

DRAFT

R-4 Zoning

Includes: R4 zoning,
sign code, parking
code, landscape
code, residential
compatibility code

City of Tontitown

Changes highlighted on Pages 1, 4, 5, 9, 10

1-28-2021

ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

§ 153.060 ZONING DISTRICTS ESTABLISHED.

The following zoning districts, which may be referred to by their abbreviations, are hereby established:

(A) Base zoning districts:

- A Agriculture
- R-E Estate Single-Family Residential - two acre minimum lot size
- R-1 Single-Family Residential - one acre minimum lot size
- R-2 Single-Family Residential - one-half acre minimum lot size
- R-3L Single-Family Residential - 14,520 square foot minimum lot size one-third acre
- R-3 Single-Family Residential - 9,600 square foot minimum lot size; provided density shall not exceed three units/net acres (i.e. after dedications are made).

R-4 Single-Family Residential – 6,500 square foot minimum lot size; provided the density shall not exceed six-four (4) units/net acres (i.e. after dedications are made).

~~R-MH~~ MF -16 Multi-Family Residential - 16 units/acre maximum

R-MH Residential-Mobile Homes

C-1 Light Commercial/Office

C-2 General Commercial

I Industrial

EU-L Exclusive Use-Landfill

(B) Overlay and special purpose zoning districts

P Planned Unit Development District

(Ord. 2017-05-635, passed 5-2-17; Am. Ord. 2020-07-892, passed 7-7-20)

§ 153.061 ZONING DISTRICT HIERARCHY.

References to less restrictive, more restrictive, less intensive and more intensive zoning districts refer to the base zoning districts established above; and represent a progression from the A district as the most restrictive (or least intensive) base district to the I district as the least restrictive (or most intensive) base district. Overlay and special purpose districts are not included in the zoning district hierarchy.

(Ord. 2017-05-635, passed 5-2-17)

§ 153.062 ZONING DISTRICT BOUNDARY MAP.

(A) The location and boundaries of the zoning districts established herein are defined as shown on a map entitled "Official Zoning Map of the City of Tontitown, Arkansas," which is on file in the office of the Clerk-Treasurer. This map, together with all explanatory data thereon, is hereby adopted by reference, and declared to be a part of these regulations. The official zoning map shall be certified as such by signature of the mayor, attested by the Clerk-Treasurer.

(B) If, in accordance with the provisions of these regulations, changes are made in district boundaries or other data portrayed on the official zoning map, such changes shall be made on said map within 30 days after the amendment has been approved by the City Council.

(C) No changes of any nature shall be made on the official zoning map or information shown thereon, except in conformity with the procedures set forth in these regulations. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of these regulations, and punishable pursuant to misdemeanor provisions contained in the city code.

(D) Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map located in the office of the Clerk-Treasurer shall be the final authority as to the current zoning status of property in the city.

(Ord. 2017-05-635, passed 5-2-17)

§ 153.063 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the zoning official shall employ the following rules in interpretations thereof. Decisions of the zoning official are subject to appeal to the Board of Zoning Adjustment.

(A) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(C) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(D) Boundaries indicated as following waterways shall be construed to be following the thread of the stream.

(E) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(F) Boundaries indicated as parallel to, or extensions of features mentioned in the preceding rules, shall be so construed.

(G) Where distance is not specifically indicated on the official zoning map, as is typically the case with un-subdivided property, distance shall be determined by the scale of the map.

(Ord. 2017-05-635, passed 5-2-17)

§ 153.064 CLASSIFICATION OF ANNEXED LANDS.

All lands proposed for annexation shall be assigned zoning district classification(s) that will become effective at the same time the annexation becomes final. The map amendment procedures contained herein shall be followed in assigning said classification(s).

(Ord. 2017-05-635, passed 5-2-17)

§ 153.065 VACATION OF PUBLIC RIGHTS-OF-WAY.

Whenever any street, alley, or other public way is vacated or abandoned by action of the City Council pursuant to law, the zoning district classification of the property to which the vacated portions of land accrue, shall become the classification of the vacated land.

(Ord. 2017-05-635, passed 5-2-17)

DISTRICT REGULATIONS

§ 153.080 AGRICULTURE AND RESIDENTIAL DISTRICTS; GENERAL DESCRIPTION.

- (A) Counting the agriculture district, which is considered to be a very low density single-family district, and acts to serve as a "holding" zone for subsequent higher density consideration, there are eight districts designed to meet present and future housing needs; to protect the character of, and property values in, residential areas; to encourage a suitable environment for family life; and to provide choice in density, as well as in type of housing. Five of the districts are for low-density single-family uses, and are intended to be defined and protected from the encroachment of uses not performing a function necessary to the low density, residential environment. One district is intended for medium-density single-family uses, and one exists for multi-family residential uses. More specific descriptions of the residential districts are as follows and it is the intent and desire of the city that all zoned areas, be served by municipal water and sanitary sewer service.
- (B) *Agriculture district.* The purpose of this district is to provide for a very low density single-family district, while helping preserve existing agricultural resources, and to guide the conversion of these lands to higher density residential use when appropriate. Agricultural areas should be protected for development by appropriate standards until they are well served by public facilities and services that will permit higher density residential development.

- (C) *R-E, Estate Single-Family district.* The purpose of this district is to accommodate single-family residential development on low density, large estate type lots. This zone is intended to help establish and preserve rural/estate character in certain areas of the city.
- (D) *R-1, Single-Family Residential.* The purpose of this district is to accommodate single-family residential uses on generously sized residential lots of at least one acre. This zone is generally applied on the fringe of built-up areas of the city, and may act as a buffer to R-E zones.
- (E) *R-2, Single-Family Residential.* This district is intended to provide single-family residential uses on moderately sized, low-density lots of at least one-half acre
- (F) *R-3-L, Single Family Residential.* This district is intended to provide single-family residential uses on moderately sized, low-density lots of at least 14,520 square feet, one-third acre.
- (G) *R-3, Single-Family Residential.* This district is characterized by single-family residential development on medium-sized lots of at least 9,600 square feet, with density not exceeding three units/net acre, i.e. after dedications are made. As with other residential zones, this district also serves as a buffer in providing for a step-down in intensity from higher to lower density residential and other types of development. It is the intent and desire of the city that R-3 zoned areas, which typically have smaller sized lots, be served by municipal water and sanitary sewer service.
- (H) *R-4, Single Family Residential.* This district is characterized by single-family or duplex residential development on small-medium sized lots of at least 6,500 8,000 square feet, with density not exceeding ~~six-four~~ (4) units/net acre, i.e. after dedications are made. As with other residential zones, this district also serves as a buffer in providing for a step-down in intensity from higher to lower density residential and other types of development. It is the intent and desire of the city that R-4 zoned areas, which typically have smaller sized lots, be served by municipal water and sanitary sewer service.
- (I) *R-MF-16 Multi-Family Residential.* This district is to provide for multi-family development and is characterized by traditional apartment-type units in attached living complexes. Congregate housing for the elderly is also anticipated in this zone. Areas so classified must have all municipal services available. The maximum density in this district is 16 dwelling units to the acre.
- (J) *R-MH Manufactured Home/Mobile Home Residential.* This district is to provide for replacement of manufactured home/mobile homes on individually owned lots. Areas so classified must have all municipal services available. A maximum density in this district is one unit per acre.
- (K) *Uses permitted.*

(1) Uses permitted in the residential districts are set forth in the following table. Where the letter "P" appears opposite a listed use and underneath a residential district, the use is permitted in that district "by right" subject to:

- (a) Providing off-street parking and loading facilities as required by § [153.210](#);
- (b) Providing landscaping and screening as provided by § [153.212](#); and
- (c) Conformance with special conditions applying to certain uses as set forth in § [153.160](#) et seq.

(2) Only one principal structure per lot shall be permitted in R-E, R-I, R-2, R-3 and R-3L single-family districts. In addition to the accessory uses provided for in § [153.040](#) et seq., an accessory structure may be permitted for sheltering a riding horse on a residentially zoned lot or parcel with a minimum area of two acres, provided:

- (a) The structure is at least 100 feet from adjacent property lines;
- (b) No more than two horses are kept and sheltered on the property; and
- (c) The stall area does not exceed 450 square feet.

(3) In A districts, only one principal dwelling structure per lot shall be permitted.

(L) Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in §§ [153.120](#) et seq. Where neither "P" nor "C" appears, and "NP" appears in the table, the use is not permitted.

(M) *Uses not listed.* When a use is proposed that is not listed in this chapter, the Building Official shall recommend the appropriate districts based on land uses that are similar in size, bulk, and traffic generation, If the applicant does not agree with this interpretation, he or she may appeal the interpretation to the Board of Zoning Adjustment.

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Residential uses	-								
Single-family detached	P	P	P	P	P	P	<u>P</u>	P	NP
Duplex	NP	NP	NP	NP	NP	NP	C	P	NP
Townhome (triplex, 4-plex)	NP	NP	NP	NP	NP	NP	NP	P	NP

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Detached accessory dwelling unit (ADU)	P	P	P	P	C	C	<u>C</u>	NP	NP
Emergency Housing Unit	C	C	C	C	C	NP	NP	NP	NP
Multi-family (more than 4-plex)	NP	NP	NP	NP	NP	NP	NP	P	NP
Manufactured Housing Unit	NP	NP	NP	NP	NP	NP	NP	NP	P
Manufactured Housing, residential design	NP	NP	C	NP	NP	NP	NP	NP	P
Manufactured housing park	NP	NP	NP	NP	NP	NP	NP	C	C
Group Residential	NP	NP	NP	NP	NP	NP	NP	C	NP
Civic and Commercial uses									
Airport or airstrip	C	C	NP	NP	NP	NP	NP	NP	NP
Animal care, general	C	NP	NP	NP	NP	NP	NP	NP	NP
Animal care, limited	C	NP	NP	NP	NP	NP	NP	NP	NP
Automated teller machine	NP	NP	NP	NP	NP	NP	NP	P	NP

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Bed and breakfast	C	C	C	NP	NP	NP	NP	NP	NP
Cemetery	C	C	C	C	C	C	C	C	NP
Church	P	C	C	C	C	C	C	P	NP
College or university	C	NP	NP	NP	NP	NP	NP	P	NP
Communication tower	C	C	C	C	C	C	C	C	NP
Convenience store	NP	NP	NP	NP	NP	NP	NP	C	NP
Day care, limited (family home)	C	NP	C	C	C	C	C	C	NP
Day care, general	NP	NP	NP	NP	NP	NP	NP	C	NP
Golf course	C	C	C	C	C	C	C	P	NP
Government service	C	C	C	C	C	C	C	P	NP
Hospital	NP	NP	NP	NP	NP	NP	NP	C	NP
Library	C	C	C	C	C	C	C	P	NP
Medical services	NP	NP	NP	NP	NP	NP	NP	C	NP
Museum	NP	NP	NP	NP	NP	NP	NP	C	NP
Nursing home	NP	NP	NP	NP	NP	NP	NP	C	NP
Parks and Recreation	P	C	C	C	C	C	C	P	NP
Post office	NP	NP	NP	NP	NP	NP	NP	C	NP

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Recreation/entertainment, outdoor	C	NP	NP	NP	NP	NP	NP	NP	NP
Safety services	C	NP	NP	NP	NP	NP	NP	NP	NP
School, elementary/middle	C	C	C	C	C	C	C	P	NP
Utility, major	C	C	C	C	C	C	C	C	NP
Utility, minor	P	P	P	P	P	P	P	P	NP
Vocational school	C	NP	NP	NP	NP	NP	NP	C	NP
Manufacturing and extractive uses									
Asphalt or concrete plant	NP	NP	NP	NP	NP	NP	NP	NP	NP
Mining or quarrying	NP	NP	NP	NP	NP	NP	NP	NP	NP
Sod farm	C	NP	NP	NP	NP	NP	NP	NP	NP
Topsoil	C	NP	NP	NP	NP	NP	NP	NP	NP
Agricultural uses									

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Agriculture, animal	P*	C	C	C	C	C	C	C	NP
Agriculture, crop	P	P	P	P	C	C	C	C	NP
Agriculture, product sales	P	C	C	C	C	C	C	C	NP
Animal, farm	P	P	P	P	P	P	C	NP	NP
Chicken, hobby	P	P	P	P	P	P	P	NP	NP

* All concentrated feedlot operations for livestock shall be subject to conditional use approval.

(N) *Lot, yard and height regulations.* Except as otherwise provided herein, no lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements in the following table; nor shall any building or structure be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table.

