv) A signage plan showing the location, size and type of all signs, illustrations, or elevations showing the proposed appearance of all signs;
  - (v) A lighting plan showing the location, type, height, intensity, and photometric of all lighting;
  - (vi) Building plans showing general dimensions, materials, and uses;
  - (vii) Exterior building elevations showing the proposed appearance of the building, including a proposed materials list; and
  - (viii) Any other information deemed necessary by the City Manager or his or her designee, Architectural Review Officer, or Planning Commission to determine compliance with this chapter.
- (b) **Exception.** In the case of a project with an essentially minor certificate, the City Manager or his or her designee may waive any of the above submission requirements that he or she deems unnecessary for the comprehensive review of the proposed project.
- (E) **Stage 4: Review of Application and Issuance of Permit.**
- (1) **Dimensional Review.** Upon receipt of an application for proposed construction within the Downtown District (B-1), the City Manager or his or her designee shall review and determine dimensional compliance with this chapter. This shall include identification of any proposed reconstruction of existing buildings that are dimensionally nonconforming. Variances that are identified shall be set forth in a report to Planning Commission and the Board of Zoning Appeals. The notice and process of review shall be the same as required for other dimensional variances.

The Board of Zoning Appeals shall weigh and consider the “Duncan” factors for each dimensional variance identified.

- (2) **If Certified Essentially Minor.** In the event the City Manager or his or her designee certifies construction of a project essentially minor, the application shall be reviewed for specific compliance with applicable sections of this chapter and deemed in compliance by the City Manager or his or her designee, prior to the issuance of a building and zoning permit. If the City Manager or his or her designee certifies construction of a project essentially minor and determines that the application is in specific compliance with applicable sections of this chapter, the City Manager or his or her designee may issue the building and zoning permit to the applicant.
- (3) **Planning Commission Review.** In the event the City Manager or his or her designee does not find an application to be essentially minor or in conformance with the standards of this chapter, the City Manager or his or her designee shall make the determination that the application must be reviewed and approved by Planning Commission.
  - (a) **Evaluation.** Application to and review by the Planning Commission shall be evaluated in the same manner whether or not an essentially minor certification has been sought (and denied). The Planning Commission shall review the application for appropriateness and equivalency to the intent and purpose of this chapter. The Planning Commission may grant an equivalency or modification of a requirement if it makes a finding that the effect of the proposed submission is consistent with the intent and purpose of this chapter. The equivalency finding shall be part of the official record of approval and issuance of the certificate of appropriateness and the building and zoning permit.
  - (b) **Design Review of Aesthetic Standards.** The regulations for the Downtown District (B-1) include both dimensional and flexible aesthetic standards. Review for substantial or equivalent compliance with both types of standards shall be required for the issuance of the building and zoning permit by the Planning Commission.
    - (i) The Planning Commission shall serve as a Design Review Board and evaluate the proposal for reasonable compliance with the overall aesthetic guidelines.
    - (ii) The standard of compliance is intended to be “reasonable” rather than “strict” to allow for design review that is flexible for both the applicant and city to achieve a product that is appropriate for the district.

- (iii) The standard of compliance with the aesthetic guidelines should be the determination of the Planning Commission stating that the proposed construction achieves a significant compatibility with the aesthetic guidelines set forth in the Downtown District (B-1) regulations.
  - (iv) The Planning Commission should find that the proposed construction avoids a direct conflict with the overall images, impressions and net impact of buildings and accessory structures, including parking, landscaping, and lighting described in the Downtown District (B-1) regulations.
  - (v) The Planning Commission shall refrain from imposing additional aesthetic requirements if the proposed construction does substantially resemble the examples set forth in the Downtown District (B-1) regulations. Aesthetic guidelines are inherently subjective and, therefore, the Planning Commission shall endeavor to adhere to the guidelines as they are substantially expressed in these regulations.
  - (vi) It is recognized that it is unlikely and unreasonable to require a building to comply with all examples in the regulations because the regulations anticipate variation in final appearances (eclectic) from building to building.
- (c) **Finding.** The Planning Commission shall make finding that the application conforms in all pertinent respects to the requirements contained in this chapter.
- (d) **Approval.** The approval by Planning Commission shall not be construed to imply compliance with all other local, state, and federal laws and regulations. An affirmative vote of approval of the majority of the Planning Commission members may determine whether the proposed construction complies with the aesthetic guidelines of the district or has been found to be equivalent by Planning Commission.
- (4) **Contingent-Approval Permitted.** In circumstances where an applicant needs a variance from the requirements of this Code, the Planning Commission may provide contingent-approval of a Final Application. Such contingent-approval shall mean their approval of the Final Application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of a Final Application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the Final Application.

- (F) **Appeals.** Pursuant to this section, if the Planning Commission, City Manager, or ARO deny an applicant’s request for approval of an application or an amendment to a previously-approved application, such applicant may appeal the decision denying their request to the Board of Zoning Appeals.
- (1) **Timing of Appeal.** The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission, City Manager, or ARO and the Board of Zoning Appeals within thirty (30) days of the Planning Commission’s provision of written notification of its denial to the applicant.
  - (2) **Hearing on Appeal.** The Board of Zoning Appeals shall hold a public hearing evaluating the appeal based upon the standards of review applied by the Planning Commission, City Manager, or ARO to the initial application, within sixty (60) days of receiving applicant’s notice of appeal.

#### **§ 150.47 THE DOWNTOWN DISTRICT (B-1) ARCHITECTURAL STANDARDS**


The purpose of the Downtown District (B-1) architectural standards is to promote the design and construction of buildings that support and enhance the eclectic character associated with the city, through building scale and mass, entries and storefronts, fenestration, exterior materials, and architectural details.

#### **§ 150.48 THE DOWNTOWN DISTRICT ARCHITECTURAL STYLES**

Although the Downtown District (B-1) is to remain eclectic and no specific architectural style is required for new buildings in the district, a preference for traditional styles is indicated. Overly modern design is felt to be out of context with the small town character of the city. Architectural styles, which should be referenced as appropriate, are illustrated in Figure 6 through Figure 12 in Table 150-10 below.

Table 150-10  
Architectural Styles



<p><b>English Colonial</b></p>	 <p><b>Figure 6: A modern interpretation of an early English colonial appropriate in the city</b></p>
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<p><b>Neo-Eclectic Commercial</b></p>	 <p><b>Figure 7: This building employs federal styling and details</b></p>  <p><b>Figure 8: Neo-mansard post 1960's commercial</b></p>
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Table 150-10 Continued

<p><b>Neo-Eclectic Commercial</b></p>	
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<p><b>Tudor Revival</b></p>	 <p><b>Figure 10: Example employing Tudor revival</b></p>
<p><b>Colonial Revival</b></p>	 <p><b>Figure 11: Example employing colonial revival styling similar to “Cape Cod” style</b></p>
<p><b>Craftsman Style</b></p>	 <p><b>Figure 12: Example of Craftsman Style</b></p>

**§ 150.49 BUILDING SCALE AND MASSING IN THE DOWNTOWN DISTRICT (B-1)**

(A) **Character.**

- (1) **Height and Width.** The relationship of a building's height to its apparent width and its horizontal and vertical articulation are major contributing factors to the overall character of the Downtown District (B-1).
  - (2) **Architecture.** Buildings within the Downtown District (B-1) should respect the architectural character of surrounding buildings.
- (B) **Standards.** The following standards shall apply to all buildings in the Downtown District (B-1).
- (1) **Building Height.** All buildings in the district shall not exceed three (3) stories in height and 45 feet.
  - (2) **Horizontal Articulation.**
    - (a) A building's vertical and horizontal dimensions should be generally in proportion to each other, without over-emphasis of either dimension.
    - (b) Horizontally long buildings shall be visually broken up through the use of recesses or setback variations, architectural detailing, various roof heights, and application of compatible building materials to cause the facade to appear as a series of proportionally correct masses. The building's articulation should establish a human scale and provide visual rhythm and interest. (See Figure 13.)



Figure 13: These three elevations illustrate proper and improper articulation and proportions for buildings in the District

- (c) Placement of the common horizontal elements (e.g., cornice line and window height, width, and spacing) on new or infill structures shall be influenced by neighboring structures.
- (3) **Vertical Articulation.** The articulation of a base, middle, and top of the building shall be required.
- (a) A recognizable base may consist of, but not be limited to, thicker walls, ledges, or sills, integrally-textured material such as stone or masonry, integrally-colored and patterned materials such as smooth-finished stone or tiles, lighter or darker colored material from the body of the building, mullions, or panels. The use of bulkheads and water table trims are strongly encouraged.
- (b) The middle or body of the building will constitute the majority of the facade area and may consist of, but is not limited to, the primary exterior finish material, fenestration, and belt or soldier courses.
- (c) A recognizable top may consist of, but is not limited to, dimensional cornice treatments; variation in masonry patterns or materials or differently colored materials; visible roof forms, including gables, sloping roof with overhangs and brackets, stepped parapets, chimney projections, cupolas and dormers; or aligned openings and articulations.

- (d) Single story buildings shall be articulated and include fenestration and detailing that is consistent with the horizontal and vertical proportions of the building. (See Figure 14.)
- (e) Single story building shall be a minimum of 15 feet in height.
- (f) Single story buildings may present the appearance of a clerestory. (See Figure 15.)
- (g) Multi-story buildings are encouraged.



**Figure 14: This building shows how a tall, single story building can be well articulated through the use of tall windows. This approach is preferred over the use of a faux upper story**



**Figure 15: Image shows the use of clerestory windows**

## **§ 150.50 ROOF FORMS IN THE DOWNTOWN DISTRICT (B-1)**

The roof types of buildings in the Downtown District (B-1) shall be designed in conformance with the following regulations:

- (A) For approximately every front 60 feet of building facade a variation of roof type is encouraged to reduce visual monotony and assist in development of a human scale environment.
- (B) Gabled roofs are encouraged; however, other roof types may be approved by the Planning Commission on a case-by-case basis.
- (C) When gabled roofs are used, the design of the roof pitch may vary, but should not be less than one-quarter of the building height as measured from the grade line to the gutter.
- (D) When flat roofs are used, decorative cornices and parapet roof lines shall be incorporated.

#### **§ 150.51 ENTRIES AND STORE FRONT FACADES IN THE DOWNTOWN DISTRICT (B-1)**

The building entrances in the Downtown District (B-1) shall be designed in conformance with the following regulations:

- (A) When a commercial building has frontage on Miami Avenue, Laurel Avenue, or Camargo Road, the building entrances should face onto Miami Avenue, Laurel Avenue, or Camargo Road, respectively; provided, however, that if a commercial building has frontage on Miami Avenue and Laurel Avenue or Miami Avenue and Camargo Road, the building entrances should face onto Miami Avenue.
- (B) When a commercial building has an upper story retail business and has frontage on Miami Avenue, Laurel Avenue, or Camargo Road, it is strongly encouraged that access to such upper story retail business shall be from Miami Avenue, Laurel Avenue, or Camargo Road, respectively.
- (C) When a new road is proposed for interior circulation and meets the streetscape standards as detailed in the city's streetscape plan, buildings may be oriented to face onto these streets and the entrance may also be oriented to these streets.
- (D) In all cases the main entrance of the building shall be easily identifiable, and should provide an introductory statement for a building using architectural articulation or landscaping or a combination of both.
- (E) Entrances should be designed to allow individual business to present a clear image without compromising the sense of unity of the facade or development.
- (F) On corner lots, the building's primary entrance may be angled to present access to both frontages.

**§ 150.52 FENESTRATION (WINDOWS AND DOORS) IN THE DOWNTOWN DISTRICT (B-1)**

- (A) Windows and doors shall be proportional to the building facade in which they are installed. Vertically proportioned windows which relate to human scale are preferred, but horizontally proportioned windows may be used for display purposes on lower floors. On upper floors, windows shall be divided into vertically proportioned components using mullions and muttons. (See Figure 16.)
- (B) On the front facade, similar sized windows shall be placed in a regular pattern with the same top and bottom alignment.
- (C) Window openings shall indicate floor levels and shall not occur between floors.
- (D) A bulkhead constructed of brick, stone, wood, fiber cement siding, or metal panels shall be required at a minimum height of 18 inches from grade.
- (E) Transparent windows or doors shall occupy a minimum of 50% of the area of a primary facade between two and ten feet from the grade at the sidewalk. (See Figure 17 for method to calculate area.)
- (F) Opaque glazing or mirrored glazing shall be prohibited.



Figure 16: This illustrates how the character and appearance of a building is impacted by the scale of the window openings. Traditional proportions are preferred in the District.

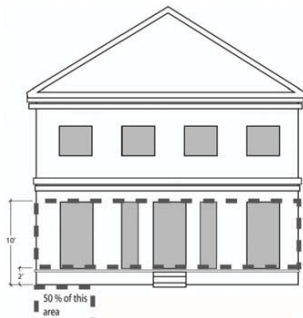


Figure 17: Window or door openings are calculated from the area of the primary facade between two and ten feet from grade. The dashed rectangle shows this area. The grey rectangles represent 50% of this area

**§ 150.53 EXTERIOR FINISH MATERIALS AND COLORS IN THE DOWNTOWN DISTRICT (B-1)**



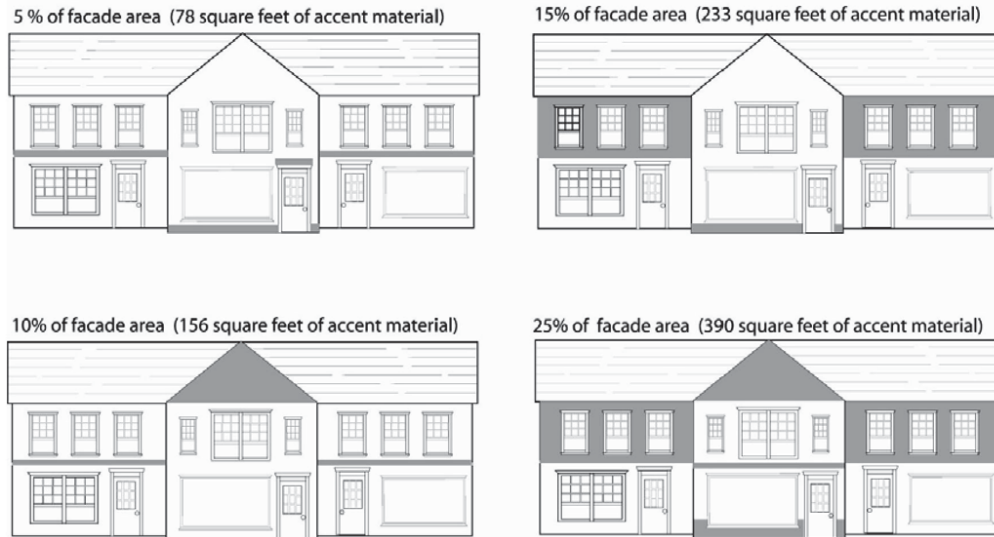
The character of the Downtown District (B-1) is enhanced by the use of quality building materials that reflect the desired image of the City of Madeira. The following standards apply to the exterior of all buildings in the Downtown District (B-1).

- (A) **Generally.** Buildings shall be finished with high-quality, low maintenance, durable, sustainable, and attractive natural or manufactured materials and shall not include any prohibited materials as specified in this section.
- (B) **Materials.** The use of exterior building and finishing materials in the B-1 District shall be in conformance with the following regulations:
- (1) **Permitted Primary Materials.**
    - (a) Buildings in the B-1 District shall have a primary exterior covering of brick, stone, natural wood clapboard, wood board and batten, wood shingles, or modern manufactured materials that create the appearance of the materials listed above, except as prohibited herein.
    - (b) The permitted primary material must make up at least 50% of the exterior covering on the primary facades of a building.
    - (c) The total area covered by permitted primary materials shall be calculated from the area of the visible plane measuring the area from grade to upper building limits, exclusive of the area occupied by visible roof surfaces. (See Figure 18 for example of material coverage calculations.)
  - (2) **Accent Materials.**
    - (a) Buildings in the Downtown District (B-1) may incorporate any of the permitted primary materials as an accent.
    - (b) Accent materials shall be applied to a maximum of 25% of the facade surface.
    - (c) Accent materials shall include, but not be limited to, brick veneers, cast or wrought metal, decorative concrete masonry units, glazed brick or glass tiles, metal trims of flashings (aluminum, steel, copper, brass, and iron), PVC (poly vinyl carbonate), stucco (traditionally applied), terra-cotta, and tilt-up architectural concrete.
    - (d) Detailing, trim, windows, doors and glazing may constitute the remaining area of the facade not occupied by the primary or accent material.
  - (3) **Conditional or New Materials.** Modern manufactured materials that create the appearance of permitted materials such as fiber cement products, architectural panels, or cast stone may be approved by the Planning Commission on a case-by-case basis as a primary or accent building material. Other materials not listed as

prohibited may be approved by the Planning Commission on a case-by-case basis as a primary or accent building material.

- (4) **Prohibited Materials.** Exterior covering materials that are prohibited include, but are not limited to, vinyl, aluminum or steel siding, exterior insulated finish system (EIFS), corrugated steel, and highly reflective materials such as mirrored glass or chrome, or fully glazed facades. Concrete masonry unit (cinder block) is prohibited on a primary façade.
- (5) **Colors.**
  - (a) **Permitted Colors.** The preferred base colors used on new or rehabilitated buildings should be the natural color of the material in the case of brick or stone. In the case of painted or other synthetic materials of a neutral muted palette, deeply saturated hues or muted pastels and whites should be used. Brighter, more vivid colors should be reserved for accents and trims.
  - (b) **Prohibited Colors.** No fluorescent, neon, day-glow, or reflective colors shall be used.
- (6) **Combinations of Materials and Colors.** Each building facade shall be limited to a combination of one primary material and two accent materials; additional materials may be used for trims based on the material most appropriate for the trim's location and purpose. When surfaces are painted, colored, or otherwise do not correspond to the material, each building facade shall be limited to a combination of no more than four coordinated or complementary color schemes.
- (7) **Transitions of Materials.**
  - (a) Transition from one material to another on the same facade shall be completed either with appropriate trim or as an accent with variations such as quoining or reveals, based on material thickness.
  - (b) Transition in materials from one facade to another shall be made at an inside corner or extended a minimum of five feet onto the secondary facade. (See Figure 19.)

Example of Coverages for Accent Materials



This building façade represents a total of 1,557 square feet excluding the roof area, but including the gable.

The percentages of the total façade area are:

- 5% = 78 square feet
- 10% = 156 square feet
- 15% = 234 square feet
- 25% = 390 square feet

**Figure 18:** This figure illustrates how to calculate the percentage of the facade dedicated to an accent material. Accent materials shall be applied to no more than 25% of the facade surfaces



**Figure 19:** Appropriate transition of materials

**§ 150.54 AWNINGS OR FABRIC CANOPIES IN THE DOWNTOWN DISTRICT (B-1)**

- (A) **Use.** The use of awnings or fabric canopies on buildings in the Downtown District (B-1) can soften and add vibrancy to the pedestrian environment along the sidewalks and enhance the entrance while offering protection from the elements.
- (B) **Standards.** The purpose of the following standards is to coordinate the appearance and application of awnings and canopies with the general character of the Downtown District (B-1) and provide guidance for the appropriate materials.
- (1) Awnings or fabric canopies shall be made of canvas or other durable non-glossy outdoor grade fabric in permitted colors listed in § 150.53(B)(5). Awning color should be coordinated with the color scheme of the building. In general, solid color awnings should be used on buildings with intricate and abundant architectural detailing, while striped awnings might be utilized on simpler buildings to introduce color and vitality.
  - (2) Awnings should be designed to fit the storefront opening and emphasize the building's proportions.
  - (3) Where possible, awnings should be aligned with others on the block, particularly the bottom edge.
  - (4) Awnings may extend over the public sidewalk, but must provide unobstructed vertical clearance to at least eight feet from grade.
  - (5) Awnings may not extend beyond the curb or obstruct the view at intersections.
  - (6) Awnings should be mounted at the top edge to align with the top of the transoms when present.
  - (7) No signage shall be applied to the body (or sloped portion) of the awning; the valance may be used for simple signage such as the name or address of the business located in the subject building.
  - (8) Backlit awnings or canopies are prohibited.
  - (9) Metal awnings shall be prohibited.
  - (10) All canvas or fabric awnings shall be installed and maintained in a manner consistent with good maintenance of the structure. If awning coverings deteriorate and are not replaced within six weeks of notification for maintenance from the city, they shall be removed.

