

ARTICLE 3. GENERAL PROVISIONS

100 Activities Governed by these Regulations.

- A. New Structures. All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. (See Section 2-102 for definition of STRUCTURE.)
- B. New Uses of Old Structures. If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.
- C. Structural Alterations. If any structure is hereafter structurally altered as defined in Section 2-102:
 - 1. The entire structure as altered shall comply with the use regulations of these regulations.
 - 2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102B for nonconforming structures.
 - 3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.
- D. Uses of Open Land. If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Sections 8-103 and 106.
- E. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations:
 - 1. Poles, wires, cables, conduits, vaults, lift stations, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. (See Section 3-103G for lot size and bulk regulations for utility facilities.)
 - 2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment.

3. Buildings, structures or land used, but not just leased, by the federal government.
4. Use of land for agricultural purposes as defined in Section 2-102, both inside and outside the City, including accessory buildings and structures thereon not in a designated floodplain. When any land or accessory buildings or structures cease to be used only for agriculture, then it shall be subject to the applicable provisions of these regulations.
5. Drilling and operation of oil and gas wells outside the City.

101 Districts, Zoning Maps and Boundaries.

A. Establishment of Districts. The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "agricultural districts" shall mean those districts in which agricultural uses are the predominant activity. References to "residential districts" shall mean those districts in which residential uses are the main permitted use. References to "business districts" shall mean those districts in which commercial uses are the main permitted uses. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. (See County floodplain regulations as an overlay zone in the extraterritorial jurisdiction.)

B. Zoning Maps.

1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Section 9-100A9 for zoning map(s) certificate and revisions.)
2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.

C. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s), the following rules shall apply:

1. Where boundary lines are indicated as approximately following roads, streets, alleys, easements, railroads, rivers, streams or water, such boundaries shall be construed as following the center-lines thereof, unless otherwise indicated.

2. Where boundaries lines are indicated as approximately following lot lines or section, half-section or quarter-section lines, such lines shall be construed to be said boundaries.
 3. Where the district boundary do not coincide with the location of boundaries as stated in Sections 3-101C1 or 2 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.
- D. Zoning of Rights of way. All streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

102 General Requirements for All Zoning Districts.

- A. Permitted Uses. No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. (See Section 2-102 for definition of PERMITTED USE.)
- B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district except that the Official Zoning Map is not amended. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating ordinance. (See Section 2-102 for definition of SPECIAL USE.)
- C. Conditional Uses. No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use as an exception is approved by the Board of Zoning Appeals as provided for in Section 10-108. (See Section 2-102 for definition of CONDITIONAL USE.)

D. Lot Sizes.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:
 - a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
 - b. Narrower than the minimum lot width required; or
 - c. Shallower than the minimum lot depth required.

2. Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.

E. Bulk Regulations. In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
 - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of maximum height, or
 - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and C and front and side yard setbacks for nonconforming structures and uses in Article 8.

2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.

F. Use Limitations. No permitted, special or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is or will be located. No permitted, special or conditional use already established on the effective date of

these regulations shall be altered, extended or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located. (See Sections 8-102, 103 and 106.)

- G. Off-Street Parking and Loading. No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy, unless the minimum off-street parking and off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged, unless the minimum off-street parking and loading space which would be required by Article 5 are provided.
- H. Accessory Structures or Uses. No accessory structures or use, as defined in Article 6, shall hereafter be built, altered, extended, enlarged or moved, unless such accessory structure or use is permitted by Article 6.
- I. Temporary Structures or Uses. No temporary structure or use shall hereafter be built, altered, extended, enlarged or moved, unless such temporary structure or use is permitted by Article 6 of these regulations.
- J. Home Occupations. No home occupation, as defined by Article 6, shall hereafter be established, altered, extended, enlarged or moved in any residential district, unless such home occupation complies with the permitted uses, conditions and use limitations as provided for in Article 6.
- K. Signs. No signs shall hereafter be built, and no existing signs shall be altered, enlarged or moved, unless such sign complies, or will thereafter comply, with the restrictions imposed by Article 7.

103 Supplemental Requirements.

- A. Number of Structures and Uses on a Zoning Lot.
 - 1. Whenever a zoning lot is not developed as a condominium, but is used for a single-family detached or attached dwelling, two-family dwelling or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
 - 2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.

3. Whenever any structures are developed as condominiums, more than one principal structure may be located on the lot; provided, the definition of a condominium in Section 2-102 is met as well as the requirements of Sections 3-102D2 and E2.
- B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum building setback or front yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.
- C. Average Setback in Existing Residential Districts.
1. On streets where a front yard more than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, there shall be maintained a front yard setback of not less than the average setback of the existing structures; provided, that these regulations shall not be interpreted to require a front yard setback of more than 50 feet.
 2. On streets where a front yard less than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, the front yard setback need not be greater than the average setback of the existing structures; provided, that these regulations shall not be interpreted to permit a front yard setback of less than 20 feet.
- D. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.
- E. Restrictions on Allocation and Disposition of Required Yards or Open Space.
1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.