(N)(O) *Minimum dimension requirements.*

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Lot size; minimum									
Single-family (sq. ft.)	5 acres	2 acres	1 acre	½ acre	14,250	9,600	6,500 8,000	10,000	10,000
Duplex (sq. ft.)	NP	NP	NP	NP	NP	NP	10,000	10,000	10,000
Nonresidential uses (sq. ft.)	5 acres	2 acres	1 acre	½ acre	14,250	9,600	6,500 8,000	10,000	10,000
Multi-family (units/acre)	NP	NP	NP	NP	NP	NP	NP	16	NP
Lot width (all uses)	240 feet	200 feet	120 feet	100 feet	100 feet	80 feet	60 -70* feet	100 feet	100 feet

Zoning Districts	A	RE	R-1	R-2	R-3L	R-3	<u>R-4</u>	<u>R-MF-16</u>	R-MH
Lot depth (all uses)	400 feet	200 feet	120 feet	120 feet	120 feet	120 feet	90 110* feet	100 feet	100 feet
Front setback (all uses)	30 feet	30 feet	<u>25 feet</u>	20 feet	20 feet				
Side setback (all uses)	30 feet	30 feet	20 feet	10 feet	15 feet	7 feet	<u>5 feet</u>	10 feet	10 feet
Street side setback (all uses)	30 feet	30 feet	25 feet	25 feet	25 feet	25 feet	<u>20 feet</u>	20 feet	20 feet
Rear setback (all uses)	30 feet	30 feet	25 feet	25 feet	25 feet	25 feet	<u>15 feet</u>	25 feet	25 feet
<u>Maximum lot coverage (structures)</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>40%</u>	<u>45%</u>	<u>45%</u>	<u>55%</u>	<u>65%</u>	<u>55%</u>
<u>Minimum pervious lot area</u>	<u>50%</u>	<u>50%</u>	<u>40%</u>	<u>40%</u>	<u>35%</u>	<u>35%</u>	<u>30%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum building height (all uses)</u>	<u>45</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>45</u>	<u>35</u>
NP = not permitted									
NS = no standard									
* IN NO CASE MAY THE MINIMUM LOT SIZE BE LESS THAN 8,000 SF									

— **Note: All references to lot size and coverage are in net square feet.**

~~(O)~~(P) When an existing lot is reduced because of conveyance to a federal, state or local government. For a public purpose, and the remaining area is at least 75% of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.

~~(P)~~(Q) Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements of all districts.

~~(Q)~~(R) Minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of these regulations. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created

nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.

~~(R)~~(S) Residential storage sheds of less than 250 square feet in size are exempted from setback requirements if:

- (1) The structure is portable.
- (2) The structure is maintained in good condition.
- (3) The area around the structure is maintained in good condition.

~~(S)~~(T) Certain architectural features may project into required yards (setback) as follows:

- (1) Cornices, canopies, eaves, or other architectural features, may project a distance not to exceed 30 inches.
- (2) Fire escapes may project a distance not exceeding four-and-a-half feet from the exterior wall of the building.
- (3) An uncovered stair and necessary landings may project a distance not to exceed three feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet in height.
- (4) Bay windows, balconies, and chimneys may project a distance not exceeding 30 inches, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

~~(F)~~(U) When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 75% of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.

~~(U)~~(V) *Setback averaging.* When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street, and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications; provided that in no case shall more than six lots on either side of the subject property be included in the calculation.

~~(A)~~(W) When adjacent to R-E, R-I, R-2, R-3~~L~~, R-3, R-4L, or R-MH districts, multi-family residential and nonresidential structures over one story or 15 feet in height shall have an additional eight-foot side and rear setback for every additional story or 15 feet in building height.

~~(A)~~(X) Maximum height limitation is 35 feet in all residential zones with the exception of the A and R-MF-16 districts, where the limitation is 45 feet.

Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers, may be erected to any height not in conflict with other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval.

ACCESSORY USES

§ 153.140 GENERAL DESCRIPTION.

An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land. An accessory use is one that is customarily incidental, appropriate and subordinate to the principal use of land and buildings, and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

(Ord. 2017-05-635, passed 5-2-17)

§ 153.141 LOCATION REQUIREMENTS AND STANDARDS.

(A) An accessory building shall not be located within a required street (front or street side) setback; shall be subject to all setback standards of the underlying zoning district; shall not be located within any public easement or over any known utilities or septic system lines. Accessory buildings, in all zones, shall not exceed the gross floor area of the principal use or as noted below, as long as the zoning district listed meets minimum lot size. Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks.

A.	N/A
RE	N/A
R-1	100%
R-2	100%
R-3L	67%
R-3	67%
R-4	67%
R-MF- <u>16</u>	67%
R-MH	67%

****Note**** If the primary use is residential, and it is located in a commercial or industrial zoning district, the setback requirements would follow the zoning district in which located.

(B) An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements applicable to the principal building. Provided detached, open-sided carports may be located in the side yard, no closer to the front lot line than the front building line of the principal building and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located at least ten feet from any other structure or as provided in the building code whichever is more restrictive.

(C) With regard to height limitations, accessory structures in residential districts shall not exceed the height of the primary structure, measured from the eave; and in commercial and industrial districts, such structures shall not exceed 25 feet in height or the height of the principal structure on the lot.

(Ord. 2017-05-635, passed 5-2-17; Am. Ord. 2017-12-668, passed 12-5-17)

§ 153.142 RESIDENTIAL ACCESSORY USES.

(A) Residential accessory uses shall include the following accessory uses, activities, facilities, and structures: fences and walls; garages, carports, and off-street parking and loading areas; gardens; gates and guard houses; home occupations (subject to limitations and requirements of division (C) below); playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving antennas; recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental, and subordinate to the principal use on the lot.

(B) *Home occupations permitted.*

(1) The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner.

(2) The work done in the home office or business creates no objectionable odor, noticeable vibration, or offensive noise that increases a level of ambient sound at the property lines.

(3) The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.

(4) The home office or business does not cause interference with any type of communication signal reception in the vicinity.

(5) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.

(6) The home office or business sells no articles on the premises that are not produced on the premises.

(7) The home office or business occupies no more than 10% of the total floor area of the residence.

(8) There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.

(9) Not more than one truck of not more than one and one-half ton capacity and no semi-trailers, incidental to the home occupation, shall be kept on the premises, except as allowed by conditional use.

(10) Customers may visit the site only during the hours of 8 a.m. to 8 p.m., and no more than six customers or clients may visit the site in any single day.

(11) Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.

(C) *Home occupations prohibited.* Prohibited home occupations include, but are not limited to the following:

(1) Barber and beauty shops with more than one chair, and requiring any upgrade in electric service.

(2) Dispatch centers, where workers come to the site to be dispatched to other locations.

(3) Commercial stables, kennels, and animal boarding and care facilities.

(4) Assembly or repair of large appliances.

(5) Repair or assembly of vehicles or equipment with internal combustion engines, or any other work related to motor vehicles and their parts.

(D) *Garage sales.* Garage sales, also commonly called rummage or yard sales, are permitted as accessory uses provided they meet the following requirements:

(1) Each such sale shall be permitted by a approved garage sale application.

(2) Each property address and/or person shall be limited to no more than four such sales per year.

(3) Sales shall not last longer than three consecutive days.

(4) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(5) Directional and advertising signs, not larger than nine square feet, shall be free standing; that is, they shall not be placed on traffic or official signs, utility poles or trees, and shall be removed promptly after completion of the sale.

(Ord. 2017-05-635, passed 5-2-17; Ord. 2017-12-669, passed 12-5-17)

§ 153.143 NONRESIDENTIAL ACCESSORY USES.

Nonresidential accessory uses are allowed only in association with permitted, nonresidential principal uses and shall include, but not be limited to, the accessory uses, activities, facilities, and structures enumerated below. Such uses shall not be allowed if such would cause or increase parking nonconformity for the principal use. Such use may also necessitate additional required parking because of its own nature or character. Accessory uses shall not occupy required parking areas, or off-street parking areas (spaces or isles) approved as part of a site plan. Nonresidential accessory uses include:

- (A) Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients, or visitors to the principal use.
- (B) Dwelling units, other than mobile homes, when used or intended to be used for security or maintenance personnel.
- (C) Guard houses, gates, fences and walls.
- (D) Offices for allowed business and industrial uses when the office is located on the same site as the principal use.
- (E) Parking garages, and off-street parking and loading facilities.
- (F) Radio and television receiving antennas.
- (G) Restaurants, newsstands, gift shops, swimming pools, tennis courts, workout rooms, club and lounges when in a permitted hotel, motel or office building.
- (H) Sale of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use.
- (I) The storage of merchandise when located within the same building as the principal business.
- (J) On-premise commercial, bulletin, nameplate, and real estate signs, provided such are non-flashing.
- (K) Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

(Ord. 2017-05-635, passed 5-2-17)

SIGNS

§ 153.180 DEFINITIONS.

This sign code shall refer to definitions set forth in this municipal code except as modified below:

AWNING SIGN. A sign where graphics or symbols are painted, sewn or otherwise adhered to the awning material as an integrated part of the awning itself.

BANNER SIGN. Any sign made of fabric, vinyl or any similar non-rigid material with no enclosing framework.

BILLBOARD. Any off-site structure or portion thereto upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to display government signs.

CANOPY SIGN. Any sign that is mounted, painted, or otherwise applied on or attached to a canopy or structural protective cover over an outdoor area.

CODE OFFICIAL. An employee of the city designated by the Mayor to administer and enforce this code.

CONSTRUCTION IDENTIFICATION SIGN. A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date.

CROWN SIGN. A wall sign extending not more than three feet from the building facade located on the upper horizontal band of a building at least two stories in height.

DIGITAL BILLBOARD. An electronically displayed Billboard that is static or changes messages by any electronic process or remote control.

DIGITAL SIGN. An electronically displayed sign that is static or changes messages by any electronic process or remote control.

DOUBLE POST SIGN. A permanently affixed sign which is wholly independent of a building for support where the primary support is supplied by two posts.

ELECTRIC SIGN. Any sign containing electrical wiring. This does not include signs illuminated by an exterior floodlight source.

FLASHING SIGN. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this code any moving illuminated sign, except digital billboards, must be considered a flashing sign.

GOVERNMENT SIGN. A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, maintained by the federal, state or local government either directly or to enforce a property owner's rights.

HIGHWAY SIGN. A freestanding sign, integral sign or flat mounted sign that is erected and maintained within the view of motorists who are driving on a highway.

ILLUMINATED SIGN. A sign that is directly lighted by any electrical light source, internal or external. This definition does not include signs that are illuminated by streetlights or other light sources owned by any public agency or light sources that are specifically operated for the purpose of lighting the area in which the sign is located rather than the sign itself.

INTEGRAL SIGN. A sign that is embedded into the material of a building.

MONUMENT SIGN. A free-standing and permanently affixed sign that is supported by a solid base (other than poles) and such that no air space is visible within or between any portion of the sign display area and sign structure. A monument sign may identify a project or district, or mark an entrance, which can incorporate a single or multiple licensed business listing.

OFF-PREMISES. A sign that directs attention to a business, profession, event, entertainment, product or service that is located, offered or sold somewhere other than on the certain premises where the sign is erected.

ORIGINAL ART DISPLAY. A hand-painted work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. An **ORIGINAL ART DISPLAY** does not include: mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl; electrical or mechanical components; or changing image art display.

OUTDOOR ADVERTISING SIGN. A sign that advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located.

PORTABLE SIGN. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

PROJECTING SIGN. A sign, other than a wall sign, that is mounted to the wall or surface of a building or structure and which is supported by a wall of a building or structure and projects from the building by 12 inches or more.

REAL ESTATE SIGN. A free-standing sign advertising the premises for sale, rent or lease.

ROOF SIGN. A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

SANDWICH BOARD SIGN. A moveable sign not secured or attached to the ground or surface upon which it is located.

SIGN. A name, identification, description, display or illustration, other than an original art display, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to

direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, must not be considered a sign. Each display surface of a sign or sign face must be considered to be a sign.

SIGN AREA. The space enclosed within the extreme edges of the sign on each sign face, not including the supporting structure or where attached directly to a building wall or surface; the space within the outline enclosing all the characters of the words, numbers or design. If the sign lettering and/or logo is not enclosed or framed in any way, then the area of the letters and/or logo themselves may be considered the sign area.

SIGN FACE. The entire display surface area of a sign upon, against or through which copy is placed or reflected.

SHINGLE SIGN. A small projecting sign that hangs from a bracket or support and is located over or near a building entrance.

SUBDIVISION SIGN. A permanently affixed sign which is wholly independent of a building for support attached along its entire width to a continuous pedestal or wall that is used to identify the entry to or name of an entire development.

TEMPORARY SIGN. A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the Code Official to be displayed for a limited period of time.

VEHICLE SIGN. Means any sign attached to or displayed on a vehicle.

WALL SIGN. Means any attached sign other than a projecting sign or a banner sign, which is permanently attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches. An integral sign shall be considered a wall sign.

WINDOW SIGN. An attached sign which is not a temporary sign and which is attached to, painted on, etched or otherwise adhered to a window or which is displayed within 12 inches of the window and is legible from outside the window.