## § 150.55 MECHANICAL EQUIPMENT IN THE DOWNTOWN DISTRICT (B-1)

- (A) **Rooftop Equipment.** Roof-mounted mechanical or utility equipment shall be screened from streets and adjacent residential properties. The method of screening should be architecturally integrated with the structure in terms of materials, color, shape, and size. Equipment should be screened by solid building elements (e.g., parapet wall, cupola, chimneys, or other elements), instead of after-the-fact, add-on screening such as wood or metal slats, whenever possible.
- (B) **Utility Housing.**
  - (1) Utility housing shall be installed on the rear of structures whenever possible.
  - (2) All utility housings, junctions, and other exterior duct work or conduits attached to a structure shall be painted or permanently colored to match the basic building material color on which they are located to reduce the impact of its appearance unless it can successfully be integrated with other trim or detailing in a manner that enhances the architectural style of the structure.

**§ 150.56 THE DOWNTOWN DISTRICT (B-1) SITE STANDARDS PURPOSE**

Buildings shall be consistently placed to establish a street wall, sustain small front yards as a unique attribute of the city, and provide a pedestrian friendly walkable environment. The purpose of the following site standards is to provide guidance for the lot dimensions, layout, and placement of site features in a manner that is consistent with this vision.

**§ 150.57 SETBACKS AND BUILD-TO LINES IN THE DOWNTOWN DISTRICT (B-1)**

- (A) Setbacks and build-to lines are established to provide adequate access to various parts of individual properties, to provide adequate space for ingress and egress, and to establish a consistent street wall within the District.

Table 150-11			
	Front Yard	Side Yard	Rear Yard
Building (15,000 sq. ft. or less)	A build-to line shall be established five ft. from and parallel to the right-of-way.	Minimum 0 ft. from side lot line; or minimum 10 ft. from residential zone	Minimum 5 ft. from rear lot line; or minimum 10 ft. from a single-family residential zone
Parking	Prohibited in front yard	Minimum 2 ft. from any side lot line	Minimum 2 ft. from any rear lot line

- (B) The Planning Commission may waive setback requirements for partial modifications to existing structures.

**§ 150.58 LARGE BUILDING EXCEPTION IN THE DOWNTOWN DISTRICT (B-1)**

Buildings with a footprint in excess of 15,000 square feet may be permitted in the District provided that the site and building meet the following criteria:

- (A) The large building is located on a site in excess of one acre;
- (B) The building's footprint does not exceed seventy-five (75%) of the lot on which it is located;
- (C) The building is appropriately articulated per the requirements of this chapter;
- (D) Off-street loading areas are provided for the building;
- (E) The building and any parking are screened from the public right-of-way by smaller buildings that address the street and meet the maximum five-foot front yard setback;
- (F) The loading, parking, and trash dumpsters are adequately screened from adjacent residential uses; and
- (G) The building meets all other building design standards required in the Downtown District (B-1) under this chapter.

**§ 150.59 CORNER LOTS AND SIGHT TRIANGLES IN THE DOWNTOWN DISTRICT (B-1)**

- (A) Building setbacks on corner lots may be modified to meet County Engineer required visibility at street intersections.
- (B) However, angled building corners, which present an entrance to both frontages, are the preferred approach to excessive setbacks for preserving intersection visibility within the Downtown District (B-1).
- (C) In cases where the sidewalks are wide enough to allow for a clear sight triangle, no additional setbacks may be needed.

**§ 150.60 VEHICULAR ACCESS IN THE DOWNTOWN DISTRICT (B-1)**

- (A) One vehicular access point not to exceed 24 feet in width shall be permitted on each lot of record regardless of total width.
- (B) Twelve additional feet of width for vehicular access shall be permitted for each 40 feet of lot frontage in excess of 80 feet on Miami Avenue, Laurel Avenue, or Camargo Road.
- (C) No drive aisle or curb cut access point shall exceed 24 feet in width.

- (D) No more than two access points (a maximum 24 feet in width) or curb cuts shall be permitted for any individual property.
- (E) When possible, access to parking or loading areas is encouraged to be provided via an alley or Railroad Avenue because it can improve circulation and reduce the impact of curb cuts on pedestrian movement along public sidewalks.

### § 150.61 LANDSCAPING AND SCREENING IN THE DOWNTOWN DISTRICT (B-1)

- (A) **Appearance.** Landscaping should soften the appearance of the built environment and assist in stormwater runoff by providing pervious surfaces.
- (B) **Character.** Landscaping and screening should be compatible with the character of the District and buffer residential uses from the more intense site activity on commercial properties.
  - (1) **Screening.** Side and rear yard screening when adjacent to residential use. When parking or loading areas are located adjacent to a residential district property line, an opaque fence or wall or fully opaque hedge of evergreens at least six feet in height and within two years of maturity shall be provided to block headlights from residential uses.
  - (2) **Ground mounted equipment and service structures.** All service structures shall be screened from public view and/or adjacent residential areas. For the purposes of this section, service structures shall include but not be limited to loading docks, propane tanks, dumpsters, and electrical transformers, utility vaults extending above grade, and other equipment or elements providing service to a building or a site.
    - (a) Structures may be grouped together; however, screening height shall be based upon the tallest of the structures.
    - (b) A curb is required to protect and contain a trash dumpster or waste collection units.
    - (c) Screening options are a continuous planting, hedge, fence, wall, or earthen mound.
    - (d) Screening must enclose any service structure on all sides unless such structure must be frequently moved or accessed, in which case screening on all but one side is required.
    - (e) Dumpsters shall be screened by a brick or stone wall with wooden doors for access.

- (f) The Planning Commission may approve other types of screening materials on a case-by-case basis.
- (3) **Landscaping Materials and Maintenance.** The proposed landscape materials should complement the existing trees on site or on adjacent sites if none exist on site, as well as the development's general design and architecture. These regulations apply to all landscaping and landscaping materials installed as part of the requirements of these standards.
- (a) **Types.** Plant types shall be approved by City staff, the Architectural Review Officer, or Planning Commission.
- (b) **Plants.** Plant materials used in conformance with provision of this chapter shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under state regulations. Artificial plants are prohibited. All plant materials shall be living and shall meet the following requirements.
- (i) **Deciduous Trees.** Trees which normally shed their leaves in the fall shall have a minimum caliper of two inches, and five feet tall at installation, measured at finished grade, and be species of small, medium, or large maturity size in areas where there is not a visibility concern.
- a. In areas with visibility concerns, the trees shall be species of medium to large maturity size, which can eventually maintain five feet of branch free trunk with a minimum two inch caliper.
- b. Trees of species with roots that are known to cause damage to public roadways or other public works shall not be planted closer than 15 feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior containing dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four inches thick, reinforced concrete.
- c. Prohibited trees shall include any species prohibited on the city's official planting species lists.
- (ii) **Evergreen Trees.** Evergreen trees shall be a minimum of five feet high at the time of planting, measured from the top mass of the tree (not the tallest leader). In areas with visibility concerns, the trees shall eventually maintain six feet of branch free trunk.
- (c) **Maintenance and Installation.**



- (i) All landscaping materials shall be installed in a sound, workmanship-like manner and according to accepted, good construction, and planting procedures. The owner of the property shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times. All unhealthy or dead plant material shall be replaced within one year or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three months of notice from city.
  - (ii) No required plantings shall be removed by the property owner or agent of the owner unless the planting materials are found to be hazardous, unhealthy, or dead by the city or its agents. If any healthy, mature, or established plantings as required by this chapter are removed at the discretion of the owner or his or her agent, they shall be replaced by the owner with a similar sized planting to those that were removed to maintain a consistent and mature appearance of plantings in that area.
  - (iii) Hardwood mulch is permitted, but no stone, sand, or rubber is permitted.
  - (d) Preservation of existing landscape materials. Existing landscape material shall be shown on the required landscape plan. Any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the city's approval authority, such materials meet the requirements and achieve the objectives of this chapter.
- (4) **Fencing and Walls.** Fences and walls can be used in conjunction with plant material to provide visual breaks between properties, buffer various uses, and enhance the character of a development.
- (a) **Types.**
    - (i) Fencing shall not interfere with sight visibility.
    - (ii) Privacy fencing or walls (100% opacity from grade to six feet) may be used as a screen between abutting commercial/industrial sites.
    - (iii) Decorative or privacy fencing may be used as a screen between commercial/ industrial sites and abutting residential sites.
    - (iv) Fences running parallel to a right-of-way in commercial areas shall be 40% or more transparent such as wrought iron or picket or post and rail type fencing or less than 40 inches in height.

(b) **Permitted Materials.**

- (i) Walls shall be constructed of brick or stone (veneers are permitted) to match or coordinate with the building materials on the primary building.
- (ii) Fencing shall be made from natural materials. Wood fences shall be natural or have a transparent color stain finish. The finished side of the fence shall face the adjacent property or residential area. Post and rail or other partially transparent fencing may be used in conjunction with vegetative landscaping to create definition to the site.
- (iii) When landscaping within the city right-of-way is required for the owner/developer to achieve minimum streetscape requirements, an encroachment agreement between the city and landowner/developer shall be executed and recorded requiring the landowner/developer to maintain the landscaping and waiving any city liability.

**§ 150.62 LIGHTING IN THE DOWNTOWN DISTRICT (B-1)**

(A) **Purpose.**

- (1) The purpose of the lighting standards is to coordinate and unify the overall lighting appearance of nonresidential developments with regard to aesthetic and technical aspects.
- (2) Site lighting components should be visually interesting and serve not only to illuminate the parking and drive areas, but also to enhance the aesthetic appearance of the site.
- (3) Fixtures shall be of a design complementary to the intent of the Downtown District (B-1) standards.
- (4) Photometrics must be submitted as part of the site plan requirements.

(B) **Applicability.**

- (1) All developments with five or more parking spaces are required to provide exterior lighting for all exterior doorways, pedestrian pathways, and vehicular use areas.
- (2) All developments with less than five parking spaces shall provide exterior lighting at all exterior doorways.
- (3) All light shall be focused and directed so as to not shine directly into adjacent properties.

(C) **Illumination.**

- (1) (a) A minimum average illumination of 0.5 footcandles shall be maintained when measured at grade in all vehicular use areas and pedestrian pathways.
- (b) Actual site measurement compliance shall not drop below this minimum.
- (2) The illumination ratio (minimum to maximum) shall not exceed ten to one.
- (3) A maximum illumination of 0.2 footcandles shall be maintained at the property line of adjacent properties.

(D) **Maximum Height.** The height of the light pole installed on a property shall be determined by the size of the building as follows:

- (1) Lighting fixtures for a building with a footprint of less than 15,000 square feet shall not exceed the height of the building or 15 feet, including the base, whichever is less; and
- (2) Lighting fixtures for a building with a footprint of equal to or greater than 15,000 square feet shall not exceed the height of the building or 25 feet, including base, whichever is less.

(E) **Fixture Types.** The style of the adjacent development's light fixtures and luminaries should be taken into consideration on all developments to promote consistency throughout the city.

- (1) All pole mounted light fixtures shall be a traditional or historically compatible style using a post type or gooseneck style arm on decorative poles with a decorative base comparable to the fixtures used along Miami Avenue.
- (2) Wall pack light fixtures should be compatible with the light pole fixtures and comply with the maximum spill over illumination requirements.
- (3) Luminaries shall be LED (light-emitting diode) lights. The design shall be refractive or opaque.
- (4) No colored or flashing lights shall be used.
- (5) All exterior lighting used to light vehicular areas and pedestrian pathways shall be decorative post with acorn or post and arm construction of cast aluminum, cast iron, or cast steel. If posts are to be directly mounted in parking areas without buffers, cast iron or steel poles shall be used for durability and safety.
- (6) Lighted bollards may be used to illuminate pedestrian paths.

- (7) Street lights required in the right-of-way to extend streetscape improvements, as part of new development or redevelopment, shall exactly match the post and luminaries (materials and color) in the existing Miami Avenue streetscape.
- (F) **Shielding.**
- (1) All outdoor lighting for nonresidential uses shall be located, screened, or shielded so adjacent lots located in residential districts are not directly illuminated.
  - (2) On lots abutting residentially used or zoned properties, perimeter fixtures must use full cut-off fixtures, or house-side shielding may be required on the residential property side of the lighting fixture. This provision applies to both pole and building mounted fixtures.

## **ZONING DISTRICT OVERLAYS**

### **§ 150.63 TRANSITIONAL OVERLAY DISTRICT**

- (A) **Purpose.**
- (1) (a) It is the intent of the Special Public Interest Transitional District (hereinafter referred to as “T District”) to designate a sensitive transitional area of the city for certain types of controlled development, which development is consistent with the goals of the city as set forth herein. The request for approval of a Transitional District development plan within a T District may only be approved if it is initiated or authorized by the property owner(s).

The area of T District is set forth on Exhibit A, attached to Ordinance 98-43, passed February 8, 1999.

- (b) Contrary to conventional development control strictly by type of use, the T District provides a more flexible instrument which governs development by the criteria of intensity and impacts of a use rather than its general nature. The meaning of USE is intended to encompass both the activity intended and permitted to take place on the property, as well as the improvements, including structures, landscaping, mounding, detention and drainage areas and parking, intended or planned for the site. As an alternative to the use of a property strictly in accordance with the underlying district designated for the parcel, this allows for different types of compatible land use within the zone designated as a T District.
  - (c) The creation of the T District is meant to identify an area (Exhibit A) within the city in which the Planning Commission may approve, approve with modifications or deny specific detailed plans proposed by the property owner (the Transitional District development plan) which meets the criteria established for the T District.
- (2) The specific purposes of the T District are:
- (a) To provide adequate buffering for the protection of residential districts from the adverse impacts of less restrictive uses which may be permitted in a T District;
  - (b) To protect and enhance the environmental, cultural, aesthetic and historic assets of the community through careful planning in the design and arrangement of buildings, activities, preservation of open or green space and the optimal utilization of natural site features;
  - (c) To permit the creation of a transitional zone within the city that will provide for the orderly transition from an existing Residence “R-2” District to the south to less restrictive districts located to the north of the Transitional District. This must be done in a manner that promotes harmony within the T District as well as providing transition between surrounding districts; and
  - (d) To reconcile the existing different uses that are in place at the inception of the T District so that the long term value of the property within the district is enhanced, without unreasonable harm occurring to the existing activities. Consideration shall be given to permitting reasonable residential use of the existing dwellings to continue.
- (B) Definitions. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**T DISTRICT**

The district designated by Council on the zoning map and attached to Ordinance 98-43, passed February 8, 1999 as Exhibit A and adopted in accordance with this code. The **T DISTRICT** is an overlay district which is superimposed upon the designated areas within the zoning district, and which shall be identified on the zoning map by a prefix of “T” to the underlying district. In the **T DISTRICT** all zoning regulations applicable to the Residential “R-3” District shall remain in effect until such time as approval may be given to a final transitional development plan for the lot or parcel.

**T DISTRICT DEVELOPMENT PLAN**

As used in this section, a plan for the development and use of a specified parcel or tract of real estate, in a form recordable at the County Recorder’s Office, illustrated by a plat and containing:

- (1) A legal description, and dimensions of the proposed development and acreage;
- (2) Topography at two-foot contour intervals, which shall show the proposed development area, including property lines, easements and features, existing thereon, and including a certificate, by a registered engineer or surveyor, of the gross area of the development in acres and in square feet;
- (3) All landscaping and screening of the development including the placement of trees, flowers, shrubs, mounding, grass and open spaces of the proposed development, including the planned buffer areas;
- (4) The location, construction materials, illumination and dimension of all signs intended to be located on the property;
- (5) The location and dimension of all parking facilities, vehicular and pedestrian ways, the location and directional flow of existing and proposed storm and sanitary sewers, areas for on-site water detention, and an estimate of the traffic volume to be generated;
- (6) A notarized sworn statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;
- (7) Detailed plans of all proposed buildings and structures to be located on the site. A depiction of the required 100-foot buffer yard and the location of trees, shrubs, mounding and other screening shall also be identified. Also shown on a separate document must be the improvements on said property existing at the time of the T District application. The removal or alteration of such improvements shall be identified as well as the relative time frame that this work shall occur;
- (8) The declarations of covenants running with the land, if any;
- (9) Any additional information as reasonably required by Planning Commission during its review process may be requested from time to time; and

- (10) A schedule for construction and cost estimates for the completion of the development, including all public and private improvements in the development area.

The T District development plan, unless otherwise specified, shall be prepared by professional persons qualified in the planning of land development, traffic engineering and building and landscape design. The architectural and engineering services required for the preparation of the site development plan shall be rendered by licensed professional persons.

- (C) Applicability. This T District is established as an overlay district by Council superimposed on specific areas of the previously existing Residential “B” District (the area of which is now included in Residence “R-3” District) designated on Exhibit A, attached to Ordinance 98-43, passed February 8, 1999. This specific T District is designed to address zoning issues in this location and is not intended to be applicable to other areas unless the Zoning Code is amended in accordance with the procedures set forth in the Charter of the city.
- (D) Permitted Buildings, Uses and Other Regulations.

- (1) As a matter of right, those buildings and uses permitted in the underlying Residential “R-3” District shall be permitted in accordance with all applicable regulations of that underlying district, until such time as buildings and uses authorized by a T District development plan are approved. Thereafter, only those buildings and uses approved for a T District development plan shall be valid on the property.

The transition from original use to T District use shall be in accordance with the time table approved as part of the T District application. Failure to complete the improvements and obtain a final certificate of occupancy within the approved time frame, including any authorized extensions, shall cause the approval of the T District development plan to lapse, and only buildings and uses permitted in the underlying district shall be permitted thereafter.