2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.
 3. No part of the lot area, or of the yard, other open space, or off-street parking or loading space provided in connection with any structure or use, including but not limited to any structure or use existing on the effective date of these regulations or of any amendment thereof, shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.
- F. Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in a required yard: (See Section 9-101A3 for principal or accessory buildings or structures or uses locating on or projecting over public easements.)
1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or patio; awnings; canopies including underlying islands for petroleum pumps; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley including access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes; fire escapes, one story bay windows and overhanging eaves and gutters projecting 36 inches or less into the yard; chimneys, entrance hoods, window wells and daylight windows projecting 36 inches or less into the yard; arbors and trellises; flagpoles and basketball goals; ornamental light or gas fixtures; parking, when permitted by Article 5; accessory and temporary uses, when permitted by Article 6; signs, when permitted by Article 7; and when otherwise specifically permitted by the district regulations. Attached garages, carports, patio covers, porches, decks and wing walls are not permitted obstructions.
 2. In any yard except a front yard: Accessory uses meeting the bulk regulations of Section 6-100C; children's recreational and laundry drying equipment; and open and closed fences not exceeding six feet in height with additional height permitted for security design measures.
 3. Fences in a front yard: On lots with single or two-family dwellings and all types of manufactured and mobile homes, fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances, including decorative walls as perimeter boundaries and entryways to subdivisions, open and closed fences are permitted which do not exceed six feet in height. Additional security design measures may be placed above the six feet limitation. (See Section 6-100B for required zoning permit.)

4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals.
 5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or less open space in all yards and in any district if the Board finds that the public welfare is preserved.
- G. Lot Size Requirements and Bulk Regulations for Utility Facilities. Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except as may be determined where a special or conditional use is required in certain districts and by subsection three of the definition for height, maximum in Section 2-102: (See Section 3-100E1 for Exemptions.)
1. Communication structures.
 2. Electric and telephone substations.
 3. Gas regulator stations.
 4. Pumping stations.
 5. Water towers or standpipes.
- H. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.
- I. Annexed Land. All land which may hereafter be annexed to the City from the extraterritorial zoning jurisdiction shall remain in its current zoning classification until such time as the property owner, Planning Commission or Governing Body may file an application for rezoning to another zoning classification. Rezoning may also be considered during the process of annexation. While the Planning Commission may hold their required public hearing on a rezoning amendment or a special use prior to annexation, the zoning ordinance approving the amendment or special use cannot be effectuated until the land is first officially annexed by the Governing Body as a separate annexation ordinance. While both ordinances may be published on the same day, the annexation ordinance must be published first if they are published on separate days. (See Appendix for Table of Comparability of Zoning Districts.)
- J. Sewer and Water Facilities. All principal structures built hereafter within the city limits and on adjacent zoning lots in the extraterritorial jurisdiction shall be served by and connected to the City's sewer and water system, if such facilities can be feasibly provided as may be determined by the Governing Body.

- K. Dedication of Rights of way and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to the City Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication for a zoning case requesting reconsideration only of the specific condition requiring such dedication.
- L. Floodplain Requirements. Within any floodplain area as designated by the Federal Emergency Management Agency, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved under these regulations, unless it also complies with the County floodplain regulations in the extraterritorial jurisdiction.
- M. Moving Structures. No structure shall be moved into the jurisdiction, nor from one location to another location within the jurisdiction unless such structure shall, when relocated, be made to conform fully with these regulations and other applicable codes of the City including any building codes. No zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block or surrounding area to which it is to be moved and in the block or area opposite, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance. (See City ordinance on moving structures.)
- N. Status of Moving Manufactured or Mobile Homes. Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for various types of manufactured and mobile homes under the following provisions; except, that all such homes must meet the County floodplain regulations requirements in the extraterritorial jurisdiction and none may be replaced in a floodway overlay boundary:

1. Wherever a manufactured or mobile home is moved from a zoning lot within a district in which it is a permitted use, another manufactured or mobile home meeting the requirements of the district may be moved onto the lot at any time; provided, such home shall be skirted or placed on a permanent-type, enclosed perimeter foundation.
 2. In the case of a lawful, nonconforming manufactured or mobile home use, such a move must take place within 180 days from the date that the previous manufactured or mobile home was moved off the lot, otherwise such use shall not thereafter be reestablished and, when so moved in, shall be skirted or placed on a permanent-type, enclosed perimeter foundation. In reestablishing such a home use, any nonconforming bulk regulations shall not be increased in nonconformity and no newly acquired land can be added to the zoning lot for placement of such a home.
 3. No manufactured or mobile home, or portion thereof, shall be moved onto any lot or parcel or an existing home converted for storage or any other purpose than for a residence in any district and no such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures designed for offices in business or industrial districts, but not manufactured - or mobile homes unless specifically permitted.
 4. In the event of disasters, such as fires, tornados or floods, whereby expediency is an important factor, a manufactured or mobile home may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached and for a stated period of time.
 5. Where an unusual hardship is shown, the Board of Zoning Appeals may approve a conditional use for a manufactured or mobile home as an accessory use to be located on a lot or tract with an existing dwelling for a stated period of time. A time period may be extended upon request to the Board of Zoning Appeals without further notice or fee.
 6. As an accessory use to a principal farm dwelling on agricultural land as defined herein for outside the City, application may be made to the Board of Zoning Appeals for a conditional use for locating a manufactured or mobile home with such an existing dwelling for additional assistance on the farm or ranch. (See Section 2-102 for definition of AGRICULTURE [Outside the City].)
0. Vision Triangle. On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effective date of these regulations unless it also conforms to the requirements of the vision triangle as defined by Section 2-102.

- 104 **Screening and Landscaping.** Screening and/or landscaping shall be provided when a zoning permit is issued on all properties developed for multiple-family, manufactured home park and all nonresidential uses when such uses are established on property within or adjacent to any residential districts in accordance with standards and procedures as listed below. In anticipation of a need for screening, such matters are proper subjects to be discussed and, if deemed desirable, decided at any hearing for a zoning district amendment or a special use. In addition to the requirement for screening as stated above, screening may further be required at such a hearing to preserve the value of an existing use or the potential for future development of any adjacent land or land across a right of way.
- A. Screening shall be provided along all side or rear lot lines adjacent to such residential districts.
 - B. Landscaping shall be provided along a front lot line to the depth of at least 10 feet whenever such front lot line is adjacent to or across from such residential districts. No other uses except driveways and signs as permitted by Article 7 shall be allowed in such a landscaped area.
 - C. Screening shall be provided on all required development sufficient to reasonably hide from ground level view all loading docks, trash receptacles, outdoor storage, outdoor display, outdoor working areas, parking spaces and similar uses from such residential districts.
 - D. Screening on the side or rear lot line may be reduced in height and intensity in the front yard area extending to the front lot line, i.e., the street right of way; however, screening shall not be required along such lot lines in that portion of the front yard which may be landscaped.
 - E. Whenever properties are developed adjacent to an alley, screening may be omitted at driveways deemed essential for ingress and egress to uses established on the property.
 - F. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:
 - 1. The visual effects on the environment caused by adjacent nonresidential or higher density residential uses;
 - 2. Noise;
 - 3. Lighting;
 - 4. Glare; and
 - 5. Blowing trash.
 - G. All screening and landscaping shall meet the requirements of the vision triangle in Section 3-103 O. (See Section 2-102 for definition of VISION TRIANGLE.)

- H. Landscaping along the front lot line shall involve bringing the soil surface to a smooth finished grade and installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.
- I. The selection of landscape materials shall consider the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public street or a sidewalk area in such a manner as to conflict with pedestrian and vehicular access.
- J. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.
- K. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Commission for their review and approval prior to the issuance of the zoning permit.
- L. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location, type and height of any fence and the location, mature size and the type of any plant materials along with their common and botanical names. The sizing, grading and condition of the plant materials shall be specified according to the American Association of Nurserymen Standards.
- M. The Planning Commission may, in its discretion, temporarily or permanently waive the requirements for screenings and/or landscaping if:
 - 1. The adjacent land use in the residential district may not necessitate nor benefit from such a requirement; or
 - 2. The adjacent land use may already have provided adequate screening for which additional screening may be a duplication; or
 - 3. The future land use for the adjacent area can not readily be determined at this time and that upon mutual agreement of the Planning Commission and the applicant, that the requirements may be waived and the matter reviewed at a specified date in the future. In the meanwhile, the Planning Commission shall require that either a letter of assurance or a covenant be submitted to run with the land; or a guarantee in the form of a corporate security bond, cashier's check, escrow account or other security be submitted to ensure that such requirements will be met when a determination is made. The Planning Commission may determine the sufficiency of the assurance based on the length of time anticipated before a decision, the size and cost of the potential work involved, and the need to ensure that the requirement is met regardless of any change in ownership.

4. Section 3-104M3 above shall not prevent the Planning Commission from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential use is proposed for development adjacent to an existing single-family dwelling and thereby a potential nuisance or hazard may be created for the homeowner.
- N. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given which are satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.
- O. Maintenance.
1. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on his property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.
 2. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.
- P. To assist in reviewing screening and landscape plans, the Planning Commission may from time to time adopt design criteria in the form of policy statements which may include illustrations.