WINDBLOWN SIGNS. A fluttering, spinning, windblown or inflatable device, including pennants, streamers and propeller discs.

(Ord. 2018-05-786, passed 5-1-18)

§ 153.181 PROHIBITED SIGNS.

- (A) Signs are prohibited in all zoning districts unless:
- (1) Constructed pursuant to a valid building permit when required by this code; and
 - (2) Authorized under this code.

(B) *Prohibition of fees.* A property owner may not accept a fee for posting or maintaining a sign allowed under division (C) of this section and any sign that is posted or maintained in violation of this provision is prohibited.

(C) *Commercial signs in residential zones.* Commercial signs are prohibited in exclusively single family residential zones or on property used for non-transient residential uses, except for those properties on which a home occupation or a transient residential use has been approved by the city.

(D) *Prohibited signs.* The following signs shall be prohibited in the city:

- (1) Billboards and digital billboards;
- (2) Highway signs;
- (3) Signs with fluctuating illumination, including any sign that flashes, blinks, fluctuates in light intensity or is animated;
- (4) Signs which revolve, rotate or move in whole or in part;
- (5) Windblown signs, except flags as described in § [153.182](#)(A)(5) as provided herein;
- (6) Signs that constitute a traffic hazard are prohibited, and no sign or other advertising shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision;
- (7) Off-site signs;
- (8) Roof signs;
- (9) Search lights;
- (10) Signs on or affixed to trees or utility poles, except that signs may be placed on utility poles for utility identification purposes by the proper utility;
- (11) Reflective or mirrored signs; and
- (12) Signs placed or affixed within public right-of-ways or encroach upon a public right-of-way, except for government signs and wall signs, awning signs, canopy signs, projecting signs, shingle signs and sandwich board signs may encroach as provided herein.

(E) *Vehicles.* It shall be unlawful to use a vehicle or trailer as a sign in circumvention or violation of any part of this code.

(Ord. 2018-05-786, passed 5-1-18)

§ 153.182 SIGNS AUTHORIZED IN EVERY DISTRICT.

The following provisions sets forth signs that are authorized by § [153.181](#)(A)(2) above in every district.

(A) *Government signs.* This code does not apply to signs erected, maintained or posted by the state, federal or this government, but the regulations in this code clarify that government signs are allowed in every zoning district of the city which form the expression of this government when erected and maintained and include the signs described herein below when erected and maintained pursuant to law.

(1) *Traffic control.* Traffic control devices on private or public property are allowed to be erected and maintained in order to provide for public safety and in order to comply with the traffic control laws of the State of Arkansas and the city, as well as the manual on uniform traffic control devices adopted by the Federal Highway Administration.

(2) *Public interest signs.* Public interest signs of a non-commercial nature and in the public interest, erected by or on the order of a public officer in the performance of their duty, such as public notices, safety signs, danger signs, trespassing signs, traffic and street signs, memorial plaques and signs of historical, environmental or local interest.

(3) *Street numbers.* Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification must be on the curb and may be on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building and in no case larger than four square feet. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.

(4) *Required postings by law.* Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property. The size of such signs should be no larger than 16 square feet or the minimum size required by law. No more than two such signs are allowed, or the minimum amount of signs that are required by law.

(5) *Flags.* A flag may be displayed as provided under the law that adopts or regulates its use and as provided in division (E) below.

(6) *Public safety.* The signs described in divisions (A)(1), (2) and (3) of this section are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

(7) *Construction signs.* Government sign placards and other signs required by state and/or federal law to be displayed during construction or remodeling of buildings, or other site/infrastructure work.

(B) *Temporary signs.*

(1) *Temporary signage.* Temporary signs are allowed at any:

(a) A property owner may place signage with sign face square footage not to exceed 16 square feet on the property at anytime.

(b) A property owner may place one sign no larger than 16 square feet in one window on the property at any time.

(2) *Temporary signs during elections.* Temporary signs may be located on the owner's property for a period of 60 days prior to any federal, state or local election that represents the district in which the property is located or involves an issue on the ballot of an election within the district where the property is located. All such temporary signs shall be removed within three days after the election has occurred.

(3) *Temporary signs during times when a property is for sale.* One temporary sign may be located on a property when the following conditions are all met:

(a) The owner consents and that property is being offered for sale through a licensed real estate agent.

(b) 1. If not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a newspaper, online newspaper or in another public manner.

2. If more than one properties are simultaneously offered for sale, application may be made to install fewer, and larger, signs to serve the adjacent properties offered for sale. Such sign(s) may be of a size and number to serve the total area of properties offered for sale. The Code Official shall determine the number and size of the sign(s) allowed when properties are combined for this purpose, but in no event shall such a sign(s) exceed 80 square feet in size.

(c) For a period of 15 days following the date on which a contract of sale has been executed by a person purchasing the property.

(4) *Temporary signs during times when a property is open to the public.* One temporary sign may be located per entrance (from private/public road) on the owner's property on a day when the property owner is opening the property to the public during duration of seasonal openings; such sign shall not exceed 12 square feet in size and should be removed after the seasonal opening or other temporary opening is complete.

(5) *Temporary signs for new business openings.* One temporary sign may be located per entrance from the road on the owner's property on a day when the property owner is opening the property/business to the public; allowed for 90 days. Such sign shall not exceed 16 square feet in size.

(6) *Temporary signs during holiday periods.* During the 40 day period December 1 to January 10, a property owner may place temporary signs on the property and may use lights between the hours of 7:00 a.m. and 10:00 p.m. CST to decorate the property even if the lights might be arranged to form a sign. Further, a property owner may place and maintain temporary signs on their property on July 4th of every year.

(7) *Temporary sign limitations.* It is the intent of this code to limit the aesthetic impact of signs on properties in order to prevent unsightly clutter, protect streetscapes, preserve property values and to promote traffic safety. The unregulated accumulation of signs adversely affects these goals, property values and public safety, and so accordingly a person exercising the right to place temporary signs on a property as described in this division (B) must limit the number of temporary signs on the property per 0.25 acre at any one time to two plus a sign allowed in division (B)(1)(b), or if the property is smaller than 0.25 acres then no more than two signs plus a sign allowed in division (B)(1)(b) per principal building on the property unless a court having jurisdiction determines that additional signs must be permitted and then the signage must be limited to the fewest signs and the smallest accumulated sign area permissible under the court's determination.

(8) *Sign face limitation.* The sign face of any temporary sign, unless otherwise limited in this division (B) must not be larger than 16 square feet.

(C) *Lessors.* For purposes of this division, a lessor of a property is considered the property owner as to the property if the lessor holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property then each lessor must have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessor has the sole right to occupy under the lease.

(D) *Signs not in view.* Signs not otherwise prohibited in § [153.181](#), and which are not exposed to view from a public street or public right-of-way, public place or other property, shall not be regulated by the code.

(E) *Flags.* Flags shall be permitted on properties as follows:

(1) *Single-family zoning districts.* In a single-family zoning district (such as the zones currently recognized in the city: R-E Estate Single-Family Residential, R-1 Single-Family Residential, R-2 Single Family Residential, R-3 Single-Family Residential, R-MF Multi-Family Residential, and R-MH Mobile Homes Residential) two flags and one flag pole shall be allowed per premises. Each flag shall be a maximum of 15 square feet in area. The flag pole shall be a maximum of 25 feet in height or no higher than the highest point of the principal building's roof, whichever is lower. Flag poles must meet the minimum yard setback requirements for a principal building.

(2) *Nonresidential zoning districts.* In all other non-residential zoning districts, one flag per 25 feet of frontage on a right-of-way up to a maximum of six flags and six flag poles per premises. Each flag shall be a maximum of 24 square feet in area. Flag poles shall be a maximum of 50 feet in height but no higher than the highest point of the nearest principal building's roof on the premises. Flag poles must meet the minimum yard setback requirements for a principal building or a minimum of ten feet whichever is more restrictive.

(F) Temporary signs shall not be placed or located in such a manner as they obscure the view of pedestrian or vehicular traffic and shall not be placed within 25 feet of an intersection.

(Ord. 2018-05-786, passed 5-1-18)

§ 153.183 PERMIT REQUIRED.

(A) *In general.* A sign permit is required prior to the display and erection of any sign except as provided in division (F) below.

(B) *Application for permit.*

(1) *Application.* An application for a sign permit must be filed with the Code Official or designee on forms furnished by the city. The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign must state the dates intended for the erection and removal of the sign. An application for any sign must state the date when the owner intends to erect it.

(2) *Review by Code Official.* The Code Official or designee must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within ten days after receipt. Any application that complies with all provisions of this code, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.

(3) *Rejection of application.* If the sign permit application is rejected, the Code Official shall provide a list of the reasons for the rejection in writing. An application must be rejected for non-compliance with the terms of this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(C) *Permit fee.* A nonrefundable fee as set forth in the fee schedule adopted by the city must accompany all sign permit applications.

(D) *Duration and revocation of permit.* If a sign is not installed and a use permit issued within six months following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign must state its duration, not to exceed 30 days unless another time is provided in this code or the zoning ordinance. The city may revoke a sign permit under any of the following circumstances and at any time:

(1) *Misleading.* The city determines that information in the application was materially false or misleading;

(2) *Conformity to application.* The sign as installed does not conform to the sign permit application;

(3) *Violation of code.* The sign violates this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or

(4) *Maintenance and abandonment.* The Code Official determines that the sign is not being properly maintained or has been abandoned.

(E) *Permits not required.* A sign permit is not required for signs:

(1) *Authorized signs.* Those signs described in § [153.182](#) with a total area not to exceed 16 square feet and a maximum height of eight feet tall;

(2) *Official notices.* Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed no more than ten days after their purpose has been accomplished.

(F) *Appeals.* All decision and interpretations of the Code Officer under this code shall be considered final administrative actions for the purpose of appeals set forth in § [153.263](#).

(Ord. 2018-05-786, passed 5-1-18)

§ 153.184 SIGN REGULATIONS BY DISTRICT.

(A) The following signs shall be permitted to the zoning districts as indicated below. Specific requirements for each sign are shown on the following pages. All of the following sign types require a sign permit.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3L</i>	<i>R-3</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Awning	--	--	--	--	--	--	--	--	--	A	A	A
Canopy	--	--	--	--	--	--	--	--	--	A	A	A
Crown	--	--	--	--	--	--	--	--	--	A	A	A
Digital	--	--	--	--	--	--	--	--	--	--	A*	A*
Double Post	--	--	--	--	--	--	--	--	--	A	A	A
Monument	--	C	C	C	C	C	C	C	C	A	A	A
Projecting	--	--	--	--	--	--	--	--	--	A	A	A
Pylon	--	--	--	--	--	--	--	--	--	--	A*	A*
Sandwich Board	--	--	--	--	--	--	--	--	--	A	A	A
Shingle	--	--	--	--	--	--	--	--	--	A	A	A
Subdivision	A	A	A	A	A	A	A	A	A	A	A	A
Wall	--	--	--	--	--	--	--	A	--	A	A	A
Window	--	--	--	--	--	--	--	A	--	A	A	A
<p>-- = Not Allowed A = Allowed A* = Allowed with Restrictions (See specific sign type section for additional details) C = Allowed through a Conditional Use Permit issued by the Planning Commission</p>												

(B) Any sign type that is not listed above shall be prohibited.

(C) The following regulations for each sign type shall apply to any permitted use in a zoning district.

(1) *Awning sign.*



(a) *Description.* A sign where graphics or symbols are painted, sewn or otherwise adhered to the awning fabric or material that is soft or flexible as an integrated part of the awning itself.

(b) *Sign dimensions.*

1. Width (max): no greater than 75% of the width or depth of the awning.
2. Area (max): no maximum.

(c) *Regulations.*

1. Shall not extend beyond the awning itself.
2. Only awnings over ground story windows may contain a sign.

(d) *Number of signs.* In a single tenant situation, one awning sign permitted per awning. The awning sign can be placed on either the front or side valance. For multi-tenant awning signs, and a canopy that extends the length of several tenants, each tenant may have a maximum of nine square feet on the awning sign.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF- 16	R-MH	C-1	C-2	I
Awning	--	--	--	--	--	--	--	--	--	A	A	A

(2) *Canopy sign.*



Photo Credit wikipedia.org



(a) *Description.* Any sign that is mounted, painted, or otherwise applied on or attached to an architectural canopy or structural protective cover over an outdoor area.

(b) *Sign dimensions.*

1. Width: no greater than 75% of the width or depth of the canopy.
2. Height of text or graphics on the canopy: two feet.
3. Sign area (max): 24 square feet.
4. Sidewalk/driving surface clearance (min): ten feet.

(c) *Regulations.*

1. For awnings attached to a building:
 - a. The canopy sign shall not extend beyond the length or the width of the canopy, but it may extend either above or below the canopy.
 - b. Only awnings over ground story windows may contain a sign.