- (2) The following buildings and uses shall only be permitted pursuant to a T District development plan, subject to review and approval in accordance with the provisions of this chapter:
  - (a) Offices for professional use (such as attorneys, doctors, architects, dentists and engineers) and office-type business uses (such as real estate, insurance and manufacturers’ representatives). Activities which are normal, necessary and subordinate to the office use listed herein shall be permitted. Examples of such activities include the preparation of dental supplies for patients, examination of and treatment of patients of a physician, meeting with clients and provision of services by attorneys and insurance representatives, and closings held at a real estate office. There shall be no permitted use of such offices that is not clearly within the types of activities described herein;

- (b) Nursing homes and assisted care facilities, but no services shall be provided to persons who are not residents thereof;
  - (c) Single-family residential uses, which may be combined with the permitted office uses set forth in division (D)(2)(a) above, as long as a resident of the residential unit is a primary participant in the business of the office. No more than one residential dwelling shall be permitted in any T District development plan when it is combined with the permitted office uses set forth in division (D)(2)(a) above; and
  - (d) Medical clinics, and treatment rooms, but no urgent care facilities or other medical facilities that normally require emergency services transportation and no hospital or emergency facilities shall be permitted.
- (3) Accessory Buildings and Uses. Accessory buildings and uses may be permitted if approved by the Planning Commission as being consistent with the purposes and provisions of this chapter.
- (4) All plans for the uses permitted in the T District shall be prepared to maximize buffering of adjacent districts to the south, east and west. Additional trees and plantings shall be part of the landscaping plans based on consideration of the view from those adjoining districts. The overall intent and focus of the final plan is to encourage the uses listed above but to minimize the visual impact to adjacent residential districts. In that regard, parking for such businesses should, where feasible, be designed for the front side of such buildings, on the Camargo Road side of the T District development. Architectural features which resemble or emphasize a residential look of buildings shall be required as approved by the ARO and shall satisfy the specific requirements set forth in division (E) below. Common drives and access points to Camargo Road should be considered.
- (E) Standards for T District Development Plan Review and Approval.
- (1) The active use of property and the design of the buildings in the T District shall only be approved if it meets the following general conditions as determined by Planning Commission:
    - (a) The active use and design do not significantly create an adverse influence on any abutting or surrounding properties;
    - (b) The plan provides for an orderly transition from more restrictive (residential) to less restrictive districts;
    - (c) The plan is designed to maximize the public interest and private benefit in a balanced manner; and



- (d) The plan permits and encourages improved development within the remaining sites in the T District.
- (2) Specific requirements and standards that must be clearly set forth in a T District development plan before it may be approved are as follows.
- (a) Architectural features shall incorporate such characteristics as are normally associated with single-family residential homes, including the following: exterior construction shall be similar to typical residential construction in such combination as approved by the ARO as being consistent in character with surrounding residential areas. The side of a building facing Camargo Road may differ in appearance (for example it may be predominately glass); gabled or hipped roofs shall be required (no flat roofs); the height of new buildings shall be limited to 35 feet, consistent with other residential structures in the city; air conditioning units and waste disposal dumpsters must be specifically shielded by suitable fencing/landscaping as determined to be reasonable by the ARO for purposes of shielding these items from adjacent residential areas. These requirements shall not apply to an existing residential building which is converted to an office use, provided the exterior features of the residential structure, including air conditioning and other exterior equipment, are maintained.
  - (b) A rear yard setback of 100 feet shall be maintained from the residential district located adjacent to the T District as depicted on Exhibit A, attached to Ordinance 98-43, passed February 8, 1999. No structures, including parking areas or driveways, shall be placed within this 100-foot setback area.
  - (c) New parking areas shall be placed, where practical and feasible, between the building and Camargo Road. Parking areas which must be placed to the side or rear of the buildings shall be softened by the placement of landscaping islands in order to reduce the visual mass of impervious surface and parked motor vehicles. The number of parking spaces required shall be four spaces per 1,000 square feet of floor area of the building, excluding areas devoted exclusively to mechanical (physical plant) equipment, storage or common hallways. However, shared parking areas may be permitted if it is determined by the Planning Commission that the overall coverage of impervious areas could be reduced, it would enhance the green areas available on the development plan and would permit the new building to be erected closer to Camargo Road. (The city is attempting to minimize required parking surfaces while ensuring that there is adequate parking.)
  - (d) Impervious surfaces shall not cover more than 70% of an area within the entirety of a T District development plan. The required 100-foot setback area of each lot is included in the T District development plan. Therefore, in calculating the percentage of the area in the development plan that

- impervious surface will cover, the green area within the 100-foot setback shall be included as part of the total area of the plan. Impervious surface shall include all areas of ground within the development plan designated as a parking area, (but not including landscape islands) buildings, structures, driveways and walkways.
- (e) Evergreen landscaping within the 100-foot buffer area that is of sufficient height to block the line of sight view of any parking areas located in the rear or side of any building to be used in a T District development plan. Mounding may be included as part of the line of sight screening. The line of sight shall be from a ten-foot height located in all points along the residential property line which abuts the T District development.
  - (f) No development plan shall be approved which incorporates a proposed property line(s) the primary purpose of which appears to be avoiding the requirements imposed by this chapter.
  - (g) Exterior lighting shall be kept low and shall be reasonably shielded from adjacent residential districts.
  - (h) Development plan shall provide a written acknowledgment that all landscaping, screening, mounding, buffering, structures drives and parking areas and buildings shall be maintained in first class condition and that failure to so maintain these items shall be a violation of this Zoning Code, enforceable in all ways available in law and equity as any other violation of the City Zoning Code.
- (3) No uses in addition to those permitted in the underlying zoning shall be permitted unless the developer demonstrates compliance with each of the above standards to the satisfaction of the Planning Commission.
  - (4) To secure the application of all relevant standards to a development in a T District, the Planning Commission shall require that the following are specifically set forth in any T District development plan:
    - (a) Front, side and rear yard requirements, density requirements, height and bulk of building requirements and intensity of use; no minimum setbacks are required to be included in the development plan except there shall be sufficient setback for necessary screening and that the 100-foot setback depicted on Exhibit A, attached to Ordinance 98-43, passed February 8, 1999, shall be maintained;
    - (b) The use of materials or designs in the erection of structures which shall minimize the adverse impact of the uses proposed by the development plan on neighboring properties;

- (c) Permits for business signs, outdoor storage, parking spaces and driveways;
  - (d) Screening or other areas of land to serve as a buffer of the proposed use in the T District from adjacent properties by walls, fences, landscaping or open spaces; and
  - (e) Such additional conditions and limitations on the use, building dimensions, open spaces and the like as may be deemed necessary to carry out the intent of this chapter and this Zoning Code.
- (F) Submission and Review of Site Development Plan.
- (1) Application Procedure.
    - (a) Any person or company intending to apply for approval of a T District development plan shall first schedule a pre-application conference with the City Manager or his or her assignee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for a T District development plan.
    - (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing nonconforming uses.
    - (c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager. If the application does not conform with the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.
  - (2) Public Hearing and Decision.
    - (a) Upon receipt of an application in the format prescribed by this chapter, the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said T District development plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed T District Development not less than ten days prior to the scheduled hearing.
    - (b) Subsequent to the public hearing, the Planning Commission shall either approve the T District development plan as submitted, approve a modified

plan with conditions or deny approval of the plan. Five members of Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a preliminary T District development plan. Approval of the preliminary development plan shall not constitute any authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed final development plan.

- (c) A proposed Final T District development plan shall be submitted within six months of the date of the Planning Commission meeting at which the preliminary plan was approved. The Planning Commission may extend this period for a reasonable period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial accordance with and represents a detailed expansion of the preliminary plan, as previously approved, that the final plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such final plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.
- (d) Following the approval of a final plan, the City Manager shall issue such permits as are necessary and under his or her jurisdiction upon payment of the required fees.
- (e) Amendment of Plan.
  - (i) A major amendment of an existing plan shall require a review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original T District development plan. A major amendment shall include any change of use from one category to another as listed in division (D)(2) hereof, any increase in the impervious area coverage in excess of 5% over the amount approved in the original plan, the enlargement of any building from that originally approved, or the consolidation of use of adjoining T District development plans.
  - (ii) Minor amendments to a T District development plan must be approved by the City Manager and the ARO. Either official may refer the request for approval of a minor amendment to the Planning

Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include internal changes to buildings and structures, changes to the front of a building, changes to signs which are not being enlarged and are consistent with what was previously approved by the Planning Commission, amendments to drainage pattern or replacement of existing lighting provided it remains effectively shielded. A minor amendment shall also include any change of use that does not change the category of use as those categories are set forth in division (D)(2) hereof. For example, a change in use of an office from real estate to insurance shall be considered a minor amendment. However, a change of use from any office use to a medical clinic shall be considered a major amendment.

- (3) Contingent-Approval Permitted. In circumstances where an applicant needs a variance from the requirements of this Code, the Planning Commission may provide contingent-approval of a Final Application for a development plan. Such contingent-approval shall mean their approval of the Final Application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of a Final Application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the Final Application.
- (4) Appeals. Pursuant to this section, if the Planning Commission, City Manager, or ARO deny an applicant's request for approval of a development plan or an amendment to a previously-approved development plan, such applicant may appeal the decision denying their request to the Board of Zoning Appeals.
  - (a) Timing of Appeal. The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission and the Board of Zoning Appeals within thirty (30) days of the Planning Commission's provision of written notification of its denial to the applicant.
  - (b) Hearing on Appeal. The Board of Zoning Appeals shall hold a public hearing evaluating the appeal based upon the standards of review applied by the Planning Commission to the initial conditional use application, within sixty (60) days of receiving applicant's notice of appeal.

## § 150.64 TRANSITIONAL OVERLAY DISTRICT #2

### (A) Purpose.

- (1) (a) It is the intent of the Special Public Interest Transitional District (hereinafter referred to as "T District #2") to designate a sensitive transitional area of the city for certain types of controlled development, which development is consistent with the goals of the city as set forth herein. The request for

approval of a Transitional District development plan within a T District may only be approved if it is initiated or authorized by the property owner(s). The area of a T District is set forth on Exhibit B attached to Ordinance 05-05.

- (b) Contrary to conventional development control strictly by type of use, the T District provides a more flexible instrument which governs development by the criteria of intensity and impacts of a use rather than its general nature. The meaning of **USE** is intended to encompass both the activity intended and permitted to take place on the property, as well as the improvements, including structures, landscaping, mounding, detention and drainage areas and parking, intended or planned for the site. As an alternative to the use of a property strictly in accordance with the underlying district designated for the parcel, this allows for different types of compatible land use within the zone designated as a T District #2.
  - (c) The creation of the T District #2 is meant to identify an area within the city in which the Planning Commission may approve, approve with modifications or deny specific detailed plans proposed by the property owner (the Transitional District development plan) which meets the criteria established for the T District #2.
- (2) The Specific Purposes of the T District #2 Are:
- (a) To provide adequate buffering for the protection of residential districts from the adverse impacts of less restrictive uses which may be permitted in a T District;
  - (b) To protect and enhance the environmental, cultural, aesthetic and historic assets of the community through careful planning in the design and arrangement of buildings, activities, preservation of open or green space and the optimal utilization of natural site features;
  - (c) To permit the creation of a transitional zone within the city that will provide for the orderly transition from an existing Residential “R-3” District to the south to less restrictive districts located to the north of the Transitional District. This must be done in a manner that promotes harmony within the T District as well as providing transition between surrounding districts; and
  - (d) To reconcile the existing different uses that are in place at the inception of the T District so that the long-term value of the property within the district is enhanced, without unreasonable harm occurring to the existing activities. Consideration shall be given to permitting reasonable residential use of the existing dwellings to continue.

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

### **T DISTRICT #2.**

The district designated by Council on the zoning map and attached to Ordinance 05-05 as Exhibit B and adopted in accordance with this code. The T District #2 is an overlay district which is superimposed upon the designated areas within the zoning district, and which shall be identified on the zoning map by a prefix of “T” to the underlying district. In the **T DISTRICT #2**, all zoning regulations applicable to the Residential “R-3” District shall remain in effect until such time as approval may be given to a final transitional development plan for the lot or parcel.

### **T DISTRICT #2 DEVELOPMENT PLAN**

As used in this section, a plan for the development and use of a specified parcel or tract of real estate, in a form recordable at the County Recorder’s office, illustrated by a plat, and containing:

- (1) A legal description, and dimensions of the proposed development and acreage;
- (2) Topography at two-foot contour intervals, which shall show the proposed development area, including property lines, easements and features, existing thereon, and including a certificate, by a registered engineer or surveyor, of the gross area of the development in acres and in square feet;
- (3) All landscaping and screening of the development including the placement of trees, flowers, shrubs, mounding, grass and open spaces of the proposed development, including the planned buffer areas;
- (4) The location, construction materials, illumination and dimension of all signs intended to be located on the property;
- (5) The location and dimension of all parking facilities, curb cuts, vehicular and pedestrian ways, the location and direction flow of existing and proposed storm and sanitary sewers, areas for on-site water detention and an estimate of the traffic volume to be generated;
- (6) A notarized sworn statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;
- (7) Detailed plans of all proposed buildings and structures to be located on the site. A depiction of the required 30-foot buffer yard and the location of trees, shrubs, mounding and other screening shall also be identified. Also shown on a separate document must be the improvements on said property existing at the time of the T District application. The removal or alteration of such improvements shall be identified as well as the relative time frame that this work shall occur;
- (8) The declarations of covenant running with the land, if any;

- (9) Any additional information as reasonably required by the Planning Commission during its review process may be requested from time to time; and
- (10) A schedule for construction and cost estimates for the completion of the development, including all public and private improvements in the development area.

The T District development plan, unless otherwise specified, shall be prepared by professional persons qualified in the planning of land development, traffic engineering and building and landscaping design. The architectural and engineering services required for the preparation of the site development plan shall be rendered by licensed professional persons.

(C) Applicability. This T District is established as an overlay district by Council superimposed on specific areas of the previously existing Residential “B” District (the area of which is now included in the Residence “R-3” District) designated on Exhibit B, attached to Ordinance 05-05. This specific T District #2 is designed to address zoning issues in this location and is not intended to be applicable to other areas unless the Zoning Code is amended in accordance with the procedures set forth in the Charter of the city.

(D) Permitted Buildings, Uses and Other Regulations.

- (1) As a matter of right, those buildings and uses permitted in the underlying Residential “R-3” District shall be permitted in accordance with all applicable regulations of that underlying district, until such time as buildings and uses authorized by a T District #2 development plan are approved. Thereafter, only those buildings and uses approved for a T District #2 development plan shall be valid on the property. The transition from original use to T District #2 use shall be in accordance with the time table approved as part of the T District #2 application. Failure to complete the improvements and obtain a final certificate of occupancy within the approved time frame, including any authorized extensions, shall cause the approval of the T District #2 development plan to lapse, and only buildings and uses permitted in the underlying district shall be permitted thereafter.
- (2) The following buildings and uses shall only be permitted pursuant to a T District #2 development plan, subject to review and approval in accordance with the provisions of this section:
  - (a) Offices for professional use (such as attorneys, doctors, architects, dentists and engineers) and office-type business uses (such as real estate, insurance and manufacturers’ representatives). Activities which are normal, necessary and subordinate to the office use listed herein shall be permitted. Examples of such activities include the preparation of dental supplies for patients, examination of and treatment of patients of a physician, meeting with clients and provision of services by attorneys and insurance representatives, and closings held at a real estate office. There shall be no permitted use of such offices that is not clearly within the types of activities described herein;



- (b) Low Density Retail Use. A **LOW DENSITY RETAIL USE** shall be defined as follows:
- (i) The hours of operation (hours held open to the public) are limited to 9:00 a.m. to 6:00 p.m., Monday through Saturday and 10:00 a.m. to 5:00 p.m. on Sunday; and
  - (ii) The retail use shall not occupy more than 2,000 square feet of usable floor area of any existing or new structure. These uses shall include:
    - a. Specialty shop;
    - b. Clothing store;
    - c. Bank;
    - d. Bookstore;
    - e. Barbershop/salon;
    - f. Pet grooming;
    - g. Gift shop;
    - h. Florist;
    - i. Arts and crafts; and
    - j. Other similar uses that are consistent with these guidelines established herein, as demonstrated by the applicant, and have been approved by the Planning Commission.
- (c) Single-family residential uses, which may be combined with the permitted uses set forth in divisions (D)(2)(a) and (D)(2)(b) above, as long as a resident of the residential unit is a primary participant in the business. No more than one residential dwelling shall be permitted in any T District #2 development plan when it is combined with the permitted uses set forth in division (D)(2)(a) above; and
- (d) Medical clinics and treatment rooms, but no urgent care facilities or other medical facilities that normally require emergency services transportation and no hospital or emergency facilities shall be permitted.
- (3) Accessory Buildings and Uses. Accessory buildings and uses may be permitted if approved by the Planning Commission as being consistent with the purposes and provisions of this section.

- (4) All plans for the uses permitted in the T District #2 shall be prepared to maximize buffering of adjacent districts to the south. Additional trees and plantings shall be part of the landscaping plans based on consideration of the view from those adjoining districts. The overall intent and focus of the final plan is to encourage the uses listed above but to minimize the visual impact to adjacent residential districts. In that regard, parking for such businesses should, where feasible, be designed for the front side of such buildings, on the Camargo Road side of the T District #2 development. Architectural features which resemble or emphasize a residential look of buildings shall be required as approved by the ARO and shall satisfy the specific requirements set forth in division (E) below. Common drives and access points to Camargo Road should be considered.
- (E) Standards For T District #2 Development Plan Review and Approval.
- (1) The active use of property and the design of the buildings in the T District #2 shall only be approved if it meets the following general conditions as determined by the Planning Commission:
- (a) The active use and design do not significantly create an adverse influence on any abutting or surrounding properties;
  - (b) The plan provides for an orderly transition from more restrictive (residential) to less restrictive districts;
  - (c) The plan is designed to maximize the public interest and private benefit in a balanced manner; and
  - (d) The plan permits and encourages improved development within the remaining sites in the T District #2.
- (2) Specific requirements and standards that must be clearly set forth in a T District #2 development plan before it may be approved are as follows.
- (a) Architectural features shall incorporate such characteristics as are normally associated with single-family residential homes, including the following: exterior construction shall be similar to typical residential construction in such combination as approved by the ARO as being consistent in character with surrounding residential areas. The side of a building facing Camargo Road may differ in appearance (for example it may be predominantly glass); gabled or hipped roofs shall be required (no flat roofs); the height of new buildings shall be limited to 28 feet, consistent with other residential structures in the city; air conditioning units and waste disposal dumpsters must be specifically shielded by suitable fencing/landscaping as determined to be reasonable by the ARO for purposes of shielding these items from adjacent residential areas. These requirements shall not apply to an existing residential building which is converted to an office use, provided the

exterior features of the residential structure, including air conditioning and other exterior equipment, are maintained.

- (b) A rear yard setback of 30 feet shall be maintained from the residential district located adjacent to the T District #2 as depicted on Exhibit B, attached to Ordinance 05-05. No structures, including parking areas or driveways, shall be placed within this 30-foot setback area.
- (c) New parking areas shall be placed, where practical and feasible, between the building and Camargo Road. Parking areas which must be placed to the side or rear of the buildings shall be softened by the placement of landscaping islands in order to reduce the visual mass of impervious surface and parked motor vehicles. The number of parking spaces required shall be five spaces per 1,000 square feet of floor area of the building, excluding areas devoted exclusively to mechanical (physical plant) equipment, storage or common hallways. However, shared parking areas may be permitted if it is determined by the Planning Commission that the overall coverage of impervious areas could be reduced, it would enhance the green areas available on the development plan and would permit the new building to be erected closer to Camargo Road. (Note: The city is attempting to minimize required parking surfaces while ensuring that there is adequate parking.)
- (d) Impervious surfaces shall not cover more than 70% of an area within the entirety of a T District development plan. The required 30-foot setback area of each lot is included in the T District development plan. Therefore, in calculating the percentage of the area in the development plan that impervious surface will cover, the green area within the 30-foot setback shall be included as part of the total area of the plan. Impervious surface shall include all areas of ground within the development plan designated as a parking area (but not including landscape islands), buildings, structures, driveways and walkways.
- (e) A landscape plan shall be required and will include evergreen landscaping within the 30-foot setback area that is of sufficient height to block the line of sight view of any parking areas located in the rear or side of any building to be used in a T District #2 development plan. Mounding may be included as part of the line of sight screening. The line of sight shall be from a ten-foot height located in all points along the residential property line which abuts the T District #2 development.
- (f) No development plan shall be approved which incorporates a proposed property line(s) the primary purpose of which appears to be avoiding the requirements imposed by this chapter.
- (g) Exterior lighting shall be kept low and shall be reasonably shielded from adjacent residential districts.