2. For free standing awnings: the canopy sign shall not extend beyond the length or the width of the canopy, but it may extend either above or below the canopy.

(d) *Number of signs.*

1. For awnings attached to a building: one canopy sign permitted per each customer entrance. The canopy sign can be placed on either the front or side valance.

2. For free-standing awnings: one sign allowed per side for up to two sides maximum.

(e) *Total sign area allocation.*

1. For awnings attached to a building: the combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

2. For free-standing awnings; no more than 24 square feet total of awning signage allowed per free-standing awning.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF- 16	R-MH	C-I	C-2	I
Canopy	--	--	--	--	--	--	--	--	--	A	A	A

(3) *Crown sign.*



(a) *Description.* A wall sign extending not more than three feet from the building facade located on the upper horizontal band of a building at least two stories in height.

(b) *Sign dimensions.*

1. Sign area: 250 square feet.
2. Height: eight feet.

3. Projection from facade: three feet.
4. Width: no greater than 75% of the width or depth of the facade.

(c) *Regulations.*

1. Only permitted on buildings at least two stories in height.
2. Cannot be placed below the start of the highest floor and cannot extend above the roofline.
3. Cannot cover architectural detail or windows.

(d) *Number of signs.*

1. No more than one crown sign per building facade and no more than two crown signs per building are allowed.
2. No more than one tenant can be identified on the sign.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Crown	--	--	--	--	--	--	--	--	--	A	A	A

(4) *Digital signs.*



(a) *Description.* An electronically displayed sign that is static or changes messages by any electronic process or remote control. Permanently affixed sign which is wholly independent of a building for support. Must be part of a freestanding sign type (monument, pylon, or double post). A digital sign shall only be used in conjunction with another non-digital signage type.

(b) *Sign height, dimensions and number of signs.*

1. *Sign face area and height.* The digital sign shall be no greater than 50% of the size of the accompanying non-digital signage. Reference the individual sign area restrictions for signage type with which the digital sign will be paired.

2. Only one digital sign is allowed per street frontage of each lot.

3. Total structure height (max): Divided into two sections of intensity:

a. Forty (40) feet in height or less (from the eastern city limits boundary) to the intersection of Via De Tonti and HWY 412.

b. Twenty-five (25) feet in height or less (from the intersection of Via De Tonti and HWY 412 to the western city limits).

(c) *Regulations.*

1. Allowed only within 100 linear feet (to the north or south) of the HWY 412 R.O.W.

2. Must be set back at least ten feet from the front lot line and ten feet back from the side lot line.

3. Must have highway frontage.

4. No sign message shall be displayed for a period of time less than eight seconds.

5. No sign shall display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.

6. No sign shall include any audio message.

7. Transition from one message to another message shall appear instantaneous as perceived by the human eye.

8. Each sign message shall be complete in itself and shall not continue on a subsequent sign message.

9. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of 0.3 foot candles above ambient light, as measured using a foot candle (Lux) meter.

10. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

	A	R- E	R-1	R-2	R-3	R- 3L	<u>R-4</u>	R- MF- 16	R-MH	C-1	C-2	I
--	----------	-----------------	------------	------------	------------	------------------	-------------------	--------------------------	-------------	------------	------------	----------

Digital	--	--	--	--	--	--	--	--	--	--	A*	A*
---------	----	----	----	----	----	----	----	----	----	----	----	----

* Allowable only within 100 feet of the HWY 412 R.O.W.

(5) Double post sign.



(a) *Description.* A permanently affixed sign which is wholly independent of a building for support where the primary support is supplied by two posts.

(b) *Sign dimensions.*

1. Sign area (max): 48 square feet.
2. Height (max): eight feet.

(c) *Regulations.* Must be set back at least five feet from the front lot line and five feet back from the side lot line.

(d) *Number of signs.*

1. Only one double post sign structure (or monument or pylon sign*) is allowed per street frontage.

2. Where more than one monument sign or pylon sign* is allowed on the same property, must be a minimum of 500 feet apart.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF-16	R-MH	C-1	C-2	I
Double Post	--	--	--	--	--	--	--	--	--	A	A	A



(6) *Pylon sign.*

(a) *Description.* A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including signs mounted to the ground.

(b) *Sign dimensions.*

1. Sign area (max): 100 square feet.

2. Total structure height (max): Divided into two sections of intensity:

a. Forty (40) feet in height or less (from the eastern city limits boundary) to the intersection of Via De Tonti and HWY 412.

b. Twenty-five (25) feet in height or less (from the intersection of Via De Tonti and HWY 412 to the western city limits).

(c) *Regulations.*

1. Single tenancy use only.

2. Allowed only within 100 linear feet (to the north or south) of the HWY 412 R.O.W.

(d) *Number of signs.*

1. Only one pylon sign structure* (or double post/monument sign) is allowed per street frontage of each lot.

2. Where more than one monument sign or pylon sign structure* is allowed on the same property, must be a minimum of 500 feet apart.

3. Placement of the sign within the lot may be evaluated by the planning official to achieve appropriate spacing of signage between adjoining lots (the goal is to keep signage evenly spaced along ROWS when possible).

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF- 16	R-MH	C-1	C-2	I
--	----------	------------	------------	------------	------------	-------------	------------	---------------------	-------------	------------	------------	----------

Pylon	--	--	--	--	--	--	--	--	--	--	A*	A*
-------	----	----	----	----	----	----	----	----	----	----	----	----

* Allowable only within 100 feet of the HWY 412 R.O.W.

(7) Monument sign.



(a) *Description.* A free-standing and permanently affixed sign that is supported by a solid base (other than poles) and such that no air space is visible within or between any portion of the sign display area and sign structure.

(b) *Sign dimensions.*

1. Sign area (max per sign):

- a. One tenant: 48 square feet.
- b. Two to three tenants: 72 square feet.
- c. Four to five tenants: 84 square feet.
- d. Six or more tenants: 108 square feet.

2. Height (max): eight feet for one to three tenants, 12 feet for four to six or more tenants.

(c) *Regulations.*

1. Must be set back at least ten feet from the front lot line and ten feet from the side lot line.

2. The size of the monument sign for applicants which include more than six tenants may be increased by conditional use permit approved by the Planning Commission.

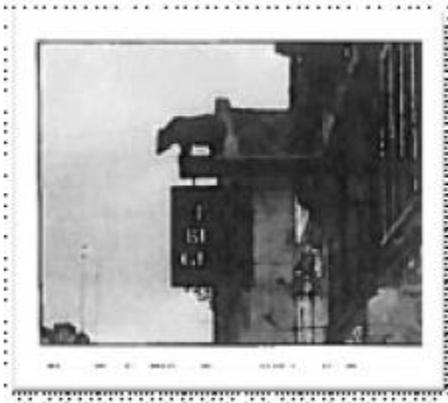
(d) *Number of signs.*

1. Only one monument, double post or freestanding sign structure is allowed per street frontage.

2. Where more than one monument, double post or freestanding sign structure is allowed on the same property, must be a minimum of 500 feet apart.

	A	R-E	R-1	R-2	R-3	R-3L	<u>R-4</u>	<u>R-MF-16</u>	R-MH	C-I	C-2	I
Monument	--	C	C	C	C	C	<u>C</u>	C	C	A	A	A

(8) *Projecting sign.*



(a) *Description.* A sign, other than a wall sign, that is mounted to the wall or surface of a building or structure and which is supported by a wall of a building or structure and projects from the building by 12 inches or more.

(b) *Sign dimensions.*

1. Height (max): four feet (mounted below second floor); eight feet (mounted between the second and third floor); twelve feet (mounted above the third floor).
2. Spacing from building facade (max): one foot.
3. Projection width (max): six feet.
4. Depth (max): one foot.
5. Clear height above sidewalk (min): ten feet.

(c) *Regulations.*

1. May be mounted on a building corner when the building is at the intersection of two streets.
2. Top of the sign may be no higher than the top of the building.

(d) *Number of signs.* A maximum of one projecting sign or shingle sign for each individual building or for each public/private street or parking area frontage side of an individual building.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the

wall area of that side of the building, not to exceed a maximum total amount of 800 square feet.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF-16	R-MH	C-1	C-2	I
Projecting	--	--	--	--	--	--	--	--	--	A	A	A

(9) *Sandwich board sign.*



(a) *De scription.* A movable sign not secured or attached to the ground or surface upon which it is located.

(b) *Sign dimensions.*

1. Sign area (max): nine square feet.
2. Sign height (max): three feet.
3. Sign width (max): two and one-half.

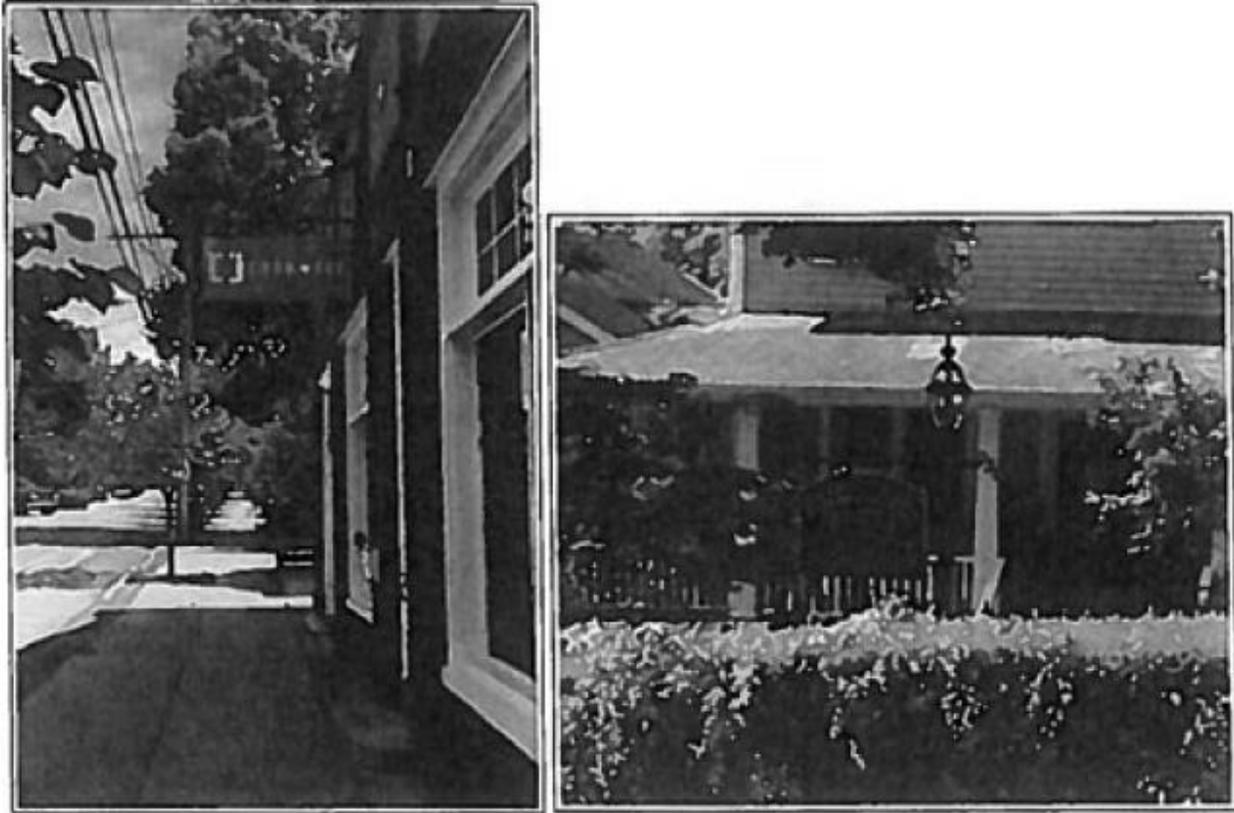
(c) *Regulations.*

1. Must be removed and placed indoors at the close of business each day.
2. Cannot obstruct vehicular, bicycle or pedestrian traffic and must comply with ADA clearance and accessibility.
3. May not be illuminated.

(d) *Number of signs.* Each ground floor tenant can have one sidewalk sign located adjacent to the primary facade on the sidewalk with the principal customer entrance or up to eight feet from the facade.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Sandwich Board	--	--	--	--	--	--	--	--	--	A	A	A

(10) *Shingle sign.*



(a) *Desc-ription.* A small projecting sign that hangs from a bracket or support and is located over or near a building entrance.

(b) *Sign dimensions.*

1. Sign area (max): nine square feet.
2. Height (max): three feet.
3. Spacing from building facade (max): one foot.
4. Projection width (max): three feet.
5. Depth (max): six inches.
6. Clear height above sidewalk (min): ten feet.

(c) *Regulations.*

1. Must be located within five feet of an accessible building entrance.
2. Must be located below the window sill of the second story on a multi-story building or below the roof line of a single story building.
3. May not be illuminated.