- (h) The development plan shall provide a written acknowledgment that all landscaping, screening, mounding, buffering, structure drives and parking areas and buildings shall be maintained in first class condition and that failure to so maintain these items shall be a violation of this Zoning Code, enforceable in all ways available in law and equity as any other violation of the City Zoning Code.
  - (i) Redevelopment of the property shall require improvements to the property including the installation of appropriate curbs, sidewalks, lighting and other streetscape treatment as designated by the ARO. If a variance is requested by the owner and granted by the Board of Zoning Appeals, the Board of Zoning Appeals shall require the owner to post a bond for the full amount of the improvements to be installed at a later date.
  - (j) Access to these properties shall be limited to Camargo Road only.
  - (k) Developments are encouraged to limit the number of curb cuts per site. The Planning Commission will approve the number and location of curb cuts for each site. If there is ever a conflict between the requirements in the T District and the parking regulations, the T District requirements will supersede the underlying requirements.
- (3) No uses in addition to those permitted in the underlying zoning shall be permitted unless the developer demonstrates compliance with each of the above standards to the satisfaction of the Planning Commission.
- (4) To secure the application of all relevant standards to a development in the T District #2, the Planning Commission shall require that the following are specifically set forth in any T District #2 development plan:
- (a) Front, side and rear yard requirements, density requirements, height and bulk of building requirements and intensity of use; no minimum setbacks are required to be included in the development plan except there shall be sufficient setback for necessary screening and that the 30-foot setback depicted on Exhibit B, attached to Ordinance 05-05, shall be maintained;
  - (b) The use of materials or designs in the erection of structures which shall minimize the adverse impact of the uses proposed by the development plan on neighboring properties;
  - (c) Permits for business signs, outdoor storage, parking spaces and driveways;
  - (d) Screening or other areas of land to serve as a buffer of the proposed use in the T District #2 from adjacent properties by walls, fences, landscaping or open spaces; and

- (e) Such additional conditions and limitations on the use, building dimensions, open spaces and the like as may be deemed necessary to carry out the intent of this chapter and this Zoning Code.
- (F) Submission and Review of Site Development Plan.
- (1) Application Procedure.
    - (a) Any person or company intending to apply for approval of a T District #2 development plan shall first schedule a pre-application conference with the City Manager or his or her assignee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for a T District #2 development plan.
    - (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing nonconforming uses.
    - (c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager. If the application does not conform with the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.
  - (2) Public Hearing and Decision.
    - (a) Upon receipt of an application in the format prescribed by this chapter, the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said T District # 2 development plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed T District #2 development not less than ten days prior to the scheduled hearing.
    - (b) Subsequent to the public hearing, the Planning Commission shall either approve the T District #2 development plan as submitted, approve a modified plan with conditions or deny approval of the plan. Five members of the Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a preliminary T District development plan. Approval of the preliminary development plan shall not constitute any

authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed final development plan.

- (c) A proposed final T District #2 development plan shall be submitted within six months of the date of the Planning Commission meeting at which the preliminary plan was approved. The Planning Commission may extend this period for a reasonable period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial accordance with and represents a detailed expansion of the preliminary plan, as previously approved, that the final plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declaration of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such final plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.
- (d) Following the approval of a final plan, the City Manager shall issue such permits as are necessary and under his or her jurisdiction upon payment of the required fees.
- (e) Amendment of Plan.
  - (i) A major amendment of an existing plan shall require a review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original T District development plan. A major amendment shall include any change of use from one category to another as listed in division (D)(2) hereof, any increase in the impervious area of coverage in excess of 5% over the amount approved in the original plan, the enlargement of any building from that originally approved, or the consolidation of use of adjoining T District development plans.
  - (ii) Minor amendments to a T District #2 development plan must be approved by the City Manager and the ARO. Either official may refer the request for approval of a minor amendment to the Planning Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include internal changes to buildings and structures, changes to the front of a building, changes to signs which are not being enlarged and are

consistent with what was previously approved by the Planning Commission, amendments to drainage pattern or replacement of existing lighting provided it remains effectively shielded. A minor amendment shall also include any change of use that does not change the category of use as those categories are set forth in division (D)(2) hereof. For example, a change in use of an office from real estate to insurance shall be considered a minor amendment. However, a change of use from any office use to a medical clinic shall be considered a major amendment.

- (3) Contingent-Approval Permitted. In circumstances where an applicant needs a variance from the requirements of this Code, the Planning Commission may provide contingent-approval of a Final Application for a development plan. Such contingent-approval shall mean their approval of the Final Application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of a Final Application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the Final Application.
- (4) Appeals. Pursuant to this section, if the Planning Commission, City Manager, or ARO deny an applicant's request for approval of a development plan or an amendment to a previously-approved development plan, such applicant may appeal the decision denying their request to the Board of Zoning Appeals.
  - (a) Timing of Appeal. The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission's provision of written notification of its denial to the applicant.
  - (b) Hearing on Appeal. The Board of Zoning Appeals shall hold a public hearing, evaluating the appeal based upon the standards of review applied by the Planning Commission to the initial conditional use application, within sixty (60) days of receiving applicant's notice of appeal.

### § 150.65 TRANSITIONAL OVERLAY DISTRICT #3

- (A) Intent. It is the intent of the Transitional Overlay District #3 (hereinafter referred to as "T District #3") to designate a sensitive transitional area of the city for certain types of controlled development consistent with the purposes of the city as set forth herein. The request for approval of a T District #3 development plan within a T District #3 may only be approved if it is initiated or authorized by the property owner(s). The area of a T District #3 is set forth on Exhibit B attached to Ordinance 10-22, passed on February 14, 2011.
- (B) Purposes. The specific purposes of the T District #3 are:
  - (1) To encourage development of appropriate land uses in the district given the existing surrounding development;

- (2) To provide adequate buffering for the protection of existing adjacent residential uses and districts from the adverse impacts of more intense uses that may be developed in the T District #3; and
  - (3) To provide for the orderly transition from an existing Residence “R-2” District to the south and east of the T District #3 to the higher intensity uses of the Business “A” District to the north and west. This must be done in a manner that promotes harmony within the T District #3 as well as providing a transition between surrounding districts.
- (C) Applicability. This T District #3 is established as an overlay district by Council superimposed on specific areas of a Residence “R-2” District designated on Exhibit B, attached to Ordinance 10-22 passed on February 14, 2011. It shall be identified on the zoning map by a “T District #3.” This specific T District #3 is designed to address zoning issues in this location and is not intended to be applicable to other areas unless the Zoning Code is amended in accordance with the procedures set forth in the Charter of the city. In the T District #3, all zoning regulations applicable to the Residence “R-2” District shall remain in effect until such time as approval may be given to a final T District #3 development plan for the lot or parcel.
- (D) Development Plan Required. Redevelopment of the property shall require a development plan which includes necessary public improvements. The development plan requirements are listed in division (G) below.
- (E) Definitions. Included in Definitions in § 150.01.
- (F) Permitted Uses.
- (1) As a matter of right, those buildings and uses permitted in the underlying Residence “R-2” District shall be permitted in accordance with all applicable regulations of that underlying district, until such time as buildings and uses authorized by a T District #3 development plan are approved. Thereafter, only those buildings and uses approved for a T District #3 development plan shall be valid on the property. The transition from original uses to T District #3 uses shall be in accordance with the schedule for construction approved as part of the T District #3 application. Failure to complete the improvements and obtain a final certificate of occupancy within the approved time frame, including any authorized extensions, shall cause the approval of the T District #3 development plan to lapse, and the site shall revert to only buildings and uses permitted in the underlying district.
  - (2) Multi-family residential uses, including attached townhouses, pursuant to a T District #3 development plan, subject to review and approval in accordance with the provisions of this chapter, that meet the following standards:
    - (a) Two and twenty-four one hundredths acres minimum site size;



- (b) No more than 15 dwelling units per acre calculated on the entire gross acreage of the development site;
  - (c) One hundred-foot minimum setback from the side property line to the south;
  - (d) Ten-foot minimum setback from the side property line to the north;
  - (e) Ten-foot minimum rear yard setback from the east property line abutting a nonresidential use;
  - (f) Fifty-foot minimum rear yard setback from the east property line abutting a residential use;
  - (g) Thirty-foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover and trees, and does not interfere with visibility for drivers entering and exiting the property;
  - (h) Twenty-five-foot minimum landscaped bufferyard within the 100-foot and 50-foot setbacks, pursuant to division (I)(8) herein;
  - (i) Minimum unit size of 750 square feet;
  - (j) Minimum of two enclosed parking spaces per unit; and
  - (k) Minimum of one visitor parking space per unit that can either be enclosed or a surface parking lot.
- (3) Independent living for adults age 55 and older, defined as in division (E) above, pursuant to a T District #3 development plan, subject to review and approval in accordance with the provisions of this chapter, that meet the following standards:
- (a) Two and twenty-four one hundredths acres minimum site size;
  - (b) No more than 15 dwelling units per acre calculated on the entire gross acreage of the development site;
  - (c) One hundred-foot minimum setback from the side property line to the south;
  - (d) Ten-foot minimum setback from the side property line to the north;
  - (e) Ten-foot minimum rear yard setback from the east property line abutting a nonresidential use;
  - (f) Fifty-foot minimum rear yard setback from the east property line abutting a residential use;

- (g) Thirty-foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover, and trees, and does not interfere with visibility for drivers entering and exiting the property;
  - (h) Twenty-five-foot minimum landscaped bufferyard within the 100-foot and 50-foot setbacks, pursuant to division (I)(8) herein ;
  - (i) Minimum unit size of 750 square feet;
  - (j) Minimum of one enclosed parking space per unit; and
  - (k) Minimum of seven employee parking spaces and one visitor parking space per unit that can either be enclosed or a surface parking lot.
- (4) Offices for professional use (such as attorneys, doctors, architects, dentists, and engineers) and office-type business uses (such as real estate, insurance and manufacturers' representatives). Activities which are normal, necessary and subordinate to the office use listed herein shall be permitted. Examples of such activities include the preparation of dental supplies for patients, examination of and treatment of patients of a physician, meeting with clients and provision of services by attorneys and insurance representatives, and closings held at a real estate office. There shall be no permitted use of such offices that is not clearly within the types of activities described herein.
- (a) Offices converted from residential structures existing at the time of adoption of these T District #3 regulations for which no expansion or other exterior changes are proposed must meet the following standards:
    - (i) One parking space for each 500 square feet of gross office space;
    - (ii) Compliance with all other parking requirements of the City Zoning Code;
    - (iii) New parking areas abutting a residence use must not be placed within 25 feet of the property; and
    - (iv) Some submission requirements may be waived by the City Manager.
  - (b) Offices which are new construction must meet the following standards:
    - (i) Two and twenty-four one hundredths acres minimum site size;
    - (ii) One hundred-foot minimum setback from the side property line to the south;
    - (iii) Ten-foot minimum side yard setback from the side property line to the north;

- (iv) Ten-foot minimum rear yard setback from the east property line abutting a nonresidential use;
  - (v) Fifty-foot minimum rear yard setback from the east property line abutting a residential use;
  - (vi) Thirty-foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover, and trees, and does not interfere with visibility for drivers entering and exiting the property;
  - (vii) Twenty-five-foot minimum landscaped bufferyard within the 100-foot and 50-foot setbacks pursuant to division (I)(8) herein ; and
  - (viii) Must comply with all parking requirements of the Zoning Code.
- (5) Accessory buildings and uses may be permitted if approved by the Planning Commission as being consistent with the purposes and provisions of this chapter.
- (G) Development Plan Requirements.
- (1) Full size plat of development, drawn to a scale of one inch equals 50 feet, with north arrow, and identification of site in relation to adjacent main roads;
  - (2) Existing and proposed property lines, and dimensions and acreage of the proposed development, certified by a licensed engineer or registered surveyor;
  - (3) Existing and proposed topography at two-foot contour intervals prepared and certified by a registered surveyor;
  - (4) Footprints of existing structures on lots to be developed and all adjacent lots, with notations for proposed demolition of any structures;
  - (5) Footprints of all proposed structures;
  - (6) All proposed setbacks, indicating dimension and distance from property lines to proposed structures, including decks, porches and patios;
  - (7) Location and dimension of all parking areas and facilities, park or playground areas, vehicular and pedestrian ways, other common areas, and all other impermeable public or private paved surfaces;
  - (8) Location and dimension of all entrances into and exits from the development;
  - (9) Information on all signage to be located on the property pursuant to the City Sign Code and application;

- (10) Location, construction material, illumination in footcandles of all proposed lighting, and photometric study;
  - (11) Location of dumpsters, with required sufficient screening, and location of mailboxes;
  - (12) Location of all utilities, and location and directional flow of existing and proposed water and sanitary sewers and areas for on-site water retention and detention;
  - (13) Elevations of proposed structures, including notation for proposed building height;
  - (14) A landscape plan including the following:
    - (a) The location of all existing vegetation, noting whether it will remain or not;
    - (b) The location of proposed bufferyards, landscaping and screening, including trees, flower beds, shrubs, mounding, grass and open space, and all irrigation devices for the landscaping; and
    - (c) A table listing the common and botanical names of all proposed plants to be planted or retained on the site pursuant to division (I)(9) herein.
  - (15) Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes and existing or recommended traffic signalization, and emergency vehicle access.
- (H) Additional Submission Requirements.
- (1) A traffic management plan, provided by a licensed engineer, that includes but is not limited to a traffic count along Hosbrook Road, prior to development, and a projection of the traffic impact after development, illustrating line of sight issues, alignment with driveways or streets on Hosbrook Road, identification of sight-distance issues related to access to the proposed development, and distance to adjacent driveways on Hosbrook Road;
  - (2) A statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;
  - (3) A letter from MSD indicating the availability of sewer service;
  - (4) A legal description of the lots;
  - (5) A description of all exterior building materials and colors;
  - (6) A schedule for construction, and cost estimates for the completion of the development including all public and private improvements;

- (7) Plans, if any, to dedicate any streets or other property to the city;
  - (8) A performance bond or other acceptable security and other legal data to ensure completion of streets, bufferyard and amenities in accordance with the accepted plans may be required for the final development plan; and
  - (9) The development plan shall provide a written acknowledgment that all landscaping, screening, mounding, buffering, structure drives, and parking areas and buildings shall be maintained in first class condition, to the satisfaction of the City Manager and his or her designee, and that failure to so maintain these items shall be a violation of this Zoning Code, enforceable in all ways available in law and equity as any other violation of the City Zoning Code.
- (I) General Standards For T District #3 Development Plan Approval. The active use of property and the design of the buildings in the T District #3 shall only be approved if the Planning Commission determines that they do not significantly create an adverse influence on any abutting or surrounding properties; provide for an orderly transition from more restrictive (residential) to less restrictive districts; and if the plan is designed to maximize the public interest and private benefit in a balanced manner. The following standards apply to all uses:
- (1) Waste disposal dumpsters and any other ground level mechanical units must be shielded by suitable fencing/landscaping as approved by the ARO;
  - (2) Any rooftop mechanical units including satellite dishes must be shielded from residential areas and approved by the ARO;
  - (3) The site must maintain an impervious surface ratio of 60% (ISR = total area of buildings and impervious surface areas divided by the total area of the lot) or 40% open space;
  - (4) Maximum height permitted is 827 feet above mean sea level (includes rooftop mechanicals which must be screened as stated above in division (I)(2) above);
  - (5) Loading areas must be to the rear of the site;
  - (6) Exterior lighting shall be kept low (-0- footcandles net increase at property line abutting residential district or use) and shall be shielded from adjacent residential districts or use with house side shields;
  - (7) New parking areas shall be placed, where practical and feasible, behind the building, with parking in the front of the building limited to short term pick-up and drop off and valet parking. Parking areas which must be placed to the side or rear of the buildings shall be softened by the placement of landscaping islands in order to reduce the visual mass of impervious surface and parked motor vehicles;

- (8) Landscaping shall be installed in the bufferyard which creates a physical and visual buffer from adjoining properties, and for this purpose, a combination of live plantings shall be planted within the side and rear yard setbacks and described herein, according to acceptable nursery industry standards and shall comply with the following criteria:
  - (a) All landscaping materials shall consist of only live plantings, and shall be installed and maintained according to accepted nursery industry procedures;
  - (b) Landscaping materials shall be of sufficient height to block the line of sight of any residential areas adjacent to the T District #3 site. Mounding may be included as part of the line of sight screening. The line of sight shall be from a ten-foot height located in all points along the residential property line which abuts the T District #3 development;
  - (c) Landscaping planted within the bufferyard shall create a dense vegetative screen, which shall be equally effective in winter and summer;
  - (d) Shrubs planted in the bufferyard shall be a minimum height of three and one-half feet when planted, and shall achieve a height of six feet, no later than 24 months after the initial installation;
  - (e) When required landscaping is located along the area extending from the building to the street, the height shall be consistent with sight distance from the street for safety purposes;
  - (f) Each shrub shall be planted sufficiently close to the next shrub, according to nursery industry standards, to provide an effective, dense screen;
  - (g) Deciduous trees shall be a minimum caliper of three inches at the time of planting (if deciduous trees are used for screening purposes, additional materials must be used to create a dense buffer);
  - (h) Evergreen trees shall be a minimum of eight feet in height at the time of planting; and
  - (i) No driveways or parking areas shall be placed within the bufferyard;
- (9) Access to these properties shall be limited to Hosbrook Road only;
- (10) Developments are encouraged to limit the number of curb cuts per site;
- (11) If there is a conflict between the requirements in the T District #3 and the parking regulations, the T District #3 requirements will supersede the underlying requirements; and

- (12) Violation of these provisions shall be grounds for the city to refuse to issue a certificate of occupancy.
- (J) Submission and Review of Site Development Plan.
- (1) Application Procedure.
- (a) Any person or company intending to develop a use other than a single-family residential use must apply for approval of a T District #3 development plan, and shall first schedule a pre-application conference with the City Manager or his or her assignee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for the development plan.
- (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing nonconforming uses.
- (c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager. If the application does not conform with the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.
- (2) Public Hearing and Decision.
- (a) Upon receipt of an application in the format prescribed by this chapter, the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said T District #3 development plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed T District #3 development not less than ten days prior to the scheduled hearing.
- (b) Subsequent to the public hearing, the Planning Commission shall either approve the T District #3 development plan as submitted, approve a modified plan with conditions, or deny approval of the plan. Five members of the Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a preliminary T District #3 development plan. Approval of the preliminary development plan shall not constitute any

authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed final development plan.

- (c) A proposed final T District #3 development plan shall be submitted within six months of the date of the Planning Commission meeting at which the preliminary plan was approved. The Planning Commission may extend this period for a reasonable period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary development plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial accordance with and represents a detailed expansion of the preliminary plan, as previously approved, that the final plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declaration of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such final plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.
- (d) Following the approval of a final plan, the City Manager shall issue such permits as are necessary and under his or her jurisdiction upon payment of the required fees.

(3) Amendment of Plan.

- (a) A major amendment of an existing plan shall require review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original T District #3 development plan. A major amendment shall include any change of use from one category to another as listed in division (F) hereof; any increase in the impervious area of coverage in excess of 5% over the amount approved in the original plan; the enlargement of any building from that originally approved; or the consolidation of use of adjoining T District #3 development plans.
- (b) Minor amendments to a T District #3 development plan must be approved by the City Manager and the ARO. Either official may refer the request for approval of a minor amendment to the Planning Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include internal changes to buildings and structures; changes to the front of a building; changes to signs which are not being enlarged and are consistent with what was previously approved by the Planning Commission; amendments to the drainage pattern; or replacement



of existing lighting provided it remains effectively shielded. A minor amendment shall also include any change of use that does not change the category of use as those categories are set forth in division (F) hereof.

- (4) Contingent-Approval Permitted. In circumstances where an applicant needs a variance from the requirements of this Code, the Planning Commission may provide contingent-approval of a Final Application for a development plan. Such contingent-approval shall mean their approval of the Final Application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of a Final Application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the Final Application.
- (5) Appeal to the Board of Zoning Appeals. Pursuant to this section, if the Planning Commission, City Manager or ARO deny an applicant's request for approval of a development plan or an amendment to a previously-approved development plan, such applicant may appeal the decision denying their request to the Board of Zoning Appeals.
  - (a) Timing of Appeal. The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission and the Board of Zoning Appeals within thirty (30) days of the Planning Commission's provision of written notification of its denial to the applicant.
  - (b) Hearing on Appeal. The Board of Zoning Appeals shall hold a public hearing, evaluating the appeal based upon the standards of review applied by the Planning Commission to the initial conditional use application, within sixty (60) days of receiving applicant's notice of appeal.

## § 150.66 TRANSITIONAL RESIDENTIAL OVERLAY DISTRICT

### (A) Intent and Purpose

- (1) It is the intent of the Transitional Residential Overlay District (hereinafter referred to as the "TRO District") to designate an area of the city for increased density of residential development, to provide more housing options while maintaining the value and quality of the city's housing stock.
- (2) The existing Residence B single-family zoning within the District shall remain intact but the designated areas shall be eligible for increased density of residential development provided the criteria, conditions and requirements set forth in this section are met as determined by and as established by the city Planning Commission, following approval of an application for a Transitional Residential Overlay Development Plan within the TRO District.

- (3) A TRO District Development Plan must be submitted to the Planning Commission, and must be initiated or authorized in writing by the property owner(s); the Planning Commission may approve, approve with modifications, or deny the detailed specific TRO Plan submitted with the application.
- (4) The creation of the TRO District on the south side of Euclid Avenue between Miami Avenue and Laurel Avenue, recognizes the following unique factors which are compatible with alternative, higher density single family housing development:
  - (a) Commercial uses on Laurel Avenue, abutting the TRO District to the south;
  - (b) The high level of traffic in the intersection of Miami and Euclid, occupied by an office, the municipal building, a fire station, and a library;
  - (c) A power station, and additional business uses to the east; and
  - (d) The high level of traffic on the two lane primary street (Euclid Avenue) to the north.
- (B) Applicability. This TRO District is established as an overlay district superimposed on specific areas, including the previously existing Residence “B” district (the area of which is now included in the Residence R-3 District), designated on Exhibit “A” attached to Ordinance No. 08-05, passed on February 28, 2008 and is not intended to be applicable to other areas unless the zoning code is amended in accordance with the procedures set forth in the Charter of the City of Madeira.
- (C) Permitted Uses.
  - (1) Permitted uses in the TRO District shall be those uses permitted in the underlying Residence “R-3” District, which allows single-family detached residences.
  - (2) In addition, permitted uses in the TRO District shall include attached townhouse style residences, with a minimum of 1,000 square feet of floor area. For the purposes of this section, **FLOOR AREA** shall only include first floor and above living areas. Floor areas of garages, cellars and basements shall not be included in the calculation of total floor area. No structure is permitted to consist of more than four attached townhouses, except for buildings referenced under division (G)(9) herein.
- (D) Conditional and Home Office Uses. Conditional uses in the TRO District shall be the same as those for other residential districts pursuant to § 150.25 and home offices, pursuant to § 150.24.
- (E) Accessory Structures Not Allowed. Except for fences identified and approved as part of the development plan, detached accessory structures, including detached parking structures

shall not be allowed on the subject property anywhere within the TRO District, unless the property is used in accordance with Residence B zoning.

- (F) TRO Development Plan Submission Requirements. The TRO development plan shall be prepared, and stamped if appropriate by licensed professional persons qualified in the planning of land development, traffic engineering and building and landscape design. No plan shall be approved by Planning Commission unless all of the criteria set forth below are met. A TRO development plan may only be adopted upon determination that all the information set forth below has been provided in the application (which shall include the proposed site plan) and is in compliance (as determined by the Planning Commission) with the criteria set forth below.

(1) Site Plan Requirements.

- (a) Full size plat of development, drawn to a scale of one inch equals 50 feet, north arrow, and identification of site in relation to adjacent main roads;
- (b) Existing and proposed property lines, and dimensions and acreage of the proposed development, certified by a registered engineer or surveyor;
- (c) Existing and proposed topography at two-foot contour intervals prepared and stamped by a licensed surveyor;
- (d) Footprints of existing structures on lots to be developed and all adjacent lots, with notations for proposed demolition of any structures;
- (e) Footprints of all proposed structures;
- (f) All proposed setbacks, indicating dimension and distance from property lines to proposed structures, including decks, porches and patios;
- (g) Location and dimension of all parking facilities, park or playground areas, vehicular and pedestrian ways, other common areas, and all other impermeable public or private paved surfaces;
- (h) Location and dimension of all entrances into and exits from the development;
- (i) Location, construction materials, illumination and dimension of all proposed signage and lighting;
- (j) Location of dumpsters, with required sufficient screening, and location of mailboxes;
- (k) Location of all utilities, and location and directional flow of existing and proposed water lines, storm and sanitary sewers, and areas for on-site water

retention and detention (see list below, approval contingent upon approval of the Metropolitan Sewer District);

- (l) Elevations of proposed structures, including notation for proposed building height;
  - (m) Location of all existing vegetation, noting whether it will remain or not, and proposed landscaping and screening, including trees, flower beds, shrubs, mounding, grass and open space, as well as location of all irrigation devices for the landscaping;
  - (n) Elevations of all proposed vegetation, and a table listing the common and botanical names of all proposed plants to be planted or retained on the site;
  - (o) Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes and existing or recommended traffic signalization, and emergency vehicle access; and
  - (p) Public sidewalks which shall be maintained and/or extended wherever proposed development is adjacent to Euclid Avenue.
- (2) Additional Submission Requirements.
- (a) A traffic management plan, provided by a licensed engineer, that includes but is not limited to a traffic count along Euclid Avenue, prior to development, and a projection of the traffic impact after development, illustrating line of sight issues, alignment with driveways or streets on the north side of Euclid Avenue, identification of sight-distance issues related to access to the proposed development, and distance to adjacent driveways on the south side of Euclid Avenue;
  - (b) A notarized statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;
  - (c) A letter from MSD indicating the availability of sewer service;
  - (d) A legal description of the lots;
  - (e) A description of all exterior building materials and colors;
  - (f) A plant list (an accepted plant list from the city may be used) indicating the common name and botanical name of plants shown on the development site plan;

- (g) A schedule for construction, and cost estimates for the completion of the development including all public and private improvements, and landscaping;
  - (h) Plans, if any, to dedicate any streets or other property to the city;
  - (i) A performance bond or other acceptable security and other legal data to ensure completion of streets, buffer and amenities in accordance with the accepted plans; and
  - (j) The ratio of pervious to impervious surface areas.
- (G) TRO Development Plan Criteria. The Planning Commission may not approve any TRO Development unless it has been reviewed by the Architectural Review Officer (ARO), and meets all of the criteria set forth below:
- (1) Density of the TRO development shall be limited to no more than ten dwelling units per acre, calculated on the entire (gross acreage of the) development site;
  - (2) The plan shall depict a ten-foot minimum side and rear yard landscaped setback from property lines which abut a commercial use or commercial zone;
  - (3) The plan shall depict a 15-foot minimum side and rear yard landscaped setback from property lines where the subject property abuts a residential use or zoning district;
  - (4) The plan shall depict a 2-foot minimum front yard landscaped setback from the right-of-way (Euclid Avenue);
  - (5) The plan shall depict a minimum of ten feet between structures;
  - (6) Structures fronting on Euclid Avenue shall be no more than 35 feet in height, measured from the existing pre-development grade on Euclid Avenue to the peak of the roof, at the front of each dwelling unit; structures not adjacent to Euclid Avenue shall be no more than 35 feet in height, measured from the grade established after the installation of the street and utilities;
  - (7) Each dwelling unit shall have a minimum of two enclosed parking spaces, and, in addition, a minimum of two unenclosed parking spaces per unit available on site. Garage doors shall not face directly onto Euclid Avenue;
  - (8) The architect/artist rendering of buildings and the landscaping must provide evidence to the Planning Commission that such buildings and landscaping shall be designed and built in such a manner as to be compatible with the look and feel of single-family dwelling units, and Planning Commission will take into consideration the orientation and finishes of all buildings relative to the surrounding properties; flat roofs are not deemed to be compatible with the look and feel of single-family

dwelling units; therefore pitched roofs shall be required on all buildings constructed in accordance with the TRO District;

- (9) The massing of buildings adjacent to the frontage of Euclid Avenue shall be controlled such that no more than three units shall be constructed as one single building, and all buildings adjacent to Euclid Avenue shall have their architectural front facing toward Euclid Avenue;
- (10) Architectural features shall incorporate such characteristics and materials as are normally associated with single-family residential homes, and must be approved by the ARO as being in character with the surrounding residential areas; neither exterior insulation finishing system (“EIFS”), nor aluminum, nor vinyl siding materials shall be permitted;
- (11) Landscaping shall be installed which creates a physical and visual buffer from adjoining properties, and for this purpose, a combination of live plantings shall be planted within the front, side and rear yard setbacks, and common areas, shall be planted according to acceptable nursery industry standards; and shall comply with the following criteria:
  - (a) All landscaping materials shall consist of only live plantings, and shall be installed and maintained according to accepted nursery industry procedures;
  - (b) Landscaping planted within the side and rear setbacks of the TRO development site shall create a dense vegetative screen, which shall be equally effective in winter and summer;
  - (c) Shrubs planted in the side and rear setback areas of the TRO development site shall be a minimum height of three and one-half feet when planted, and shall achieve a height of six feet, no later than 24 months after the initial installation;
  - (d) When the required screening is located along the area extending from the building to the street, the height shall be consistent with sight distance from the street for safety purposes;
  - (e) Each shrub shall be planted sufficiently close to the next shrub, according to nursery industry standards, to provide an effective, dense screen;
  - (f) Deciduous trees shall be a minimum caliper of three inches at the time of planting (if deciduous trees are used for screening purposes, additional materials must be used to create a dense buffer);
  - (g) Evergreen trees shall be a minimum of eight feet in height at the time of planting; and

- (h) Violation of these provisions shall be grounds for the city to refuse to issue a certificate of occupancy.
- (12) Air conditioning units and dumpsters must be shielded from view by suitable fencing and or landscaping as determined reasonable by the ARO;
- (13) Exterior lighting shall be minimal and limited to that necessary for safety, and shielding; height and overflow of lighting shall be analyzed and only approved if it minimizes impact onto adjacent property, and as determined reasonable by the ARO;
- (14) Storm water drainage must be based upon a minimum of 25-year storm frequency, utilizing on-site absorption and/or temporary detention;
- (15) The plan shall depict a public sidewalk which shall be maintained and/or installed parallel with Euclid Avenue wherever the applicant’s property is adjacent to Euclid Avenue;
- (16) (a) Dwelling units within the subject property need not be located on separate lots or separate units divided by lot lines; and dwelling units, including garages, may share common walls. Subject property that is within a Transitional Residential Overlay District may be developed as a condominium provided the development adheres to the applicable requirements of the Ohio Revised Code and the requirements of this section. If the developer intends to subdivide the property, it may request approval for subdivision either as part of the final development plan approval process or subsequent to the Planning Commission’s approval of the final development plan. However, the subdivision of the property shall only be authorized as incidental and accessory to the requirements for buildings, infrastructure, easements and other physical features that conform to the requirements and criteria set forth elsewhere in these Transitional Residential Overlay District regulations. Therefore, no subdivision of property intended for development pursuant to the regulations of this section shall be permitted prior to approval of a final development plan that meets the requirements of this Transitional Residential Overlay District. The purpose of this requirement is to prohibit the establishment of any new lot that does not meet the dimensional and other requirements of the underlying zoning district (including but not limited to minimum area, depth and width), unless the lot is part of a final development plan approved in accordance with this section.
- (b) Thus, approval of any lots that are intended to be part of a Transitional Residential Overlay District is specifically conditioned upon the lot being developed in accordance with final development plans approved in accordance with the Transitional Residential Overlay District regulations. There shall be no zoning certificate, building permit nor any certificate of

occupancy issued for any lot that has been created as part of a Transitional Residential Overlay District unless the improvements are substantially consistent with the final development plan. Furthermore, all plats depicting a subdivision of land, in whole or in part, of a final development plan shall contain thereon an appropriate executed declaration limiting development of lots to only buildings and improvements depicted on an approved final development plan.

- (c) This amendment to this section specifically finds that the lots depicted on Exhibit A (attached hereto and incorporated as part of the amendment to this section) do, in fact, comply with the requirements of this section and may, therefore, be approved for recording as long as the lots submitted substantially comply with those depicted on Exhibit A.
  - (d) Any and all lots proposed to be created as part of a final development plan in a Transitional Residential Overlay shall comply with the following criteria:
    - (i) The creation of the lots shall not alter any of the building layouts or other improvements, including but not limited to roadways, sidewalks, easements and fences depicted on the applicable final development plan approved for the Transitional Residential Overlay District by the Planning Commission;
    - (ii) The establishment of any and all lots shall not alter or lessen the responsibility of the homeowners' association to maintain or construct the infrastructure and other improvements and grounds that exist within the common areas of the Transitional Residential Overlay District; and
    - (iii) No property line proposed or approved on a final development plan shall intersect with dwelling units except to track a common wall.
- (17) It is recognized that the unique lots created within the Transitional Residential Overlay District, in furtherance of the final development plan, do not meet numerous requirements for lots that may be created in other residential districts. The lots do not meet minimum requirements of other lots within the city in residential districts. For example, these lots within the Transitional Residential District do not meet frontage requirements, minimum area requirement, minimum setback requirement, shape requirements and other requirements not specifically named herein which are required in other residential districts. The approval of lots within the Transitional Overlay District shall not be construed as permitting or authorizing any other lots to be approved by variance or by other application for subdivision of other property not located within this Transitional Residential Overlay District.



- (18) While this amendment authorizes the subdivision of property within the area of a final development plan formed within a Transitional Residential Overlay District, it is recognized and assumed that the developer may apply for record plat approval of lots in phases as small as two lots at a time. The City Manager shall issue any necessary documentation to allow these lots to be recorded at the County Auditor and Recorders' offices, provided the record plat submitted for review is substantially consistent with the lots depicted on Exhibit A or on any other lots approved in conjunction with any other final development plan approved within this Transitional Residential Overlay District.
- (19) This division (G) establishes certain setback and landscaping criteria that must be satisfied by a final development plan. The establishment of additional interior lot lines do not alter the minimum setbacks and landscaping requirements set forth in this division (G). The requirements of division (G) should not be construed to be applied to any interior lots proposed or created.
- (H) Application and Review. The applicant submitting a TRO development plan shall, in the application, address all the criteria set forth above. The applicant may identify certain portions of any criteria if it intends to supplement the information at a later time. The application shall contain an acknowledgment by the applicant that Planning Commission shall not be bound nor shall it be permitted to make a final decision until such time as the information necessary to satisfy the requirements of each criteria is presented in sufficient detail. The application shall also provide an acknowledgment by the applicant that if Planning Commission modifies or composes conditions for the approval of an application, no final approval shall be granted until documents or other evidence indicating compliance with the modifications or conditions has been incorporated into the application, submitted and reviewed by Planning Commission, before final approval by Planning Commission is determined.
- (1) Application Procedure.
- (a) Any person or company intending to apply for approval of a TRO District Development Plan shall first schedule a pre-application conference with the City Manager or his or her designee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for a TRO District development plan.
- (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing non-conforming uses.
- (c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as

approved by the City Manager. If the application does not conform to the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.

(2) Public Hearing and Decision.

- (a) Upon receipt of an application in the format prescribed by this chapter; the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said TRO District development plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed TRO District Development not less than ten days prior to the scheduled hearing.
- (b) Subsequent to the public hearing, the Planning Commission shall either approve the TRO District development plan as submitted, approve a modified plan with conditions, or deny approval of the plan. Five members of Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a preliminary TRO District development plan. Approval of the preliminary development plan shall not constitute any authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed final development plan.
- (c) A proposed final TRO District development plan shall be submitted within six months of the date of the Planning Commission meeting at which the preliminary plan was approved. The Planning Commission may extend this period for a reasonable period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial accordance with and represents a detailed version of the preliminary plan, as previously approved, that the final plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such final plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.
- (d) Following the approval of a final plan, the City Manager shall issue such permits as are necessary and under his or her jurisdiction, upon payment of

the required fees, and conditioned upon the receipt and approval by the City Law Director of the homeowner's association by-laws and the declarations of covenants and restrictions which shall require the continued property maintenance of all landscaping material and shall keep them in a proper neat and orderly appearance free from refuse and debris at all times and all unhealthy or dead plant material shall be replaced within a one year or by the next planting period, and shall provide for the maintenance of all landscaping, screening, mounding, buffering, structures, drives and parking areas, and buildings; and that failure to do so shall be a violation of this Zoning Code enforceable in all ways in law or in equity as any other violation of the Zoning Code.”

- (3) Major Amendments of the Plan. A major amendment of an existing plan shall require a review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original TRO District development plan. A major amendment shall include:
- (a) Any increase in the impervious area coverage in excess of 5% of the amount approved in the original plan;
  - (b) The enlargement of any building from the size originally approved, or the consolidation of use of adjoining TRO District development plans;
  - (c) A change in the arrangement or massing of buildings or any changes in the use of building spaces designated on the original development plan;
  - (d) An increase in the number of residential units;
  - (e) A change in the vehicular circulation or the placement or arrangement of parking spaces;
  - (f) Any significant reduction in the effectiveness of open spaces, landscape buffers and edges; and
  - (g) Any significant change in the design elevations, roof pitch, materials or massing of the buildings.
- (4) Minor Amendments of the Plan. A TRO District development plan must be approved by the City Manager and the ARO. In any event, all applications for minor amendments shall be in writing and all actions of the City Manager and ARO shall be documented. Either official may refer the request for approval of a minor amendment to the Planning Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include:
- (a) Internal changes to buildings and structures;

- (b) Changes to the front of a building;
  - (c) Changes to signs which are not being enlarged and are consistent with what was previously approved by the Planning Commission;
  - (d) Amendments to the drainage pattern; and
  - (e) Replacement of existing lighting provided it remains effectively shielded.
- (5) Contingent-Approval Permitted. In circumstances where an applicant needs a variance from the requirements of this Code, the Planning Commission may provide contingent-approval of a Final Application for a development plan. Such contingent-approval shall mean their approval of the Final Application is subject to the applicant obtaining any required variance(s) from the Board of Zoning Appeals. If the Planning Commission provides contingent-approval of a Final Application and the Board of Zoning Appeals subsequently denies the applicant's requested variance(s), said denial shall constitute a rejection of the Final Application.
- (6) Appeals. Pursuant to this section, if the Planning Commission, City Manager, or ARO deny an applicant's request for approval of a development plan or an amendment to a previously-approved development plan, such applicant may appeal the decision denying their request to the Board of Zoning Appeals.
- (a) Timing of Appeal. The applicant appealing the decision must provide notice of his or her intent to appeal such decision to the Planning Commission and the Board of Zoning Appeals within thirty (30) days of the Planning Commission's provision of written notification of its denial to the applicant.
  - (b) Hearing on Appeal. The Board of Zoning Appeals shall hold a public hearing, evaluating the appeal based upon the standards of review applied by the Planning Commission to the initial conditional use application, within sixty (60) days of receiving applicant's notice of appeal.