(d) *Number of signs.* A maximum of one projecting sign or shingle sign for each individual building or tenant of each individual building or for each public/private street or parking area frontage side of an individual building.

	<i>A</i>	<i>R-E</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-3L</i>	<i>R-4</i>	<i>R-MF-16</i>	<i>R-MH</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Shingle	--	--	--	--	--	--	--	--	--	A	A	A

(11) *Subdivision sign.*



(a) *Description.* A permanently affixed sign which is wholly independent of a building for support attached along its entire width to a continuous pedestal or wall that is used to identify the entry to or name of an entire development.

(b) *Sign dimensions.*

1. Sign area (max): 32 square feet (sign face).
2. Height (max): eight feet (sign face).

(c) *Regulations.*

1. Must be set back at least ten feet from the front property line and 15 feet from the side property line.
2. Must not impair vision or line of sight for incoming or outgoing traffic.

(d) *Number of signs.* Two subdivision signs are allowed per street frontage, one on each side of an entrance street into a subdivision.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF-16	R-MH	C-1	C-2	I
Subdivision	A	A	A	A	A	A	A	A	A	A	A	A

(12) *Wall sign.*



(a) *Description.* Means any attached sign other than a projecting sign or a banner sign, which is permanently attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

(b) *Sign dimensions.* Sign area: a maximum of 15% of the square footage of the building's wall area facing a public/private street, drive, or parking area.

(c) *Regulations.*

1. Must be no higher than the highest point of the second floor of the building.
2. Must not extend above the roof line or above a parapet wall of a building with a flat roof.
3. May not cover architectural detail.
4. May not extend above the lower eave line of a building with a pitched roof.

(d) *Number of signs.*

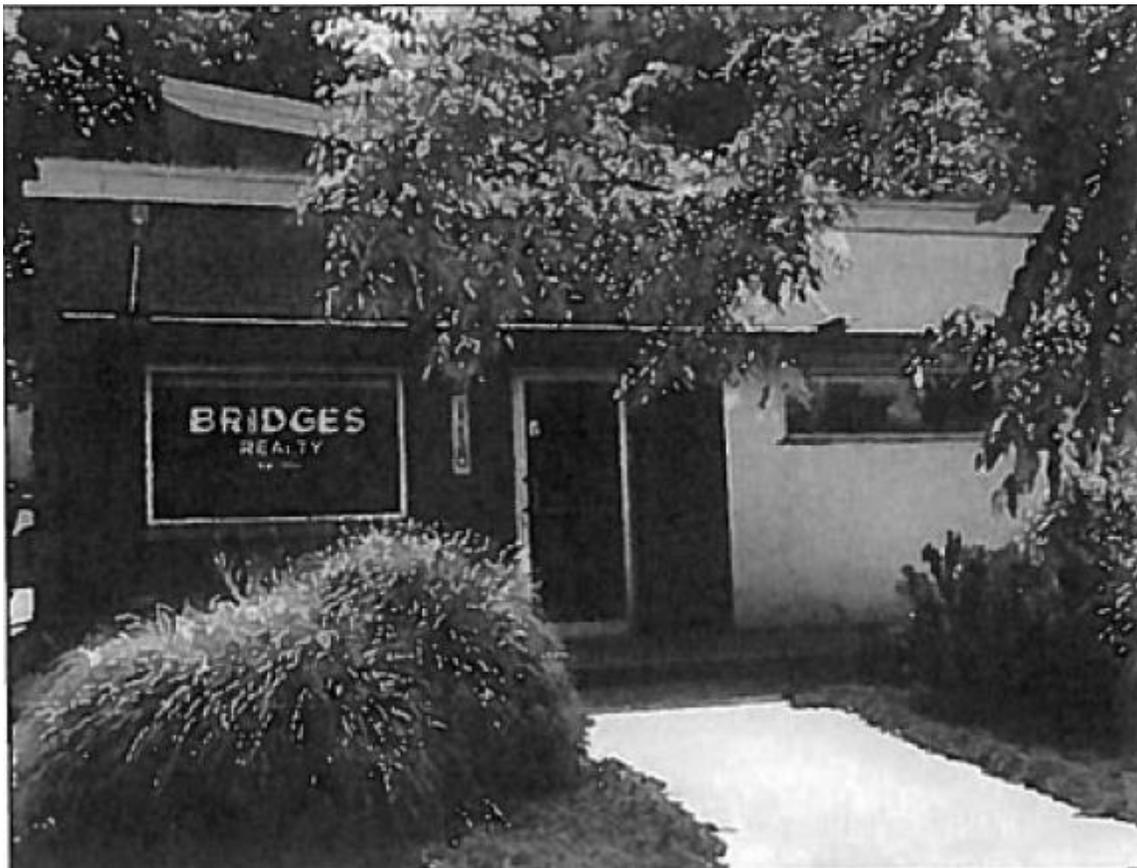
1. While there is no set restriction on the maximum number of signs allowed, multi-tenancy buildings must consider that the percentage of wall area must be divided between multiple tenants (if a building has multi-tenancy occupancy).

2. In no event shall the sign area for available frontage used by multiple tenants exceed the maximum sign area set forth in this section.

(e) *Total sign area allocation.* The combined square footage of awning, canopy, crown, projection and wall signs shall not exceed 20% of the total square footage of the wall area of that side of the building, not to exceed a maximum total amount of 800 square feet per wall.

	A	R-E	R-1	R-2	R-3	R-3L	<u>R-4</u>	R- MF- <u>16</u>	R- MH	C-1	C-2	I
Wall	--	--	--	--	--	--	--	A	--	A	A	A

(13) *Window sign.*



(a) *Description.* An attached sign that is not a temporary sign and which is attached to, painted on, etched or otherwise adhered to a window or which is displayed within 12 inches of the window and is legible from outside the window.

(b) *Regulations.*

1. No permit required.
 2. Limited to 35% of window area.
- (c) *Number of signs.* No restrictions.

	A	R-E	R-1	R-2	R-3	R-3L	R-4	R-MF-16	R-MH	C-1	C-2	I
Window	--	--	--	--	--	--	--	A	--	A	A	A

(D) Sign regulations enacted for overlay districts within the city shall supersede this code to the extent that such regulations conflict.

(E) *Illumination.* No sign shall be erected or maintained which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

(1) Illumination is restricted to incandescent or LED light bulbs rated at 150 watts, or an amount not to exceed 2,700 lumens.

(2) *Internal illumination.* Internally illuminated signs must be lit from a concealed source. No exposed lamps or tubes shall be permitted. The minimum depth for illuminated signs shall be four inches. Illuminated signs may be set out from the mounting surface in order to create a silhouette effect.

(3) *External illumination.* Signs may be externally illuminated as provided herein, but external illumination must direct light at the sign only and avoid spill-over of light.

(F) *Changeable copy signs.* Manual and electronic changeable copy on monument signs shall be permitted provided that the manual or changeable copy does not exceed 40% of the sign area and the copy rotation may not exceed three times per day.

(G) *Procedures.* Applications for a sign permit must be processed through the Building Official.

(H) *Non-conformity and modification.*

(1) A non-conforming sign cannot be replaced by another non-conforming sign, including face material, except that the substitution or interchange of poster panels or painted boards on a non-conforming signs is permitted. All non-conforming signs must be maintained in a safe manner and in good repair.

(2) Minor repairs and maintenance of non-conforming signs is permitted. However, no structural repairs, structural changes or changes in the size, shape or technology currently being used on the sign is permitted except to bring the sign out of its non-conforming condition and into compliance with the requirements of this code.

(3) Non-conforming signs may stay in place until one of the following conditions occurs:

(a) The business advertised ceases at that location, except that the substitution or interchange of poster panels or painted boards is permitted;

(b) The deterioration of the sign makes it a hazard; or

(c) The sign has damage exceeding 50% of its replacement cost.

(l) *Compliance.* Any non-conforming sign which is altered, relocated, replaced in a manner not specifically covered in division (F) above must be brought immediately into compliance with all provisions of this code.

(Ord. 2018-05-786, passed 5-1-18)

§ 153.185 GENERALLY.

(A) *Severability clause.* Should any section or provision of this subchapter be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the subchapter as a whole or any part thereof, other than the part so declared to be invalid.

(B) *Substitution clause.* These regulations are not intended to regulate the message or content of non-commercial signs or temporary signs. A sign with a non-commercial message may substitute a sign with a commercial message, provided it meets all requirements of this code.

(C) *Enforcement.*

(1) Except as otherwise provided herein, these regulations shall be enforced by the Building Official(s) appointed or designated by the Mayor. It shall be a violation of these regulations for any person to erect, alter, move or improve any sign until an appropriate sign permit has been obtained under these regulations. Code enforcement officers, or other designated persons, may remove temporary signs that are in violation of these regulations, including but not limited to signs which have been improperly placed in the city right-of-way.

(2) If the Building Official or designee shall find that any sign is unsafe or insecure, is abandoned or maintained in a dilapidated condition or has been constructed or is being maintained in violation of the provisions of the regulations or any other ordinance of the city, the Building Official or designee shall give written notice of the violation or problem to the sign permittee or owner of the property on which the sign is located. The notice shall require removal of the sign and/or structure within seven days. If the permittee or owner fails to remove or alter the sign so as to comply with the standards set forth in these regulations seven days from the receipt of said notice, the city may remove or alter such sign to comply with this municipal code. All expense incidental to such removal or alteration shall be charged to the owner of the property upon which the sign is or was located and shall constitute a lien upon the property.

(3) Except as otherwise provided, a violation of this chapter shall be deemed a misdemeanor and shall be punishable as set forth in § [10.99](#). Nothing herein contained

shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of these regulations or the town municipal code.

(Ord. 2018-05-786, passed 5-1-18)

GENERAL STANDARDS

§ 153.210 OFF-STREET PARKING AND LOADING

(A) Applicability.

(1) Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.

(2) *Parking and loading schedules.*

(a) *Off-street parking schedule A.* Off-street parking spaces shall be provided in accordance with the following off-street parking schedule ("Schedule A"). In some cases, the applicable off-street parking space requirement in Schedule A refers to Schedule B.

(b) The number of parking spaces required for a use not listed herein shall be the same as for a similar use that is listed. When the required number of spaces cannot be ascertained by this method, or if the applicant and the city staff cannot agree, the matter shall be submitted for Planning Commission determination. Such determination shall be subject to appeal to the City Council.

Schedule A

<i>Residential uses</i>	<i>Number of spaces required</i>
Single-family detached	<u>2-4 per dwelling/unit. Two spaces may be within a garage/carport structure (attached or detached), and the other two spaces may be within the driveway as long as regulations in (4)(c) below are followed. See item (k) below for sizing.</u>
Duplex	2 per dwelling unit
Multi-family	1.25 per efficiency unit 1.75 per one-bedroom unit 2.25 per two-bedroom unit
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit
<i>Civic and commercial uses</i>	<i>Number of spaces required</i>

Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats, based on maximum capacity
Bank or financial institution	1 per 300 square feet
Bed and breakfast	2 per building, plus 1 per guest room
Church	1 for each 4 seats in the sanctuary (sharing possible)
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Construction sales and service	1 per 500 square feet
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Funeral home	1 for each 4 chapel seats, plus 1 per employee
Government service	1 per 300 square feet
Hospital	1 for each bed
Hotel or motel	1 per guest room, plus 1 per 10 guest rooms
Library	1 per 500 square feet
Medical service	6 per doctor or dentist
Museum	1 per 500 square feet
Office, general	1 per 300 square feet
Recreation/entertainment, indoor	1 per 400 square feet
Recreational vehicle park	1 per camping space
Restaurant, fast food	1 per 75 square feet of customer service/dining area 1 per 200 square feet if no such service/dining area
Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail/service, general	1 per 250 square feet
Retail/service, furniture and bulky items	1 per 500 square feet
School, nursery, elementary and middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	2 per service bay, plus 1 per pump
Vehicle and equipment sales	1 per 500 square feet

Vehicle repair, general or limited	5 per service bay
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater
Industrial and manufacturing uses	Number of spaces required
Asphalt or concrete plant	Spaces to be provided pursuant to Schedule B
Auto wrecking or salvage yard	Spaces to be provided pursuant to Schedule B
Manufacturing, general	Spaces to be provided pursuant to Schedule B
Manufacturing, limited	Spaces to be provided pursuant to Schedule B
Research service	1 per 300 square feet
Warehousing	Spaces to be provided pursuant to Schedule B
Welding or machine shop	1 per 1,000 square feet or 1 per employee, whichever is greater

(c) *Off-street loading schedule.* Off-street loading space shall be provided in accordance with the following minimum standards:

Off-Street Loading Schedule

Retail and service, warehouse, wholesale, and manufacturing uses	
Floor area (square feet)	Minimum off-street loading requirement
3,000 to 25,000	1
25,001 to 85,000	2
85,001 to 155,000	3
155,001 to 235,000	4
235,001 to 325,000	5
325,001 to 425,000	6
425,001 to 535,000	7
535,001 to 655,000	8
655,001 to 775,000	9
775,001 to 925,000	10
925,001 or more	10, plus 1 per 200,000 square feet above 925,001
Office, nursing home, hospital, hotels and institutions	
100,001 to 335,000	2

335,001 to 625,000	3
625,001 to 945,000	4
945,001 or more	5, plus 1 per 500,000 square feet above 945,001

(3) *Computing off-street parking and loading requirements.*

(a) *Multiple uses.* Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.