## § 150.67 THE RESIDENTIAL-SCALE BUSINESS OVERLAY DISTRICT REGULATIONS

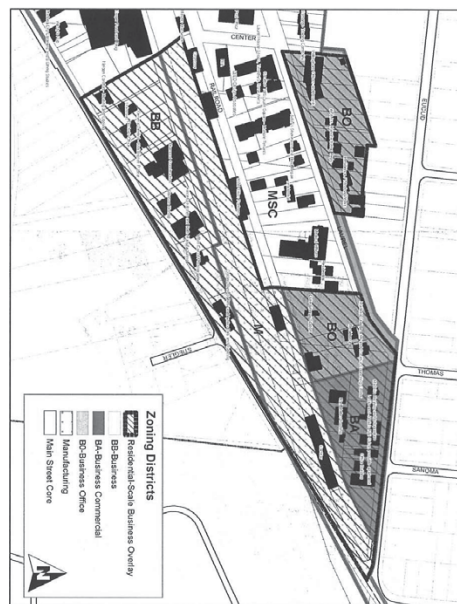
Sections 150.67 – 150.90 of this Code shall apply to The Residential-Scale Business Overlay District and shall be referred to herein as the “RSBOD Regulations.”

### § 150.68 DISTRICT BOUNDARIES

The Residential-Scale Business Overlay District is shown on the official zoning map.

### § 150.69 STANDARD APPLICABILITY

All properties in the Residential-Scale Business Overlay District (“the District”) in Figure 20 shall be subject to the RSBOD. Where the standards in The Residential-Scale Business Overlay District



**Figure 20: Residential-Scale Business Overlay District-Official Zoning Map**

Regulations are in conflict with other sections of the code, the standards in the RSBOD Regulations shall control. As an overlay district, the RSBOD Regulations shall apply to the properties in the District in addition to the standards and requirements that apply to properties in the underlying zoning district. Where the standards are in discrepancy, the more stringent shall control.

### § 150.70 PURPOSE

- (A) The purpose of the Residential-Scale Business District Overlay standards are established in order to impose a specific design review criteria for both rehabilitation and new construction projects in the areas contained in the overlay district.

- (B) Therefore the purpose of the RSBOD Regulations are to:
- (1) Maintain a residential character for a portion of the city’s business district.
  - (2) Maintain a “small town” character in which a mix of businesses can thrive and be considered a destination spot to residents of the city;
  - (3) Protect the character and quality of life for neighboring residential areas;
  - (4) Guide reuse and adaptation of residential structures and sites as used for business purposes;
  - (5) Create aesthetically cohesive development in the perimeter transition areas between the Downtown District (B-1) and adjacent residential districts; and
  - (6) Provide the basis for consistency and objective decision making by establishing criteria to be used by the City Manager or his or her designee, the Architectural Review Officer (ARO), and Planning Commission when evaluating proposed development.

### **§ 150.71 REVIEW PROCEDURES**

The Residential-Scale Business Overlay District regulations are intended to provide guidance to property owners and city officials in the general aesthetic and functional improvement of the city’s Downtown District (B-1). These regulations are intended to guide community investment. The following review procedure is established to identify the extent to which a project must comply with the Residential-Scale Business Overlay District regulations.

### **§ 150.72 ZONING PERMIT REQUIRED**

A zoning permit shall be obtained before conducting any exterior work.

### **§ 150.73 APPLICATION PROCESS**

- (A) Any modification, alteration or enhancement of a site or structure exterior within the District shall require a zoning permit.
- (B) Projects identified by the City Manager or his or her designee as “essentially minor” shall be granted a zoning and building permit with administrative approval, whereas more extensive projects shall be subject to review and approval of the Planning Commission.
- (1) Stage 1: Initial Application. The purpose of Stage 1 is for the City Manager or his or her designee to determine whether proposed construction (including renovation, repair, maintenance or other similar activities) shall be reviewed administratively as an “essentially minor” application or by Planning Commission. A pre-

application meeting is recommended with the City Manager or his or her designee to determine the submission requirements. See division (B)(5) below.

- (a) Review. The City Manager or his or her designee shall review the proposed construction and shall consult with the Architectural Review Officer (ARO) before he or she makes the decision whether the proposed construction is essentially minor.
- (b) Essentially Minor Designation. Construction shall be deemed (designated) essentially minor if it, when completed, will have primarily preserved the use, function, form, scale and accessory uses that existed prior to the construction.
- (c) Stage 1A: Determination of Modification Type. The following factors shall be weighed and considered in determining whether the construction is essentially minor.
  - (i) Will the proposed construction significantly alter the exterior appearance of the existing building or site design in one or more of the following ways?
    - a. Height;
    - b. Setbacks;
    - c. Footprint;
    - d. Entrance;
    - e. Fenestration;
    - f. Envelope (volume);
    - g. Exterior materials or colors; and
    - h. Landscaping or parking.
  - (ii) Will the construction essentially preserve the form and use of the existing building and site?
  - (iii) Is the estimated cost of the construction to the exterior of the building and site sufficient to justify that the modifications be compatible with the purpose of the Residential-Scale Business Overlay District Regulations?
- (d) Stage 1B: Determination Of Modification Magnitude.

- (i) For the City Manager or his or her designee to determine that a project is essentially minor, management must find that:
    - a. The construction will not increase the dimensions of a building or structure by more than 10% of the square footage of the existing building or structure, exclusive of the alteration or expansion;
    - b. The project will not involve additional land other than the lot of record;
    - c. The cost of the exterior renovation of the structure does not exceed 25% of the assessed value of the building or structure to be altered, prior to the renovations; and
    - d. The alterations do not require dimensional variances from the RSBOD Regulations.
  - (ii) If the City Manager or his or her designee determines that the construction is essentially minor, he or she shall so certify in writing. A file containing the certification, copies of the proposed construction and staff comments and recommendations shall be assembled and retained for not less than five years after completion of the proposed construction.
  - (iii) For the purposes of the RSBOD Regulations, it shall be presumed that any additional construction proposed within five years of an essentially minor certification will not qualify as essentially minor. The intent of this presumption is to prevent or discourage circumvention of ultimate design guidelines of the RSBOD Regulations through the cumulative effect of multiple minor improvements.
  - (e) Stage 1C: Administrative Review Application. Once a project has been certified essentially minor, the applicant may apply for a zoning and building permit without requesting approval of the Planning Commission. However, the application shall be reviewed for specific compliance with applicable sections of the Residential-Scale Business Overlay District regulations and deemed in compliance by the City Manager or his or her designee, prior to the issuance of a building permit.
- (2) Stage 2: Planning Commission Review Application. In the event the City Manager or his or her designee does not find an application to be essentially minor or in conformance with the standards the RSBOD Regulations, the City Manager or his or her designee shall make the determination that the application must be reviewed and approved by Planning Commission. The Planning Commission shall review



the application for appropriateness and equivalency to the intent and purpose of the RSBOD Regulations. The Planning Commission may approve an equivalency or modification of a requirement if they make a finding that the effect of the proposed submission is consistent with the intent and purpose of the RSBOD Regulations. The equivalency finding shall be part of the official record of approval and issuance of the certificate of appropriateness and the zoning permit.

- (a) Prior to the issuance of a building permit, the Planning Commission must approve proposed construction or modification of buildings within the Residential-Scale Business Overlay District that has not been certified as essentially minor by the City Manager or his or her designee. Implicit in such an application is that an essentially minor certification has not been issued. Application to and review by the Planning Commission shall be evaluated in the same manner whether or not an essentially minor certification has been sought (and denied).
  - (b) As they are form based, the regulations for the Residential-Scale Business Overlay District include both dimensional aesthetic standards. Review for substantial or equivalent compliance with both types of standards shall be required for zoning approval and issuance of a building permit.
- (3) Stage 3: Dimensional Review.
- (a) Upon receipt of an application for proposed construction within the Residential-Scale Business Overlay District, the City Manager or his or her designee shall review and determine dimensional compliance with these standards. This shall include identification of any proposed reconstruction of existing buildings that are dimensionally nonconforming. Variances that are identified shall be set forth in a report to Planning Commission. The notice and process of review shall be the same as required for other dimensional variances.
  - (b) Planning Commission shall weigh and consider the “Duncan” factors for each dimensional variance identified.
- (4) Stage 4: Design Review of Aesthetic Standards.
- (a) The ARO shall review and make recommendations to the Planning Commission and evaluate the proposal for reasonable compliance with the overall aesthetic guidelines.
  - (b) The standard of compliance is intended to be “reasonable” rather than “strict” to allow for design review that is flexible for both the applicant and city to achieve a product that is appropriate for the district.

- (c) The standard of compliance with the aesthetic guidelines should be the determination of Planning Commission stating that the proposed construction achieves a significant compatibility with the aesthetic guidelines set forth in the Residential-Scale Business Overlay District regulations.
- (d) The Planning Commission should find that the proposed construction avoids a direct conflict with the overall images, impressions and net impact of buildings and accessory structures including parking, landscaping, and lighting described in the Residential-Scale Business Overlay District regulations.
- (e) Planning Commission shall refrain from imposing additional aesthetic requirements if the proposed construction does substantially resemble the examples set forth in the Residential-Scale Business Overlay District regulations. Aesthetic guidelines are inherently subjective and, therefore, the Planning Commission shall endeavor to adhere to the guidelines as they are substantially expressed in these regulations.
- (f) It is recognized that it is unlikely and unreasonable to require a building to comply with all examples in the regulations because the regulations anticipate variation in final appearances from building to building.
- (g) The Planning Commission shall make findings that the application:
  - (i) Conforms in all pertinent respects to the requirements contained in the RSBOD Regulations;
  - (ii) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
  - (iii) The development has adequate public services and open spaces;
  - (iv) The development provides adequate lighting for safe and convenient use of the streets, walkways, driveways and parking areas without unnecessarily spilling or emitting light into adjacent properties; and
  - (v) The landscape plan will enhance the principal building and site and maintain existing trees where appropriate; buffer adjacent incompatible uses; break up large expanses of pavement with plant material; and provide appropriate plant materials for the buildings, site and climate.
- (h) The approval by Planning Commission shall not be construed to imply compliance with all other local, state and federal laws and regulations.

- (i) In order to receive Planning Commission approval a majority of Planning Commission members must vote affirmatively that the proposed construction complies with aesthetic guidelines of the district.
- (5) Submission Requirements. The following materials should be submitted with each application.
- (a) Initial Application. Applicants shall provide the following information and materials:
    - (i) A conceptual site plan at a minimum scale of one inch equals 50 feet showing the size and location of all existing and proposed structures, indicating dimensions and square footage. The site plan shall also show the location of access and drive aisles, and the number of parking spaces;
    - (ii) Photographs or illustrations showing all four elevations of existing and proposed buildings;
    - (iii) An itemized cost estimate for the new construction or alterations; and
    - (iv) An external finish building materials and colors list, with samples or examples of external finishes.
  - (b) Final Application.
    - (i) All applications for Planning Commission or administrative review for zoning approval or building permits shall include:
      - a. A survey by a registered engineer;
      - b. A site plan depicting the exact dimensions of the site and all buildings, structures and parking areas;
      - c. A landscaping plan showing the location and type of all proposed landscape areas, plantings and screening/buffering;
      - d. A signage plan showing the location, size and type of all signs, illustrations or elevations showing the proposed appearance of all signs;
      - e. A lighting plan showing the location, type, height and intensity and photometric of all lighting;

- f. Building plans showing general dimensions, materials and uses;
  - g. Exterior building elevations showing the proposed appearance of the building, including a proposed materials and color list and all exterior utility housings, junctions and other exterior duct work or conduits attached to a structure; and
  - h. Any other information deemed necessary by the City Manager or his or her designee. Architectural Review Officer or Planning Commission to determine compliance with the RSBOD Regulations.
- (ii) In the case of a project with an essentially minor certificate, the City Manager or his or her designee may waive any of the above submission requirements that he or she deems unnecessary for the comprehensive review of the proposed project.

#### § 150.74 DEFINITIONS

- (A) Purpose. For the purpose of the RSBOD Regulations, certain terms are defined as follows. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular; the word “structure” includes buildings; the word “shall” is always mandatory and not merely directive; the word “should” is directive; the word “may” is permissive; and the word “lot” includes plot, parcel or site.
- (B) Definitions. Included in Definitions in § 150.01.

#### § 150.75 PURPOSE AND USES

- (A) The primary purpose of this overlay district is to provide a residential-scale environment for business uses at the perimeter of the city’s central business district to transition from the Downtown District (B-1) to the adjacent residential areas.
- (B) The permitted and conditional uses will be subject to those applicable to the underlying Business District.

#### § 150.76 PERMITTED/CONDITIONAL USES

- (A) Business “B-3” District Uses.
- (1) Permitted Uses.

- (a) Offices for professional use such as accountants, attorneys, counseling, consulting, doctors, architects, dentists, engineers, opticians, real estate, insurance and manufacturers' representatives;
  - (b) Commercial uses such as retail, restaurants, bars, banks, media studios, and dry cleaners (where dry cleaning is not done on-site) and bakeries employing less than six bakers;
  - (c) Libraries, museums, theaters; and
  - (d) Daycares, preschools, nursery schools and childcare businesses.
  - (e) Products retailed and sold on the premises may be manufactured, finished or assembled on the premises provided that such products are of the type sold primarily to the general or consumer public at retail and in relatively small quantities for sale;
  - (f) Facilities for boarding only small animals that are not closer than 200 feet to any residence or business district; and
  - (g) No use that is obnoxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes, water-carried waste, noise or vibration in connection therewith.
- (2) Conditional Use. Outdoor dining pursuant to § 150.35.

### § 150.77 PURPOSE OF ARCHITECTURAL STANDARDS IN RSBOD

To promote the maintenance, repair and infill of buildings designed and constructed to support and enhance the eclectic residential character traditionally associated with the City Residential-Scale Business Overlay, through building scale and mass, entries, fenestration, exterior materials and architectural details.

### § 150.78 BUILDING SCALE AND MASSING

- (A) Purpose. To promote the design and construction of buildings that support the transition from the most intense development in the Downtown District (B-1) to the adjacent residential areas. These standards will support this purpose through building scale and mass, entries roof forms, and articulation, materials and architectural details which are compatible with a residential-scale and character. Additionally, these regulations will help guide development and redevelopment when adjacent to residential areas.
- (B) Size and Scale. Buildings in this area should be no larger than 5,000 square feet in size. Buildings in this area shall have a consistent residential scale and theme that should be carried throughout the design of the building.

- (C) Building Height. Buildings shall not be taller than 45 feet in height. Mid-point of gable not to exceed 35 feet.
- (D) Horizontal Articulation.
- (1) Most of the existing residential structures are less than 35 feet in width and located on smaller narrow lots. The buildings are oriented with the narrow facade parallel to the street. This pattern shall be maintained.
  - (2) When the facade paralleling the street is wider than 30 feet, the facade should be horizontally broken up with recess or setback variations, architectural detailing, variation in roof height, application of compatible building materials or application of a porch or dormers.



**Figure 21: Example of a larger building along Laurel Avenue with appropriate articulation. A regular fenestration pattern which reflects the patterns evident in the existing residential structures can also add horizontal articulation to a building**



**Figure 22: This newer structure incorporates the regular window placement pattern of a traditional colonial style architecture. This regular pattern is consistent with the residential character of this area.**

(E) Vertical Articulation.

- (1) Changes in vertical mass shall be used in an architecturally appropriate way to add interest and reduce the appearance of building height and bulk.
- (2) Buildings shall have a clearly defined base or foundation, and roof edges so that the facade has a distinct base, middle and top at a scale that relates to the individual person and maintains the residential character of the district. The use of a combination of the following architectural elements is encouraged to produce vertical articulation.
  - (a) The base of a building should include a strong foundation material, entry areas, stoops, porches and stairs or ramps.
  - (b) The middle of a building's facade should include windows, doors, primary building material, pillars, columns, alcoves, balconies and window boxes, awnings.
  - (c) The top of a building's facade should include cornice lines, trim, soldier courses, overhanging eaves, gables, cupolas, dormers, brackets, corbels, fenestration and other roof line and gable appropriate elements.

### § 150.79 ROOF FORMS

- (A) Pitched roof forms promote the residential character desired and shall be the preferred roof form for new buildings or portions thereof.
- (B) Appropriate pitched roof forms for structures in this district include:
  - (1) Gables (front or side);
  - (2) Gabled with gabled or shed dormers;
  - (3) Compound gabled or double gabled;
  - (4) Hipped; or
  - (5) Combinations of any of these forms.
- (C) Gambrel, mansard and flat roofs shall be prohibited.
- (D) Full shed roofs on the primary structure are prohibited; however, a shed roof may be used in limited application for dormers, portions of roofs or rear portions of roofs. Shed roof forms may also be employed on accessory buildings under 500 square feet.

### § 150.80 ENTRIES



- (A) Residential Character. The residential character of the building in this district is supported by the reuse and adaptation of residential buildings to accommodate business uses. Much of the residential character is found in the front facades and entries of the buildings.
- (B) Standards. The following standards are intended to maintain a residential character to the entrances and front facades.
- (1) Front or primary facades of buildings shall be designed to have a residential appearance.
  - (2) Entrances in existing residential structures converted to business uses should not be altered, enclosed or moved to maintain a residential appearance from the street.
  - (3) Existing front facades, doors and their surrounds should be repaired and retained, if possible. If an old door or entrance feature has deteriorated beyond repair, the replacement should be substantially similar to the original.
  - (4) The front entrance normally is the focal point of the facade, and should be emphasized through the use or maintenance of covered stoops or porches.
  - (5) For business uses, side or secondary entrances may be indicated as the primary customer entrance through signage, architectural treatment, lighting and proximity to parking.
  - (6) Use of fully glazed, metal framed doors as entrances is prohibited.
- (C) Infill/New Buildings. New buildings constructed in the District should consider the traditional components of residential architecture in the design of the front facade and entrances.
- (D) Conversion. When converting a residential structure to a business use the appearance of existing residential facade and entries shall be maintained on the primary facade. Entries on the side or rear of the structure may be established as the primary entrance from the parking lot.

### § 150.81 FENESTRATION (WINDOWS AND DOORS)

- (A) The placement, size and type of windows help define a building's facade and character.
- (B) With the purpose to maintain a residential character the following standards should apply.
- (1) Scale and Proportion.
    - (a) Windows shall not be installed to run from finished floor on the front facade. An 18 inch kneewall constructed of brick, stone, wood or fiber cement siding shall stand between the sill of the window and finished floor.

- (b) Windows should be proportional to the overall facade of the building. A window's proportions should generally be vertical with the height being approximately two times the width of the window; however, bay windows or picture windows may be larger and have more of a horizontal proportion to create variation.
  - (c) Divided-light windows are preferred.
  - (d) The scale and design of the window shall support and be compatible with the architectural style of the structure.
  - (e) Horizontally proportioned windows are encouraged to be divided into vertically proportioned components either through multi-part windows or other divided lights.
- (2) Patterns And Rhythms. Generally, window openings or groups of windows within a row of windows should be equidistant from one to another to create a regular pattern.
- (a) Windows may be installed in any pattern depending on the architectural layout of the facade.
  - (b) Upper story windows should reinforce or support the window pattern on the first floor. When two full rows of windows are used on a facade the hypothetical rectangle that encompasses all first story windows and doors must be the same width as that of a rectangle that encompasses all second story windows.
  - (c) All windows within a row shall be aligned at a consistent top line. Variation may be employed for bay windows or other variations that add a focal point to the facade.
- (3) Glazing.
- (a) Windows and glazing shall not exceed 35% of the total area of the facade. Fully glazed or glass facades shall be prohibited on front facades of buildings.
  - (b) Fully opaque glazing or mirrored glazing is prohibited on front facades.
  - (c) Stained, frosted or textured glass may be used in front facades for decoration or privacy.

## § 150.82 EXTERIOR FINISH MATERIALS AND COLORS

- (A) Purpose. Exterior finish materials and colors set the character of an individual building and when applied throughout a district can lend cohesiveness and a specific feel to the area.

These standards are intended to achieve unity of design through compatible materials and colors. The purpose of the following standards is to promote high quality, sustainable materials that will contribute to a consistent character while allowing for variation. Buildings shall be finished with high-quality, low maintenance, durable, sustainable and attractive natural or manufactured materials. Material requirements may vary on the primary facades or facades parallel to public right-of-ways and the secondary or screened facades.

(B) Materials.

- (1) Purpose. Material requirements may vary from the primary or visible facades to the secondary or screened facades. Other new materials meeting the purpose of these standards may be approved by the Planning Commission or Architectural Review Officer on a case-by-case basis as a primary or accent building material. Permitted and prohibited materials for the primary and secondary facade are listed in Table 150-12.
- (2) Permitted Primary Materials.
  - (a) The primary material must make up at least 50% of the exterior covering on the primary facades of a building.
  - (b) The total area covered by permitted primary materials shall be calculated from the area of the visible plane measuring the area from grade to upper building limits, exclusive of the area occupied by visible roof surfaces.
- (3) Accents and Detailing.
  - (a) Accent materials and colors shall be applied as appropriate to the facade surface.
  - (b) Detailing, trim, windows, doors and glazing may constitute the remaining area of the facade not occupied by the primary or accent material.
  - (c) All accents and details shall be permitted and prohibited as defined in Table 150-12.

Table 150-12		
Permitted and Prohibited Materials		
Materials	Primary Façade	Secondary Facade
Aluminum siding	X	X
Asphalt or fiberglass shingles	R	R
Brick applique	X	X
Brick/brick veneers	P, A, T	P, A, T
Cast or wrought metal	A, T	A, T
Cast stone	P, A, T	P, A, T
Concrete Masonry Unit	X	X
Cut or rusticated stone	P, A, T	P, A, T
EIFS	X	X
Fiber cement (clapboard, shingles, scallops, trims, stones or bricks)	P, A, T	P, A, T
Glazed brick or glass tiles	A, T	A, T
Metal trims or flashings (aluminum, steel, copper, brass, iron)	A, T	A, T
Natural stone	P, A, T	P, A, T
PVC (poly vinyl carbonate)	A, T	A, T
Reflective materials (mirrored glass, chrome)	X	X
Slate (real or faux)	R	R
Standing seam metal (aluminum, copper steel)	R	R
Stucco (traditionally applied)	P, A	P, A
Terra-cotta	A, T, R	A, T, R
Vinyl siding	X	X
Wood (clapboard, shingles, scallops, trims)	P, A, T	P, A, T
Notes: P = Permitted material A = Accent material T = Trim material R = Visible roofing X = Prohibited		

- (4) Conditional or new materials. Modern manufactured materials that create the appearance of permitted materials such as fiber cement products, architectural panels or cast stone may be considered appropriate. Other materials not listed as prohibited may be considered by the Planning Commission on a case-by-case basis as a primary or accent building material.
- (5) Prohibited materials. Exterior covering materials that are prohibited include vinyl, aluminum or steel siding, corrugated steel and highly reflective materials such as mirrored glass or chrome, or fully glazed facades.

(C) Colors.

- (1) Permitted. The preferred base colors used on new or rehabilitated buildings should be the natural color of the material in the case of brick or stone. In the case of painted or other synthetic materials of a neutral muted palette, deep saturated hues or muted pastels and whites should be used. Brighter more vivid colors should be reserved for accents.

- (2) Prohibited. No fluorescent, neon, day-glow or reflective colors shall be used.
- (D) Combinations of Materials And Colors. Each building facade shall be limited to one primary material. Accent materials; additional materials may be used for trims based on the material most appropriate for the trim's location and purpose. When surfaces are painted, colored or otherwise do not correspond to the material, each building facade shall be limited to a combination of no more than four coordinated or complementary color schemes.
- (E) Transitions of Materials.
- (1) Transition from one material to another on the same facade shall be completed either with appropriate trim or as an accent with variations such as quoining or reveals based on material thickness.
- (2) Transition in materials from one facade to another shall be made at an inside corner or extended a minimum of five feet onto the secondary facade.
- (F) Siding Repairs or Replacement.
- (1) Repairs or replacement to exterior building materials or siding should be completed with comparable materials to those being replaced. Replacement materials shall follow the permitted material and color standards.
- (2) The following standards shall apply when considering siding replacement on an existing structure.
- (a) New or replacement siding shall not be applied over damaged or rotten materials. All deteriorated materials must first be repaired or replaced with similar materials.
- (b) New or replacement siding shall match the existing materials in size, profile, scale, finish and articulation.
- (3) New siding shall not cause irreversible damage or obscure the architectural features, trim or detail of the building.

### § 150.83 AWNINGS OR FABRIC CANOPIES

Awnings or fabric canopies are prohibited. All overhangs should be constructed of durable roofing materials with adequate architectural supports.

### § 150.84 MECHANICAL EQUIPMENT

- (A) Rooftop Equipment. Rooftop equipment is prohibited subject to applicable Federal Communications Commission (FCC) regulations.

(B) Ground Mounted Equipment and Service Structures.

- (1) All service structures shall be screened from public view or adjacent residential areas. For the purposes of this section, services structures shall include but not be limited to propane tanks, dumpsters. HVAC equipment, electrical transformers, utility vaults extending above grade and other equipment or elements providing service to a building or a site. Structures may be grouped together; however, screening height shall be based upon the tallest of the structures.
- (2) Screening shall consist of the following:
  - (a) A continuous planting, hedge, fence, wall or earthen mound shall be built to enclose any service structure on all sides unless such structure must be frequently moved or accessed, in which case screening on all but one side is required;
  - (b) Dumpsters shall be screened by a wood, brick or stone wall and have wood doors; and
  - (c) The ARO may recommend and the Planning Commission may approve other types of screening materials on a case-by-case basis.
- (3) Utility Housing.
  - (a) Utility housings shall be installed on the side or rear of structures whenever possible.
  - (b) All utility housings, junctions and other exterior duct work or conduits attached to a structure shall be painted or permanently colored to match the basic building material color on which it is located to reduce the impact of its appearance unless it can successfully be integrated with other trim or detailing in a manner that enhances the architectural style of the structure.

### **§ 150.85 PURPOSE OF SITE STANDARDS IN RSBOD**

This District should serve as a transition from the more intense land uses of the Downtown District (B-1) to the less intense land uses of the surrounding residential neighborhoods. Although more buildings are used for business purposes than for residential purposes, the residential character of the District should be maintained and a pedestrian friendly walkable environment should be encouraged. The following site standards will provide guidance for the lot dimensions, layout and placement of site features in a manner consistent with this purpose.

### **§ 150.86 MINIMUM LOT SIZE**

The minimum lot size shall be regulated by the underlying zoning district regulations.

### § 150.87 SETBACKS

- (A) Purpose. Most of the existing structures are setback from the sidewalk and street at least ten feet with most being set considerably further back allowing for medium to large front yards which emphasizes the history of this area as a residential area. As the intent is to maintain an urban form compatible with residential development while allowing for business uses the purpose of the setbacks is to maintain front yards, and clear separations between buildings.
- (B) Setbacks. Setbacks are established to provide adequate access to various parts of individual properties, to provide adequate space for ingress and egress, and to maintain a residential character within the District.

	Front Yard	Side Yard	Rear Yard
Building	Minimum of 5 ft. from sidewalk edge	5 ft. from any side lot line	5 ft. from rear lot line 10 ft. from a single-family residential zone
Parking	Minimum 5 ft. from sidewalk	5 ft. from any side lot line	5 ft. from any rear lot line

### § 150.88 PARKING

- (A) Purpose. Parking for business on adapted residential lots can be a challenge. Surface parking shall be designed in a way to reduce its visual impact, improve accessibility and accommodate parking for local businesses without excessive impact on adjacent residential areas.
- (B) Location.
- (1) Parking should be located to the side or rear of buildings when it can be effectively screened from adjacent residential uses through the use of walls, fences and/or landscaping.
  - (2) If a site is too narrow or shallow to effectively provide parking to the side of the building, the required parking spaces can be provided between the street and the building, but the visual impact shall be softened through the use of landscaping. See Table 150-14 for buffer yard type.
- (C) Parking Standards.
- (1) Minimum number of required parking spaces by use shall be as established under this chapter.

- (2) Minimum size for a standard perpendicular parking stall shall be 162 square feet with a width of nine feet and a length of 18 feet.
  - (3) Designated drive aisles shall be 12 feet in width for one-way directional traffic and a minimum of 24 feet for two-way directional traffic.
  - (4) All parking spaces shall be clearly marked with white pavement markings and markings shall be maintained.
  - (5) All paved parking areas shall be bordered by a minimum of a four inch curb, or wheel stops.
- (D) Shared Parking Provision. Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. A portion of the required parking spaces per this chapter may be located on an adjacent or nearby property in the district if the parking area complies with the following standards.
- (1) Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility.
  - (2) Public, shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the Planning Commission as part of site plan approval.
  - (3) Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
  - (4) In the event that a shared or off-site parking area is not under the same ownership as the principal use served, a written parking agreement shall be submitted to the city in a recordable format and recorded with the county within 30 days of approval.
  - (5) No shared or off-site parking space shall be located more than 600 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of way provided it uses a legal crosswalk. This distance may be waived by the Planning Commission.
  - (6) The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if:
    - (a) A sufficient number of spaces is provided to meet the highest demand of the participating uses;
    - (b) Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the City Manager or his or her designee and development, documenting the nature of uses and the times when the



individual uses will operate so as to demonstrate the lack of potential conflict between them;

- (c) Shared or off-site parking shall not account for more than 75% of the required parking spaces as established under this chapter;
- (d) The Planning Commission shall review and approve all shared or off-site parking facility plans, and may place such conditions upon such plans as it deems necessary to ensure that adequate off-street parking spaces will be provided for all involved uses. Any violations of these conditions will nullify the approved shared parking facilities plan and shall be deemed a violation of the RSBOD Regulations; and
- (e) Any change in use of the activities served by a shared or off-site parking facility will be deemed an amendment to the shared or off-site parking facility plan and will require Planning Commission review and approval.

### § 150.89 VEHICULAR ACCESS

- (A) Twelve feet of width for vehicular access shall be permitted for each 40 feet of lot frontage on Laurel Avenue or Camargo Roads.
- (B) One vehicular access point shall be permitted on each lot of record regardless of total width.
- (C) No drive aisle or curb cut access point shall exceed 24 feet in width plus appropriate flairs. The frontage of a lot shall not be entirely paved and shall employ raised curbs to prevent vehicles from turning in at various points.
- (D) No more than two access points or curb cuts shall be permitted for any individual property.
- (E) When possible, access to parking or loading areas is encouraged to be provided via Railroad Avenue. Access from the alley-like Railroad Avenue can improve circulation and reduce the impact of curb cuts on pedestrian movement along public sidewalks on Laurel Avenue.

### § 150.90 LANDSCAPING AND BUFFERING

- (A) Purpose. Landscaping and buffering soften the appearance of urban environments, allow for pervious surfaces in a densely developed area, assist in stormwater runoff and reduce temperatures through microclimates. The purpose of these standards is to promote landscaping and buffering that is compatible with the character of the district and buffers residential uses from the more intense site activity on commercial properties.
- (B) Streetscaping. A minimum of a six-foot wide sidewalk area shall be provided between the curb and the private property line. When possible this area should include a two-foot wide

planting strip, and a four-foot wide paved sidewalk. In locations where this does not already exist, it should be installed.

(C) Front yard.

- (1) All unpaved areas between the building and the front property line shall be stabilized and maintained with lawn, vegetative groundcover or planting beds.
- (2) The use of hardy ornamental grasses, perennials, shrubs and trees is encouraged.
- (3) Fences and walls, including retaining or other walls, constructed in front yards shall be no more than three feet in height.

(D) Side and Rear Yard Buffering When Adjacent to Residential Use.

- (1) Requirements. Landscaping, buffering and screening shall be provided in side and rear yards in accordance with the following chart and buffer yard types.

When the site condition to be buffered is:	When the adjacent use is:				
	<i>Residential Rear Yard</i>	<i>Residential Side Yard</i>	<i>Business no parking, utilities or service entrance</i>	<i>Business parking, utilities or service entrances</i>	<i>Public Right-of-Way / Sidewalk or Road</i>
Front yard parking	D	D	D	D	D
Rear yard no parking, utilities or service entrances	B or C	B or C	B	None	None
Rear yard parking, utilities or service entrances	A	A	None	None	B
Side yard no parking	B, C	B, C	None	None	None
Side yard parking utilities or service entrances	A	A	B or C	B or C	B or D

- (2) Types. See Table 150-14 for buffer yard requirements.
  - (a) Buffer A (maximum screening).
    - (i) A buffer yard less than five feet in width.
    - (ii) A fully opaque structural element from grade to six feet in height. The opaque screening element may be a wooden privacy fence, brick or stone wall.
  - (b) Buffer B (moderate screening).
    - (i) A buffer yard a minimum of five feet in width.

- (ii) A 70% opaque element between grade and four feet. The screening element may be a wooden fence, or brick or stone wall, earthen berm or evergreen shrubs.
    - (iii) Shade or ornamental trees spaced 20 feet on center.
  - (c) Buffer C (moderate buffer).
    - (i) A buffer yard a minimum of five feet in width.
    - (ii) A 30% opaque elements between grade and four feet. Element may include ornamental trees, evergreens, shrubs, ornamental perennials or grasses, picket or split rail fences, wrought iron fences or combination knee walls and decorative metal work.
    - (iii) Shade or ornamental deciduous trees planted in groupings no more than 20 feet on center.
  - (d) Buffer D (ROW parking screening).
    - (i) A buffer yard a minimum of five feet in width.
    - (ii) A 100% opaque element between grade and three feet. The element may include any combination of a dense evergreen shrub, a decorative wall, permanently installed planting boxes or a wooden fence or brick or stone wall.
- (E) Landscaping Materials and Maintenance. The proposed landscape materials should complement the existing trees on site or on adjacent sites if none exist on site, as well as the development's general design and architecture. These regulations apply to all landscaping and landscaping materials installed as part of the requirements of these standards.
  - (1) Types. Plant types shall be reviewed by the ARO and approved by Planning Commission.
  - (2) Plants. Plant materials used in conformance with provision of the RSBOD Regulations shall conform to the current standards of the American Association of Nurserymen and shall have passed any inspections required under state regulations. Artificial plants are prohibited. All plant materials shall be living and shall meet the following requirements.
    - (a) Deciduous Trees.
      - (i) Trees which normally shed their leaves in the fall shall have a minimum caliper of two inches, and five feet tall at installation,

measured at finished grade, and be species of small, medium or large maturity size in areas where there is not a visibility concern.

- (ii) In areas with visibility concerns, the trees shall be species of medium to large maturity size, which can eventually maintain five feet of branch free trunk with a minimum two inch caliper.
  - (iii) Trees of species with roots that are known to cause damage to public roadways or other public works shall not be planted closer than 15 feet to such public works.
  - (iv) Prohibited trees shall include any species prohibited by the city.
- (b) Evergreen Trees. Evergreen trees shall be a minimum of five feet high at the time of planting, measured from the top mass of the tree (not the tallest leader).
- (3) Maintenance and Installation.
- (a) All landscaping materials shall be installed in a sound, workmanship-like manner and according to accepted, good construction and planting procedures. The owner of the property shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris and weeds at all times. All unhealthy or dead plant material shall be replaced within one year or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three months of notice from city.
  - (b) No required plantings shall be removed by the property owner or agent of the owner unless the planting materials are found to be hazardous, unhealthy or dead by the city or its agents. If any healthy, mature or established plantings as required by the RSBOD Regulations are removed at the discretion of the owner or his or her agent they shall be replaced by the owner with a similar sized planting to those that were removed to maintain a consistent and mature appearance of plantings in that area.
  - (c) Hardwood mulch is permitted, but no stone, sand or rubber is permitted.
- (4) Preservation of Existing Landscape Materials. Existing landscape material to remain shall be shown on the required landscape plan. Any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the city's approval authority, such materials meet the requirements and achieve the objectives of the RSBOD Regulations.

(F) Fencing And Walls.

- (1) Fences and walls can be used in conjunction with plant material to provide visual breaks between properties, buffer various uses and enhance the character of a development.
- (2) These standards apply to all fences and walls installed to meet the requirements of the RSBOD Regulations.
  - (a) Types.
    - (i) Fencing shall not interfere with sight visibility for vehicles and pedestrians.
    - (ii) Privacy fencing or walls (100% opacity from grade to six feet) may be used as a screen between abutting commercial/industrial sites.
    - (iii) Decorative or privacy fencing may be used as a screen between commercial/ industrial sites and abutting residential sites.
    - (iv) Fences running parallel to a right-of-way in commercial areas shall be 40% or more transparent such as wrought iron or picket or post and rail type fencing or less than 40 inches in height.
  - (b) Permitted Materials.
    - (i) Walls shall be constructed of brick, stone or segmented modular block wall systems to match or coordinate with the building materials on the primary building.
    - (ii) Fencing shall be made from natural materials. Wood fences shall be natural or have a transparent color stain finish. The finished side of the fence shall face the adjacent property or residential area. Post and rail or other partially transparent fencing may be used in conjunction with vegetative landscaping to create definition to the site. Poly vinyl chloride (PVC) and plastic fencing material must be approved by the ARO.

## § 150.91 LIGHTING

- (A) Purpose. The purpose of the lighting standards is to coordinate and unify the overall lighting appearance of nonresidential developments with regard to aesthetic and technical aspects. Site lighting components should be visually interesting and serve not only to illuminate the parking and drive areas, but also to enhance the aesthetic appearance of the site. Fixtures shall be of a design complimentary to the intent of the Downtown District (B-1) standards. (See Chapter 150, § 150.41, *et seq.*)

- (B) Applicability. All developments with ten or more parking spaces are required to provide exterior lighting for all exterior doorways, pedestrian pathways and vehicular use areas. All developments with less than ten parking spaces shall provide exterior lighting at all exterior doorways. Photometrics shall be submitted for all exterior lighting.
- (C) Illumination.
- (1) A minimum illumination of 0.5 footcandles shall be maintained when measured at grade in all vehicular use areas and pedestrian pathways. Actual site measurement compliance shall not drop below this minimum.
  - (2) The footcandle intensity in vehicular use areas should be between 2.0 and 2.5 footcandles with an average-to-minimum light intensity ratio of not more than six to one and a maximum-to- minimum light intensity ratio of not more than 20 to one.
  - (3) An illumination of zero footcandles shall be maintained at the property line of adjacent residential properties.
- (D) Maximum Height. Pole mounted lighting fixtures shall not exceed 20 feet above grade measured at the base of the pole/fixture (including any pole base) to the top of the pole/fixture. Building mounted fixtures shall not be more than 20 feet above average grade as measured vertically on the facade directly below the fixture location.
- (E) Fixture Types.
- (1) All mounted fixtures should be full cut-off style and the use of wall packs should be minimized.
  - (2) Light fixtures and poles should be compatible with the architecture and scale of the building. The lighting style of adjacent may be considered by the city on a case-by-case basis.
  - (3) Luminaries shall be either all high-pressure sodium or all metal halide. The design shall be refractive or opaque.
  - (4) No colored or flashing lights shall be used to illuminate the exterior of buildings.
  - (5) Lighted bollards may be used to illuminate pedestrian paths.

- (6) Street lights required in the right-of-way to extend streetscape improvements, as part of new development or redevelopment, shall exactly match the post and luminaries (materials and color) in the existing Miami Avenue streetscape. (Refer to Figure 23.)



Figure 23: Acorn type pole mounted fixture preferred in District

- (7) Neon lighting is prohibited.