(b) *Fractions.* When measurements of the number of required spaces result in fractions, any fraction of one-half or less shall be disregarded and any fraction of more than one-half shall be rounded upward to the next highest whole number.

(c) *Area.* Unless otherwise noted in these provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.

(d) *Employees, students and occupant-based standards.* For the purpose of computing parking requirements based on the number of employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.

(e) *Americans With Disabilities Act Requirements (ADA).* Pursuant to federal ADA standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by person with physical disabilities. Responsibility for compliance with ADA, in all respects, shall rest with the applicant.

(4) *Location and design of off-street parking and loading spaces.*

(a) *On-site.* Except as otherwise specifically provided, required off-street parking and loading spaces shall be located on the same lot as the principal use.

(b) *Right-of-way.* Off-street parking spaces shall be prohibited within the public right-of-way; and no portion of the abutting street right-of-way shall, except for the driveway, be paved or used in any manner except as green area.

(c) *Setbacks.* In R-E, R-1, R-2, R-3-L, R-3, R-4, R-MF-16 and R-MH districts, required off-street parking shall not be located within a street (front or street side) setback. Parking in excess of the required number of spaces is allowed in the street setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.

(d) Where parking is to be provided in the street setback of a multi-family dwelling, there shall be established a parking setback line of ten feet. The area between the parking setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover not inconsistent with other landscaping provisions contained herein, and protected by interior curbing.

(e) In all commercial and industrial districts, required parking is allowed within the street setback; however, public right-of-way except for the driveway, shall not be graveled or hard-surfaced.

(f) *Ingress and egress.* Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to "back" onto a public right-of-way, except single family and duplex residential development on local ~~and collector~~ streets.

(g) *Surfacing.* All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete, or brick, a minimum of 100 feet from the street frontage right-of-way. Areas designated for display of items for sale, e.g. vehicles, tractors, implements, ATVs, RVs and the like, will not be required to adhere to this requirement. Residential driveways, not in a platted subdivision shall be required to pave with asphalt, concrete, or brick, the portion of driveway from the edge of the street pavement to the property line or the right-of-way according to the master street plan, whichever is greater.

(h) *Drainage.* All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all storm water, and to not increase the storm water runoff onto the surface of adjoining properties or streets.

(i) *Curbing.* The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family and duplex residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. In addition, the principal building on the lot shall be protected by curbs and/or raised walkways. Rollover curbs shall not be permitted, and wheel-stops are expressly prohibited as alternatives to meeting curbing requirements. The area between the curb and the property line, except for the driveway(s), shall be maintained as green space.

(j) *Striping.* Off-street parking areas containing five or more spaces shall have parking spaces delineated by pavement striping.

(k) *Parking space dimensions.* Off-street parking spaces shall contain a minimum area of at least 180 square feet, with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet.

Parking space dimensions for Residential Subdivision. Off-street parking spaces located outside of a garage/carport structure shall contain a minimum area of at least 180 square feet per parking space, with a minimum width of nine (9) feet, and a minimum length of twenty (20) feet.

(l) *Loading space dimensions.* Off-street loading spaces shall be at least 14 feet by 45 feet in size, with a minimum height clearance of 18 feet.

(m) *Aisle dimensions.* Drive aisles within off-street parking lots shall comply with the following minimum width requirements:

Parking angle	One-way aisle	Two-way aisle
90°	24 feet	24 feet
60°	18 feet	24 feet
45°	16 feet	24 feet
30°	13 feet	24 feet

(n) *Timing of construction.* All required parking and loading spaces, driving aisles, and access ways shall be constructed prior to the issuance of a certificate of occupancy, provided that a temporary certificate of occupancy may be issued by the city's inspection department if it is determined, based on information provided by the applicant, that inclement weather or other factors beyond the control of the applicant have prevented compliance with this "timing" requirement. Before approval of a temporary certificate of occupancy, the parking area subgrade and (SB2) stone base shall be compacted in accordance with the city's construction standards. The temporary certificate of occupancy shall expire at the end of one120 days or within such shorter timeframe specified by the inspection department at the time of approval of the certificate.

(o) *Use of off-street parking and loading spaces.* Required off-street parking spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.

(5) *Off-site parking.* Required off-street parking shall be located on the same lot as the use it is intended to serve; provided that a portion, not to exceed 25%, of the required off-street parking spaces may be located on a remote and separate lot from the lot on which the principal use is located, if the off-site parking complies with the following standards:

(a) *Ineligible activities.* Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, restaurants, convenience stores, or other convenience-oriented uses.

(b) *Location.* No off-site parking area shall be located more than 80 feet from the required parking lot of the use served, unless a shuttle service is provided. Distance shall be measured along the shortest legal, practical walking route.

(c) *Zoning classification.* Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.

(d) *Agreement for off-site parking.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the zoning official for recording. In addition, whether under the same

ownership or not, a legal document to prevent development of the off-site parking area shall be executed and recorded. Recording of the agreement(s) shall take place before issuance of a building permit for any use to be served by the off-site parking area; or in the case of an existing building, prior to issuance of a certificate of occupancy.

(6) *Shared parking.* The zoning official, subject to appeal to the Planning Commission, may authorize a reduction in the number of required parking spaces for multiple use developments, and for uses that are located near one another that have different peak parking demands and operating hours. Shared parking shall be subject to the following standards.

(a) *Location.* Shared off-street parking spaces shall be located no further than 300 feet from the building and uses they are intended to serve unless shuttle service is provided.

(b) *Study.* An acceptable parking study provided by the applicant shall be submitted which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month, or year.

(c) *Agreement.* A shared parking plan shall be enforced through written agreement. Proof of recording of the agreement shall be presented prior to issuance of a building permit.

(d) *Revocation of certificate of occupancy.* Failure to comply with the shared parking provisions of this article shall constitute a violation of these regulations, and shall specifically be cause for revocation of a certificate of occupancy.

(7) *Outdoor parking/storage of boats, trailers, and recreational vehicles.* One boat, trailer and/or recreational vehicle may be parked outdoors on a lot in a residential district provided that:

(a) The boat, trailer or recreational vehicle is owned and used by a resident of the premises;

(b) The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight hours;

(c) The boat, trailer and/or recreational vehicle is located in the side or rear yard;

(d) The boat, trailer and/or recreational vehicle is not used for living, sleeping or housekeeping purposes;

(e) The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law; and

(f) The area must be kept free of weeds and debris.

(8) *Vehicle stack space for drive-thru facilities.* In addition to meeting the off-street parking requirements of the section, establishments with drive-thru facilities shall comply with the following minimum vehicle stack space standards.

(a) *Stack space schedule.*

1. Fast-food restaurants, 110 feet, as measured from the order station.
2. Banks, 70 feet, as measured from the teller drop.
3. Automatic car washes, 50 feet, as measured from the entrance.
4. Other uses, 30 feet, as measured from the pick-up window.

(b) *Design and layout.* Vehicle stack spaces shall be subject to the following design and layout standards.

1. Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.

2. Stack space lanes shall be a minimum of eight feet wide, and shall be separated from other internal driveways with painted lines or curbing.

(Ord. 2017-05-635, passed 5-2-17)

153.212 LANDSCAPING, SCREENING, FENCING, AND BUFFERING.

(A) *Purpose.* The purpose of this section is to ensure a minimum of open space and green area as an integral part of new development and to protect the health and welfare of its citizens through the regulation of landscaping of new residential, multi-family residential, commercial, and industrial developments.

(1) Landscaping enhances the environmental and visual character of the community.

(2) Green space requirements preserve and stabilize the area's ecological balance by establishing a healthier environment.

(3) Green areas help to mitigate the negative effects of air and noise pollution by using plants as buffers, and slow and reduce storm water runoff.

(4) Fencing and landscaping provides visual screening and buffering, and screens between incompatible land uses.

(5) Landscaping enhances parking lots.

(6) Greenspace requirements can establish parks and other outdoor amenities for the citizens of the city.

(B) *Objectives.* Landscaping and screening should be an integral part of a development. This section is designed to promote high quality developments, protect property values and public investment in our community. Objectives of this section include, but are not limited to, the following:

(1) To moderate the effects of the sun, wind, and temperature changes;

- (2) To filter pollutants from the air and release oxygen;
- (3) To stabilize soil and prevent erosion;
- (4) To encourage preservation of desirable trees; and
- (5) To provide buffering between different uses and developments.

(C) *Applicability.* The requirements of this section shall apply to:

- (1) New developments. All new public, private, and institutional developments;
- (2) New parking lots or the expansion of existing parking lots in any zone which increases the parking to 60 or more spaces, or to parking lots with fewer than 60 spaces, when the Planning Board deems necessary for improved control and safety of pedestrians; and
- (3) Additions. All additions to existing buildings.

(D) *Exemptions.*

- (1) Any individual who purchases, builds, or remodels a single-family home located in any zoning district is exempt from all requirements of this section.
- (2) *Existing development; changes in use.* Improvements or repairs to existing developments that do not result in an increase in floor area, and changes in use that do not result in an increase in intensity, shall also be exempt from all standards of this section.

(E) *General provisions.*

- (1) *Sight distances.* Safe sight distances at intersections and points of access must be maintained. No landscaping shall constitute a hazard to traffic, including, but not limited to, landscaping located within the sight triangle of an intersection.
- (2) *Replacement.* Vegetation planted or preserved according to an approved plan shall remain alive for a minimum of three years from the date of certificate of occupancy. Vegetation that is planted or preserved that does not remain alive for three years shall be replaced with equivalent vegetation. Preserved trees for which credit was awarded, but which subsequently die, shall be replaced according to the Tree Preservation Credits Table.
- (3) *Irrigation.* Required landscaping shall be irrigated by one of the following methods:
 - (a) Underground sprinkler system;
 - (b) Automatic drip system; or
 - (c) Hose bib attachment within 100 feet of all landscaped areas.
- (4) *Artificial plants.* No artificial plants or vegetation shall be used to meet any standards of this section, unless expressly approved by the Planning Board.

(5) Street trees are the only required landscaping that may be planted in the right-of-way.

(6) *Planting areas.* Planting areas that contain trees shall be at least seven feet wide and protected by raised curbs to prevent damage by vehicles when in or adjacent to parking or drive aisles, **unless shown otherwise in the adopted street section.**

(7) *Dumpster screening.* Dumpsters located in any district shall be completely screened from view on all sides by a fence or wall with a minimum height of six feet, or one foot taller than the dumpster, whichever is greater. The fence or wall shall provide complete visual screening of the dumpster from all sides, and be compatible in material and color with the principal structure on the lot. All dumpsters shall have a secured top to prevent materials from blowing out.

(F) *Landscape plans.*

(1) The landscaping plan is required to address the following requirements:

- (a) Street trees;
- (b) Landscape street frontage buffer;
- (c) Interior parking lot landscaping; and
- (d) Perimeter landscaping.

(2) The following information is required on landscape plans and shall be completed by a landscape architect or landscape professional in order for staff to review for compliance:

(a) *Existing vegetation.* Location, general type and quality of existing vegetation, including trees on site;

(b) *Preservation.* Existing vegetation to be saved;

(c) *Protection.* Methods and details for protecting existing vegetation during construction and approved sediment control plan;

(d) *Proposed plants.* Location and labels for all proposed plants;

(e) *Landscape details.* Plant list with botanical and common names, quantity, spacing, and size of all proposed landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;

(f) *Installation details.* Planning and installation details as necessary to ensure conformance with all required standards;

(g) *Sight triangle.* The sight triangle shall be indicated on the plan with dimensioned shaded area;

(h) *Irrigation.* The plans shall indicate the type of irrigation to be used. If a hose bib is proposed, the location shall be shown on the plan.

(i) *Three-year guarantee.* Guarantee from the developer that all plant materials will be warranted for a period of three years from the time of installation. If any material should fail to survive during that period, it would be replaced during the appropriate planting season.

(G) *Street trees.* Per the adopted street sections, street trees ~~are~~ may be required within the greenspace between the road and sidewalk. Street trees are the only ~~required~~ landscaping that may be planted in the right-of-way. Street trees shall be optional for Local Streets. Street trees shall be required for Collector, Minor Arterial, and Arterial streets per the adopted street sections.