## MISCELLANEOUS

### § 150.92 SPECIFICATIONS FOR SEWERS, STREETS AND SIDEWALKS

- (A) The contractor shall give two weeks' advance notice of the expected start of construction, but this requirement may be waived by application in writing to the City Manager.
- (B) **Specifications.**
- (1) The construction specifications of the County Engineering Department shall be and are adopted by reference, and shall apply on all construction and materials of sewers.
  - (2) On all sidewalk and street construction, the construction and materials shall comply with specifications and plats submitted by the developer and approved by the Planning Commission.
  - (3) The Planning Commission shall in all future developments require the preliminary plat to specify the materials and type of construction of all streets and sidewalks.
  - (4) Upon approval of the construction, plats and specifications for sewers, streets and sidewalks, the contractor will then obtain from the City Manager the necessary permits to proceed with the work.

### § 150.93 CLUB POOLS

- (A) **Parking Area.** No person shall hereafter construct, install or erect or attempt to construct, install or erect on any parcel of real property within the city any club pool., without providing on the same parcel or on contiguous parcels under the same ownership as the pool, paved parking accommodations having an aggregate area, exclusive of areas necessary for reasonable ingress and egress, at least six times greater than the area of the surface of the water contained in the pool when full.
- (B) **Fence.** No person shall hereafter construct, install, erect, maintain, use or permit the use of, or permit the continued existence of any club pool within the city unless the pool is surrounded by a fence that is at least seven feet in height above grade and consists of a chain link barrier with three strands of barbed wire on top and that is located in reasonably close proximity to the pool, unless the required parking accommodations are maintained, and unless the water in the pool is periodically inspected in accordance with the regulations of the County Board of Health.
- (C) **Hours of Operation and Conduct.** No person shall hereafter use any club pool within the city or carry on activity within the fence required this section at any time from 10:00 p.m. to 6:00 a.m. No person shall, within the area of any club pool fence within the city, conduct himself or herself in an unduly loud manner to the disturbance of the peace and quiet of the neighborhood. No adult person having the right to use any club pool within



the city shall permit any floodlights at the pool to be burning during the period the club pool is not to be in use, except as may be required by any emergency.

#### § 150.94 DISH-TYPE SATELLITE AND RECEIVING STATIONS

- (A) Dish-type satellite signal and receiving stations (hereafter “stations”), subject to the following regulations, may be located within the city.
- (B) Stations shall not be linked to receivers which are not located on the same premises as the station.
- (C) Stations shall be located in the rear yard, as defined in this Zoning Code, and behind the principal dwelling or structure located on the lot, shall be located so that however turned or otherwise used, all parts of the station will be set back at least six feet from the projected house side lines, and shall be set back from the rear lot line no less than 15 feet.
  - (1) The height of the station, should the dish antenna be turned perpendicular to the ground, shall not extend more than 15 feet above normal ground level, and the maximum diameter of any dish antenna shall not exceed 12 feet.(D) No installation or erection of a station shall commence before a permit is obtained in accordance with this Zoning Code.

#### § 150.95 CELLULAR OR WIRELESS COMMUNICATION SYSTEMS

- (A) Purpose. It is the purpose of this section to:
  - (1) Accommodate the need for cellular or wireless communications towers and facilities for the provision of personal wireless services while regulating their location and number in the city;
  - (2) Minimize adverse visual effects of communications towers and support structures through proper siting, design and screening;
  - (3) Avoid potential damage to adjacent properties from communications towers and support structure failure; and
  - (4) Encourage the joint use of any new and existing communications towers and support structures to reduce the number of such structures needed in the future.
- (B) Application Procedure.
  - (1) (a) Any person or company intending to apply for the placement or operation of a cellular or wireless communications antenna, tower, or site within the city shall first schedule a pre-application conference with the City Manager or his or her assignee. At this conference, the prospective applicant must present in writing to the City Manager the number of towers needed by the

prospective applicant in the city and identify the area in which each tower is intended to be located. The prospective applicant shall certify that this information is based on its engineering studies, and that to the best of the applicant's knowledge, no additional towers or locations shall be needed within the city. The applicant shall provide to the City Manager a map identifying all sites within the city which would satisfy its needs and which would meet these zoning requirements without a variance. This information should identify the area within which each tower may be located, the minimum height of the proposed towers and identify any possible users that may co-locate at any of the sites.

- (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods, discuss possibilities of co-location, identify alternative suitable sites that may minimize the negative impact on residential areas.
  - (2) Upon completion of the pre-application conference, an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this section and in such form as approved by the City Manager. If the application does not conform with the requirements of this section, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this section.
  - (3) The application fee for a cellular or wireless communication system, tower, antenna or site shall be \$500 for each proposed location and \$200 for each new user proposing to co-locate. In addition, each applicant shall pay, prior to the issuance in obtaining independent expert consultation that the city determines is necessary to review the application and advise the city, and to conduct such post-construction test of signal emissions as is determined appropriate by the consultant, not to exceed \$1,500.
- (C) Use Regulations. The following use regulations shall apply to cellular or wireless communication antennas and towers:
- (1) A cellular or wireless communications site may only be permitted in manufacturing zoning districts subject to the requirements set forth herein;
  - (2) Cellular or wireless communications sites in a manufacturing zoning district shall not be located any closer to any residential zoning district than as follows:
    - (a) Cellular or wireless communication towers less than 100 feet in height shall be located no closer than 100 feet to any residential zoning district; and
    - (b) For any cellular or wireless communication tower exceeding 100 feet in height, the tower may not be located closer to any residential zoning district

than a distance equal to 100 feet plus one foot for each foot of height that the tower exceeds 100 feet.

- (3) A cellular or wireless communications antenna may be mounted to an existing structure, such as a communications tower (whether the tower is for cellular or wireless purposes or not), smoke stack, water tower or other tall structures in any manufacturing zoning district. Cellular or wireless communication antennas may only be placed on the top of buildings that are no less than 35 feet in height;
- (4) Micro antennas not exceeding five feet in height may be placed on any building in a business or manufacturing zoning district. A micro antenna may be attached to any existing building located in an area described in the preceding sentence, and shall not be subject to the setback requirements of other cellular or wireless communication towers provided it is placed on the roof of an existing building;
- (5) All other uses accessory to the cellular or wireless communications antenna and towers, including but not limited to business offices, maintenance depots and materials and vehicle storage are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located; and
- (6) Annually, each owner of a cellular or wireless communication tower or antenna shall file with the city, not later than June 1 of each year, a study or studies demonstrating that the operation of its antenna and all antennas located on its tower are within current standards for effective radiated power and standards for radiation exposure established by the Federal Communications Commission (FCC). The FCC standards shall be the standards in effect on the first day of May immediately preceding the June 1 around deadline for filing.
  - (a) Each study shall provide a minimum of ten measurements, each taken on different dates, during peak operating conditions. All such measurements shall be taken within 120 days of the due date for filing the study. Such studies shall include documentation sufficient to demonstrate that the tests were conducted at peak operating conditions. However, if the city is advised by its engineering consultant that the determination that the antennas are operating within the above standards can be achieved with fewer measurements or less costly methods, the City Manager shall so advise the antenna owners and accept the alternative studies. This includes consideration by the engineering consultant as to whether the FCC reporting requirements may provide the necessary information to evaluate, with reasonable certainty, actual radiated power of the antennas.
  - (b) Such studies shall be accompanied by a single filing fee of \$200. Two or more providers located on the same tower may submit joint studies along with a single application fee.

- (c) If all antennas on a tower have been in operation less than six calendar months as of June 1, then the due date for such filing shall be the next annual filing date. If any antenna on a tower has been in operation six months or more as of June 1, then the owner of the tower and the owner of all antennas in operation six months or more shall file the required studies.
- (D) Standards of Approval For Cellular or Wireless Communications Antennas and Towers. The following standards shall apply to all cellular or wireless communications antennas and towers.
- (1) The cellular or wireless communications company shall demonstrate, using the latest technological evidence, that the antenna or tower must be placed in a proposed location in order to serve its necessary function in the company's grid system. Part of this demonstration shall include a drawing showing the boundaries of the area around the proposed location which would probably also permit the antennas to function properly in the company's grid system. This area shall be considered the allowable zone.
- (a) The applicant shall provide to the city all engineering studies which the applicant has completed or intends to complete to establish the necessity of placing an antenna within the city in general and within allowable zone, in particular.
- (b) The applicant shall provide a map of all current locations of wireless communication antenna sites and all future proposed wireless communication antenna sites which will provide service under a license issued by the FCC to users in the city. This map shall include:
- (i) The location of all existing wireless communication antennas and towers that provide service to users located in the city;
- (ii) The identification of each parcel of real estate within the manufacturing district that is also within the allowable zone of the applicant and is of sufficient size to comply with the setbacks and other requirements of this zoning regulation;
- (iii) The geographic areas which are served by each tower location that provides service to users within the city; and
- (iv) The geographic areas into which the provider must install an antenna or tower in order to provide service to users within the city.
- (2) (a) If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within the allowable zone, asked for permission to

install the cellular communications antenna on those structures and was denied for either non-economic reasons or that a clearly unreasonable economic demand was made by the owner, based on prevailing market values. Tall structures shall include but not be limited to smoke stacks, water towers and buildings over 35 feet in height, antenna support structures of other cellular or wireless communication companies or other communication towers.

- (b) The city may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.
- (3) The applicant shall provide the city with its plan of operation of the antenna structure, including a description of the nature of the expected and intended usages including:
- (a) The radio wave frequency range of the expected or intended usage;
  - (b) The effective radiated power under peak operation conditions of each antenna on the proposed tower; and
  - (c) The types of services that the applicant expects or intends to provide to customers of the applicant through the signals received and transmitted by the antenna.
- (4) The applicant shall provide engineering calculations demonstrating anticipated levels of effective radiated power and shall provide a study which demonstrates the mapping of actual radiation levels actually produced by all antennas on a tower under maximum operating conditions at ground level within 800 feet of the tower. The readings shall be taken at 45-degree intervals around the tower of every 100 feet from the tower (plus or minus ten feet). Upon written request of any applicant, the City Manager, in his or her discretion, can waive the requirement for measurements at particular intervals or distances from the tower or he or she may require any person will be exposed at the locations specified in this provision or that the applicant has no authority to enter upon the land needed for the measurements, or that the city's engineering consultant has advised that specific locations or other tests are not necessary to determine to the consultant's satisfaction the effective radiated power of the facility. The City Manager's decision shall be stated in writing with written justification for the decision.
- (E) Standards of Approval of All Cellular or Wireless Communications Antennas and Towers. For cellular or wireless communications antenna to be placed on an existing structure, with no new tower to be erected, the applicant needs to submit to the City Manager only such information as required to ensure compliance with the applicable provisions of this section. Such requirements for an application which is only for an antenna are identified by an

asterisk (\*) in this division (F). All other regulations set forth in this section shall be applicable unless clearly limited to towers only.

- (1) Antenna/Tower Height.\* The applicant shall demonstrate that the antenna/tower is no higher than necessary to function satisfactorily and to accommodate the co-location requirements as set out in division (F)(6) below. An antenna that is taller than the minimum necessary height may be approved if it would significantly increase the potential for co-location. Cellular or wireless communication towers shall be exempt from the maximum height requirements contained in § 150.13. Cellular towers shall be monopole construction unless it is demonstrated that another type of tower is required for safety purposes, or that the aesthetics of the tower would be significantly improved.
- (2) Setbacks From the Base of the Tower. If a new cellular or wireless communications tower is to be constructed in a manufacturing zoning district, the minimum distance between the base of the tower or any guy wire anchors and any property line which abuts a zoning district other than a residential district shall be no closer than the greater of the following:
  - (a) Forty percent of the tower height; and
  - (b) Fifty feet.
- (3) Cellular or Wireless Communications Tower Safety.\*
  - (a) All cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufacturers. Furthermore, the applicant shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris, electromagnetic fields or radio frequency interference. However, if a specific safety issue in question is determined to be regulated by either FCC regulations or applicable Building Code regulations, and the operation or construction is in compliance with such regulations, then this requirement for safety shall be deemed to have been met.
  - (b) Subsequent to the installation of a cellular or wireless communications tower site, if it is determined by the City Council, upon presentation of proper and sufficient documentation, and after a public hearing, that the operation of a cellular or wireless communications tower is inherently dangerous or is a demonstrable health hazard, the cellular or wireless tower shall be declared to be a nuisance and all operation shall cease. The tower or antenna shall also be removed as provided under division (H) below. However, no order of removal shall be made if it is inconsistent with existing FCC regulations.

- (4) Fencing. \* A fence shall be required around the cellular or wireless communications tower and its support or accessory structures, unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight feet in height and shall be erected in a manner to prevent access to non-authorized personnel.
- (5) Landscaping. \* Landscaping, in compliance with a plan approved by the ARO, shall be approved to screen as much of the support structure and ground level features as is possible but shall not unreasonably reduce visibility needed for security purposes. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- (6) Limiting the Number of Cellular or Wireless Communications Towers.
  - (a) In order to reduce the number of antenna support structures needed in the city in the future, the owner of an existing cellular or wireless communications tower shall not unreasonably deny a request to accommodate other uses, including other cellular or wireless communications companies, and the antenna of local police, fire and ambulance departments. The owner of the existing cellular or wireless communications tower may request reasonable compensation for the use of the tower.
  - (b) For the purposes of encouraging co-location of cellular or wireless antenna and other uses, cellular or wireless communication towers shall be designed, engineered and constructed as follows, unless waived for good cause to minimize impact on adjoining property by the City Manager:
    - (i) Towers less than 75 feet tall shall be designed, engineered and constructed to support antennas installed by one or more cellular or wireless communication service users;
    - (ii) Towers more than 75 feet in height but less than 150 feet shall be designed, engineered and constructed to support antennas installed by two or more wireless communication service users; and
    - (iii) Towers 150 feet in height or taller shall be designed, engineered and constructed to support antennas installed by three or more wireless communication service users.
  - (c) As used in divisions (F)(6)(b)1. through (F)(6)(b)3. above, the term USERS shall include the antennas of Police, Fire and Ambulance Departments. In addition, an applicant must demonstrate that the area acquired by lease or otherwise acquired for the use and construction of the cellular tower and accessory structures is sufficient in size to accommodate any additional structures that may be required if additional users are added to the tower.

- (7) Licensing.\* The communications company must demonstrate to the city that it is licensed by the FCC. The owner of the tower must also annually provide to the city on January 1 of each year, a list of all users of the tower and each user shall provide the city with a copy of each user's license with the FCC. No approval will be granted to any applicant unless proof of current FCC license for the proposed use of the tower is provided.
- (8) Required Parking.\* If the cellular or wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, adequate parking shall be required for the number of employees working on the largest shift. All parking specifications and requirements as established in the Zoning Code.
- (9) Appearance.\* Cellular or wireless communications towers under 200 feet in height shall have a galvanized finish. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Except for safety or warning signs approved by the ARO and City Manager, no cellular or wireless communication tower or antenna and accessory buildings and structures, including fences, shall contain any signage. All utility lines serving the towers shall be underground.
- (10) Site Plan Required. A full site plan shall be required for all proposed cellular or wireless communications sites, except antenna to be placed on existing structures, at a reasonable scale, but not smaller than one inch to 100 feet, indicating, as a minimum, the following:
  - (a) The total area of the site;
  - (b) The existing zoning of the property in question and of all adjacent properties;
  - (c) All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned;
  - (d) Existing topography with a maximum of five-foot contours intervals;
  - (e) The proposed finished grade of the development shown by contours not exceeding five- foot intervals;
  - (f) The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights and where applicable, the gross floor area of the buildings;\*



- (g) The locations and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility;\*
  - (h) All existing and proposed sidewalks and open areas on the site;\*
  - (i) The location of all proposed fences, screening and walls;\*
  - (j) The location of all existing and proposed streets;
  - (k) All existing and proposed utilities including types and grades;\*
  - (l) The schedule of any phasing of the project;
  - (m) Documentation which shows all building and structures on adjacent lots and any additional lot which has a lot line within 500 feet of the lot on which the cellular tower is proposed to be located. The approximate elevation of the highest point of each building or structure shall be noted. The applicant may identify any additional features in the area (such as existing screening, fences and topography) which might be helpful in considering the impact of the proposed tower on nearby property;
  - (n) The names and addresses of all property owners within 500 feet of the parcel of property on which the tower is to be placed; and
  - (o) Any other information as may be required to determine the conformance with this Zoning Code.\*
- (F) Maintenance. Any owner of property used as a cellular or wireless communications site and any owner of a cellular or wireless communications antenna or tower shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any owner of a cellular or wireless communications tower shall be required to notify the City Manager of its intent in writing within 30 days of its cessation of business, its discontinuance of service or transfer of ownership.
- (G) Removal.
- (1) Any cellular or wireless communications tower or antenna that has discontinued its service for a period of six continuous months or more is hereby determined to be a nuisance. A tower declared to be a nuisance must be removed by the owner of the tower or antenna and by the owner of the property on which the tower or antenna is located, along with all accessory structures related thereto. DISCONTINUED shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, is unused, is no longer used for its original purpose or is no longer transmitting the same type of radio wave signals that it was originally designed to transmit, or has ceased the daily activities or operations which had occurred.

- (2) Whenever, upon inspection it shall appear that a cellular or wireless communications tower has been abandoned or its use discontinued, the City Manager or a designated representative shall notify, either by personal delivery or by certified mail, the owner of the property on which the tower is located that the tower must be taken down and removed. The City Manager or a designated representative, in addition to any other citations, notices, penalties or remedies provided by law or ordinance, is authorized to proceed in a manner consistent with and pursuant to R.C. §§ 715.26 and 715.261 to maintain the public health, safety and welfare and to recover costs as appropriate.
- (H) Prohibitions.
- (1) No cellular or wireless communications tower shall be permitted on any lot on which any nonconforming building or structure is located nor on which any nonconforming use or activity is occurring without first obtaining a variance from the Board of Zoning Appeals.
  - (2) No cellular or wireless communications tower shall be constructed, replaced or altered without first obtaining the applicable building permit.
  - (3) A cellular or wireless communications antenna or communication site shall not be placed, operated, constructed, affixed or otherwise located within the city except as allowed and permitted by this chapter.
- (I) Public Hearing.
- (1) No permit shall be issued for the construction or placement of any telecommunications tower or antenna without the City Manager conducting a public hearing which shall be published as a legal advertisement. Notice shall be sent to all property owners within 500 feet of the parcel on which a tower or antenna is intended to be located. Such notice shall be sent by regular mail not less than ten days prior to public hearing.
  - (2) The City Manager shall conduct the public hearing and may continue it if he or she determines that it is in the best interest of obtaining additional relevant information.
- (J) Appeals. Any decision of the City Manager to issue or deny issuance of a permit may be appealed by an interested party in writing to the Board of Zoning Appeals within 30 days of the decision. Any property owner or occupant of real estate, within 500 feet of the subject parcel shall be presumed to be an interested party. The date of the decision shall be the date the decision is mailed to the applicant and to all property owners within 500 feet of the subject parcel. Such mailing shall be by regular mail. Any decision to deny the application shall be set forth in writing and be supported by substantial evidence.
- (1) Timing of Appeal. The interested party appealing the decision must provide notice of his or her intent to appeal such decision to the City Manager and the Board of

Zoning Appeals within thirty (30) days of the City’s Manager’s provision of written notification of its decision to the applicant and all interested parties.

- (2) Hearing on Appeal. The Board of Zoning Appeals shall hold a public hearing, evaluating the appeal based upon the standards of review applied by the City Manager to permit application, within sixty (60) days of receiving the interested party’s notice of appeal.
- (K) Severability. If any requirement for reporting or measuring radiated power from an antenna is determined to be illegal or invalid for any reason, then the standards for the reporting or measuring of radiated power which has been approved, authorized or directed by the FCC and is the most similar to the original requirement shall be used instead.

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