(1) *Purpose.* Street trees provide a key piece to complete streets along with sidewalks, trails, and appropriate pedestrian connections. They help shape and define street corridors.

(2) *Minimum trees required.* One street tree for every ~~30-50~~ linear feet is required. ~~Adjustments-Variations in spacing can be approved~~ are allowable when the street is located in a residential subdivision for situating to accommodate driveways or on-street parking. Any adjustments shall be approved by the Planning Board. Street trees shall generally be centered in the greenspace between the sidewalk and the curb.

(H) Residential Subdivision Landscape Standards.

(1) *Applicability.* Required for newly constructed single-family, duplex, triplex, and quadplex residential subdivisions.

(a) Residential Large-Scale Developments shall follow the requirements for “multi-family residential” per this code section.

(2) One (1) shade tree per unit shall be placed in the front yard area of each lot. (i.e. single-family lots require one (1) shade tree to be placed, but duplex lots require two (2) shade trees to be placed)

(3) Minimum tree caliper size shall be two (2) inches. Caliper is defined as the measurement of the diameter of the trunk six (6) inches above ground level for trees up to four (4) inches in caliper size. Existing trees may be credited.

(4) Final occupancy permits may be held for those who fail to complete landscape requirements.

(I) *Landscaped street frontage buffer.* The street frontage buffer is the planting area parallel to the public street right-of-way.

(1) *Purpose.* The landscaped street frontage buffer serves one primary purpose: it provides an aesthetically pleasing transition from the public right-of-way to private property.

(2) *Prohibitions.* Parking, merchandise display, and off-street loading are prohibited in the landscaped street fontange buffer.

(3) *Exemptions. Single-family, duplex, triplex, and quadplex residential subdivisions ~~Single-family residential and residential duplex subdivisions~~* are not required to provide a landscaped street frontage buffer.

(4) *Buffer options: commercial/institutional.* The site plan for any development, other than a development that is exempt, shall show a landscaped street frontage buffer along all public rights-of-way. The applicant may choose a combination of options below.

(a) Ten-foot buffer strip; minimum 10 feet wide.

1. *Minimum number of shrubs.* Five shrubs/small trees per 30 linear feet of street frontage. A minimum of 50% of shrubs/small trees shall be evergreen. Preference for grouping.

2. Sight visibility must be maintained.

(b) *Earth berm.*

1. *Minimum height.* Two and one-half feet higher than the finished elevation of the parking lot.

2. *Minimum number of shrubs/small trees.* Three shrubs/small trees per 30 linear feet of street frontage. A minimum of 50% of shrubs/small trees shall be evergreen. Preference for grouping.

3. Sight visibility must be maintained.

(5) *Buffer options: multi-family residential.* Multi-family residential developments shall be required to have perimeter fencing for the entire development.

(a) A perimeter fence shall be provided between the development and other uses in order to provide privacy and separation. This must be approved with the development plan and shall conform to all fence regulations.

(b) *Vehicular access.* The perimeter fencing requirement does not preclude the need for vehicular access to be provided for future connectivity.

(c) A decorative fence shall be required along public streets that are classified as collectors or above. This shall consist of a durable (not a wood privacy fence) material. Wrought iron fencing is preferred. Additionally, this fence shall be planted with a minimum of five small trees per 30 linear feet of street frontage within a minimum ten-foot buffer strip. All plant material shall be evergreen. Preference for grouping.

(d) Different phases of the same development are not required to be separated.

(e) Sight visibility must be maintained.

(6) *Buffer options: industrial.* The site plan for any development, other than a development that is exempt, shall show a landscaped street frontage buffer along all public rights-of-way. The applicant may choose a combination of options below.

(a) Ten-foot buffer strip; minimum ten feet wide.

1. *Minimum number of shrubs.* Five shrubs/small trees per 50 linear feet of street frontage. A minimum of 50% of shrubs/small trees shall be evergreen. Preference for grouping.

2. Sight visibility must be maintained.

(b) *Earth berm.*

1. *Minimum height.* Two and one-half feet higher than the finished elevation of the parking lot.

2. *Minimum number of shrubs/small trees.* Three shrubs/small trees per 50 linear feet of street frontage. A minimum of 50% of shrubs/small trees shall be evergreen. Preference for grouping.

3. Sight visibility must be maintained.

(J) *Interior parking lot landscaping.* Interior parking lot landscaping is the planting area within and adjacent to parking areas.

(1) *Purpose.* The interior parking lot landscaping:

(a) Provides necessary green space to give relief to expansive parking areas with nothing but asphalt;

(b) Trees provide shade and serve as windbreaks; and

(c) Planting islands assist with vehicular circulation.

(2) *Applicability.* Interior parking lot landscaping requirements apply to new parking lots or the expansion of existing parking lots in any zone which increases the parking to 60 or more spaces, or to parking lots with fewer than 60 spaces, when the Planning Board deems necessary for improved control and safety of pedestrians.

(3) *Exemptions.* Parking lot landscaping shall not apply to multi-level parking structures, or areas devoted to drive-thru lanes.

(4) *Requirements.* The site plan shall show interior parking lot landscaping. Planting islands are required for every 15 parking spaces.

(a) The minimum dimensions of a planting island are 9 feet by 18 feet and must be curbed to protect plantings. Each island shall have a minimum of two small trees or one large tree.

(b) *Groundcover.* All interior parking lot landscaped areas shall be landscaped with groundcover.

1. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the interior parking lot landscaping.

2. Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

3. Non-organic material may be approved if the parking lot landscaping area functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(5) *Vehicle and equipment sales lots or storage areas.* Applicants shall select one of the following options for vehicular and equipment sales lots or storage areas.

(a) *Compliance with standard.* Comply with the interior parking lot landscaping requirements and the required street frontage requirements.

(b) *Increase street frontage buffer.* In lieu of the interior parking lot landscaping requirements, increase the required street frontage buffer to 15 feet wide and install the number of trees required for the interior landscape requirements within the street frontage buffer.

(K) *Interior site landscaping.* Interior site landscaping is immediately adjacent to the front of buildings.

(1) *Purpose.* The interior parking lot landscaping:

(a) Provides necessary green space to enhance and soften the transition from parking lot to the building; and

(b) Provides pedestrian friendly spaces.

(2) *Exemptions.* Single-family, duplex, triplex, and quadplex residential subdivisions ~~Single-family residential and residential duplex subdivisions~~ are not required to provide interior site landscaping.

(3) *Commercial and institutional: interior site landscaping.* Shrubs, perennial plants, or other vegetation in curbed planting beds or raised planters to span a minimum of 25% of the building frontage. Planters are encouraged be arranged to create outdoor seating opportunities. At least one large tree or two small trees per unit/suite is required.

(a) Living materials shall make up 80% of the curbed planting beds or raised planters.

(b) Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

(4) *Multi-family residential: interior site landscaping.* A minimum of seven shrubs, perennial plants, or other vegetation in planting beds or raised planters per unit are required. Planters are encouraged be arranged to create outdoor seating opportunities. At least one large tree or two small trees per every 10 units is required. Grouping is preferred.

(a) Living materials shall make up 80% of the planting beds or raised planters.

(b) Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

(5) *Industrial: interior site landscaping.* Shrubs, perennial plants, or other vegetation in planting beds to span a minimum of 15% of the building frontage. At least

one large tree or two small trees shall be required every 200 linear feet within the planting beds.

(a) Living materials shall make up 80% of the curbed planting beds or raised planters.

(b) Non-living material shall be organic (mulch or other), and shall make up the remainder of the groundcover.

(c) Non-organic material may be approved if the building landscape functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(L) *Landscaped perimeter buffer.* Perimeter landscaping is a peripheral planting strip along rear and side lot lines that separates uses.

(1) *Purpose.* Perimeter landscaping:

(a) Defines parking areas;

(b) Prevents two adjacent lots from becoming one large expanse of pavement;

(c) Provides protection for residential uses and other marginally compatible uses;

(d) Provides vegetation in densely developed areas; and

(e) Enhances the appearance of individual properties.

(2) *Requirements.* The site plan for any development shall show perimeter landscaping in addition to the landscaped street frontage buffer required.

(a) *Width.* A five-foot landscaped strip is required along the side and rear lots lines of a development.

(b) *Minimum number of trees.* One large tree or two small trees per every 50 feet.

(c) *Groundcover.* All perimeter landscaped areas not dedicated to preservation of existing vegetation shall be landscaped with groundcover.

1. Living materials such as grass/other vegetation shall make up 60% of the groundcover for the perimeter landscaping.

2. Non-living material shall be organic (mulch or other) and shall make up the remainder of the groundcover.

3. Non-organic material may be approved if the perimeter landscaping area functions as a bioswale. Any adjustments shall be approved by the Planning Board.

(3) *Vehicular access.* The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.

(4) *Adjacent properties.* The five-foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.

(5) *Pavement.* No pavement may extend within five feet of the property line on any lot unless it is included with an ingress/egress location.

(6) *Special standards: commercial/institutional.* When located adjacent to and visible from a residential use, increased landscaping standards shall be applied to reduce noise and light glare and to ensure residents' privacy.

(a) *Physical barrier.* A physical barrier shall be required that shall be a minimum of six feet in height and may consist of wood or masonry fencing, rock or brick walls, berms, or a combination of these methods.

(b) Trees and shrubs shall be placed in front of the barrier (on the developing side) to reduce parking lot noise.

(c) Trees and shrubs planted shall provide 60% coverage of the physical barrier within two years.

(d) At least 50% of the trees and shrubs shall be evergreen.

(e) *Tree preservation.* Existing healthy trees (as detailed in division (M)) may be included as a portion of the landscaped screening.

(f) If a large buffer is retained, these standards may be reduced based on expected reduction of impact. The Planning Board shall approve any reduction.

(7) *Special Standards: industrial.* In addition to the standard required for commercial/institutional.

(M) *Landscape installation requirements.* All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. All plants shall be nursery grown and adapted to the local area. All landscape material, both living and non-living, shall be in place prior to issuance of a final certificate of occupancy. A temporary certificate of occupancy may be issued prior to installation of required landscaping if binding, written assurances are submitted, insuring that planting will take place when planting season arrives.

(1) *Location.*

(a) *Drainage.* Trees shall not be placed where they interfere with site drainage.

(b) *Overhead utilities.*

1. Trees shall not be placed where they require frequent pruning in order to avoid inference with overhead power lines. In such locations, small ornamental trees are encouraged. Every effort shall be made to avoid placing trees directly under overhead utilities.

2. *Substitution of large trees.* Where large trees are required, and placement under or near overhead utilities is necessary to meet the landscaping requirements, two small trees may be used to substitute for one required large tree.

(c) *Underground utilities.* Landscaping shall be installed at locations that avoid placement directly above water lines. Where possible, tree plantings shall be located a minimum of five feet from all underground utilities.

(d) *Fire hydrants.* Landscaping shall not be placed within five feet of a fire hydrant.

(e) *Right-of-way.* Trees may be required to be placed in the right-of-way per the adopted street sections, per item (G). ~~Street-~~When street trees are required, they shall be placed within the greenspace between the road and sidewalk.

(2) *Minimum size.* Upon planting, plant material shall meet the following minimum requirements.

(a) *Shrubs.* Shrubs planted to satisfy the standards of this section shall be a minimum of three gallons in size.

(b) *Small deciduous or ornamental trees.* Small deciduous and ornamental trees planted to satisfy the standards of this section shall have a minimum height of four feet, and a minimum caliper of one and one-half inches.

(c) *Conifers or evergreens.* Conifers or upright evergreen trees planted to satisfy the standards of this section shall have a minimum height, after planting, of six feet.

(d) *Medium and large deciduous trees.* Medium and large deciduous trees planted to satisfy the standards of this section shall have a minimum height of eight feet, and a minimum diameter of three inches, measured at a point that is at least four feet above existing grade level.

(e) *Use of existing plant material.* Trees that exist on a site, prior to its development, may be used in part to satisfy the landscaping standards of this section provided they meet the size, variety, and location requirements of this section.

(3) *Species mix.* When more than ten trees are required to be planted to meet the standards of this section, a mix of species shall be provided. For each ten, or fraction thereof, another differing species shall be used.

(N) *Tree preservation credits.* Whenever possible, existing trees, especially those with an 8-inch or greater DBH (diameter at breast height), should be preserved. Established trees with existing canopy benefit the city and enhance the quality of life for citizens.

(1) *Healthy trees.*

(a) No tree preservation credits will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees shall be a minimum four-inch caliper to be counted towards tree preservation.

(b) *Protection during construction.* Trees for which credit is given shall be protected during construction from:

1. Mechanical injuries to root, trunk, and branches;

2. Injuries by chemical poisoning;
3. Injuries by excavation; and
4. Injuries by paving.

(2) *Credit options.* If an applicant is preserving trees, he may use the existing trees as credit either toward a reduction in parking requirements or in a reduction of the number of trees required, as described below and as approved by the Planning Board.

(a) *Reduction of parking requirements.* To allow an existing or new development to preserve trees within or adjacent to a parking lot, the number or required off-street parking spaces may be reduced as described below:

1. Total diameter of all preserved trees from 4 to 7.9 inches allows the reduction of one required parking space;
2. Total diameter of all preserved trees from 8 to 22.9 inches allows the reduction of two required parking spaces;
3. Total diameter of all preserved trees from 23 to 29.9 inches allows the reduction of three required parking spaces; and
4. Total diameter of all preserved trees 30 inches and larger allows the reduction of four required parking spaces.

(b) *Reduction of required trees.*

1. Not to include a reduction to required street trees.
2. Not to include a reduction to trees intended as a buffer for a residential use, or a marginally compatible use, unless the protected trees are existing within a preserved buffer area.
3. Preservation and protection of existing trees on the lot may be credited toward the tree planting requirements. Credit for preserved trees shall be permitted at the following rates:

- A. Total diameter of the preserved tree from 4 to 7.9 inches allows the reduction of one required large tree;
- B. Total diameter of the preserved tree from 8 to 22.9 inches allows the reduction of two required large trees;
- C. Total diameter of the preserved tree from 23 to 29.9 inches allows the reduction of three required large trees; and
- D. Total diameter of the preserved tree 30 inches or greater allows the reduction of four required large trees.

(3) *Additional development.* If a natural area is left undeveloped in order to fulfill these credit options, that is then to be developed, all credits will be revoked; the developer is responsible for adding trees to replace those for which credit was given.

(O) *Maintenance and replacement.* Trees, shrubs, fences, walls, and other landscape features (which includes screening) depicted on plans approved by the city shall be considered as elements of the project in the same manner as parking, building materials, and other details of the plan are considered elements. The landowner or successors in interest, or agents, if any, shall be jointly and severally responsible for the following:

(1) Regular maintenance of all landscaping in good condition, and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching, or other maintenance, as needed and in accordance with acceptable horticultural practices;

(2) The repair or replacement of required landscape structures (for example, fences and walls) to a structurally sound condition;

(3) The regular maintenance, repair, or replacement, where necessary, of any landscaping required by this section; and

(4) *Continuous maintenance of the site. Three-year guarantee.* Guarantee from the developer that all plant materials will be warranted for a period of three years from the time of installation. If any material should fail to survive during that period, it would be replaced during the appropriate planting season.

(P) *Alternative methods of compliance.*

(1) *Alternative compliance.* Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved by the Planning Commission, an alternative compliance landscape plan may be substituted, in whole or in part, for the landscaping requirements of this section.

(2) *Procedure.*

(a) Alternative compliance landscape plans shall be considered through the site plan review process.

(b) *Review criteria.* In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards, and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:

1. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this section;

2. Innovative landscaping or architectural design is employed on the proposed development site to achieve a buffering effect that is equivalent to the buffering or screening standards of this section;

3. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site;

4. The site involves unusually shaped parcels that make full compliance impossible or impractical;

5. Due to a change of use of an existing site, the required landscaping exceeds the amount that can be approved;

6. Safety considerations require a change; or

7. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

(Q) *Dedication and landscaping of neighborhood parks.*

(1) *Purpose.* Provide health and wellness through recreational opportunities, social engagement, neighborhood community building, nature education; parks increase neighborhood and city property values and contribute to overall quality of life.

(2) *Ratios for dedication.*

(a) Developers of residential developments with more than five lots/units, shall dedicate, in perpetuity, to the city, land area exclusive of streets, for a park and/or trails within the development. Land shall be dedicated at a ratio of .02 acres (870 SF) of land for each single-family dwelling unit and .01 acres (435 SF) for each multi-family dwelling unit. If the dedicated land area will be less than one acre in size, the "in lieu of fee" will automatically be required.

(b) *Dedication.* Dedication of land must be made before the city signs the final plat or the building permit is issued for the development. Deeded land is dedicated park land and is not subject to any right of reversion or refund.

(3) *Fee payment in lieu of land conveyance.* In lieu of land dedication, the developer shall contribute to the City Parks and Trails Development Fund \$250 for each single-family unit and \$100 for each multi-family unit. The city shall review the designated fees every two years and make adjustment suggestions to the City Council.

(a) *Use of fees.* Fees in lieu of dedication for parks shall be deposited in the City Parks and Trails Development Fund and shall only be used for park or trail acquisition, development, maintenance, or upgrades, as determined by the city.

(b) *Fees.* Intention for fees in lieu of dedication shall be included in the development agreement and paid prior to the city's signature of, and release of, the final plat.

(4) *Location of park.* The most suitable location for a park may be determined by the developer and approved by the Planning Board. Dedicated park land shall be contiguous and shall be dedicated in perpetuity. Land, when dedicated, shall be shown on the preliminary and final plats and on site plans and landscape plans.

(5) *Unacceptable park land.* Street front landscape buffers or parking lot landscape buffers and islands; stormwater detention ponds; irrigation ditches, swales, and stormwater channels; land with excessive grade; land with immovable trash, junk, and/or pollutants; or any other land deemed unsuitable by the Planning Board shall not be dedicated as park land.

(6) *Required essential landscaping and infrastructure.*

- (a) Community green space with bench seating (minimum two benches);
- (b) Open turf grass area;
- (c) ADA accessible walking trail or path into public area;
- (d) Trash receptacle to be approved by the city. The city will be responsible for trash disposal;
- (e) Water and sewer connections (there will be no charge for these taps);
- (f) Other utility easements for nature connections;
- (g) Hose bib connection;
- (h) Vegetation planning requirements below. These can be altered at the discretion of the Planning Board when native trees, shrubs, grasses, and other vegetation are preserved.
 - 1. Minimum of four large trees;
 - 2. Minimum of two small trees;
 - 3. Other perennial vegetation;
- (i) A minimum of one active use enhancement per acre shall be incorporated into the park;
 - 1. Children's playground equipment;
 - 2. Splash pad park;
 - 3. Sports facility, which can include bocce court, volleyball court, basketball court, tennis court, soccer field, disk golf course, or other facility approved by the Planning Board;
 - 4. Hiking or biking trails; or
 - 5. Other amenity approved by the Planning Board;
- (j) Other optional amenities to include (not required):
 - 1. Lighting;
 - 2. Picnic tables;
 - 3. Barbeque grills;

4. Restroom facilities;
5. Gazebo or pavilion;
6. Rain garden or other display garden; or
7. Drinking fountain.

(7) *Park naming rights.* The developer shall have naming rights for the park, subject to approval by the Planning Board.

(8) *Ownership and maintenance/replacement.* Dedicated parks shall be maintained by the city.

(9) *Park design and construction standards.* Developer shall design and construct neighborhood parks in compliance with all city design standards for public improvements.

(10) *Performance bond; landscaping installation, maintenance, and replacement of landscaping materials.*

(a) *Performance bond/guarantee requirement.* At the time of presentation of the final landscape site plan, the developer shall be required to provide the city with a performance bond, certificate of deposit, or letter of credit to ensure full compliance with landscape installation and a two-year replacement/maintenance requirement for the dedicated park. The bond instrument shall be subject to rules found in §§ [152.030](#) through [152.032](#) regarding actions to be taken by the city and developer depending on the type of bond submitted.

1. If all landscaping has been installed per the plan, the performance bond shall be for 50% of the cost of material and labor.

2. If the landscaping has not been installed, the bond shall be for 100% of the cost of material and labor.

3. The bond shall be irrevocable and shall list the city as sole beneficiary.

4. The bond shall be in a form approved by the City Attorney.

5. The bond shall run for no less than 24 months.

6. Should the city have to complete the approved landscaping site plan and/or replace dead landscaping material within two years of planting, as determined by the city staff after consultation with the city's engineer, the city shall be entitled to payment upon making demand for payment under the terms of the bond, cash deposit, or letter of credit. The city shall be entitled to use all of the money secured by the bond, cash deposit, or letter of credit to assure the proper installation or maintenance of the improvement.

7. The subdivider shall not be entitled to any excess monies until the installation and/or maintenance of the improvements in the park have been satisfactorily completed.

(b) *Installation.* All landscaping shall be installed in accordance with the standards and requirements of this section. Permits for building, paving, utilities, or construction shall not be issued until a landscape site plan including all required information is submitted and approved by the Planning Board. The landscape site plan must be submitted with the site plan.

(c) *Delays in planting.* When construction has been completed but it would be impractical to plant trees, shrubs, grass, or other landscape material due to weather conditions, upon approval of the city, the developer shall be given additional time to complete all required landscaping; further, a temporary occupancy permit may be issued by the Building Inspector. The developer or builder must make every effort to finished the project within the given timeframe for completion that both parties have agreed to.

(d) *Enforcement.* Final occupancy permits and /or final plats will be held for those who fail to complete the landscaping requirements that the city and developer have agreed to.

(R) *Recommended trees and shrubs.*

(1) *Criteria.* The following lists indicate plantings that meet the landscaping requirements. These are recommendations. Other species may be considered by the city, unless specifically prohibited in other official city documents or ordinances. No known invasive species shall be allowed.

(a) All plant materials should be spaced appropriately in accordance with mature plant size.

(b) Plant materials intended for screening as required should be spaced appropriately to form the appropriate screen upon maturity.

(c) *Perennials and grasses.* No restrictions, natives and drought tolerant species preferred.

(2) *Recommended plant lists.*

(a) *Large trees.*

Common Name	Scientific Name	Not to be Used as a Street Tree
American Beech	<i>Fagus grandifolia</i>	X
American Holly	<i>Ilex Opaca</i>	X
American Hophornbeam	<i>Ostrya virginiana</i>	
Baldcypress	<i>Taxodium distichum</i>	
Bitternut Hickory	<i>Carya cordiformis</i>	
Black Oak	<i>Quercus velutina</i>	
Black Walnut	<i>Juglans nigra</i>	

Bur Oak	<i>Quercus macrocarpa</i>	
Chinese Pistache	<i>Pistacia chinensis</i>	
Chinkapin Oak	<i>Quercus muehlenbergii</i>	
Crape Myrtle	<i>Lagerstroemia indica</i>	
Frontier Elm	<i>Ulmus carpinifolia x parvifolia</i>	
Goldenrain Tree	<i>Koelreuteria paniculate</i>	
Japanese Zelcova	<i>Zelcova serrata</i>	
Jefferson Elm	<i>Ulmus americana 'Jefferson'</i>	
Lacebark Elm	<i>Ulmus parvifolia</i>	
Littleleaf Linden	<i>Tilia cordata</i>	
Northern Red Oak	<i>Quercus rubra</i>	
Osage Orange	<i>Maclura pomifera</i>	X
Pecan	<i>Carya illinoensis</i>	
Prospector Elm	<i>Ulmus wilsoniana</i>	
River Birch	<i>Betula nigra</i>	X
Shagback Hickory	<i>Carya ovata</i>	
Shingle Oak	<i>Quercus imbricaria</i>	
Shumard Oak	<i>Quercus shumardi</i>	
Silver Linden	<i>Tilia tomentosa</i>	
Southern Magnolia	<i>Magnolia grandiflora</i>	X
Southern Red Oak	<i>Quercus falcate</i>	
Sugarberry	<i>Celtus laevigata</i>	
Swamp White Oak	<i>Quercus bicolor</i>	
Sycamore	<i>Platnus occidentalis</i>	
Tuliptree	<i>Liriodendron tulipifera</i>	
Turkish Filbert	<i>Corylus colurna</i>	
Water Oak	<i>Quercus nigra</i>	
White Oak	<i>Quercus alba</i>	
Willow Oak	<i>Quercus phellos</i>	

(b) *Small/understory trees.*

Common Name	Scientific Name
American Smoketree	<i>Cotinus obovatus</i>

Cherry	<i>Prunus serrulata</i>
Crabapple	<i>Malus species</i>
Flowering Dogwood	<i>Cornus florida</i>
Fringe Tree	<i>Chionanthus virginicus</i>
'Little Gem' Magnolia	<i>Magnolia grandiflora</i> 'Little Gem'
Natchez Crapemyrtle	<i>Lagerstroemia indica</i> 'Natchez'
Oklahoma Redbud	<i>Cercis reniformis</i> 'Oklahoma'
Oriental Arborvitae	<i>Platycladus orientalis</i>
Possumhaw	<i>Ilex deciduas</i>
Saucer Magnolia	<i>Magnolia x soulangiana</i>
Serviceberry	<i>Amelanchier arborea</i>
Star Magnolia	<i>Magnolia stellata</i>
Sweet Bay Magnolia	<i>Magnolia virginiana</i>
Yaupon Holly	<i>Ilex vomitoria</i>

(c) *Shrubs.*

Common Name	Scientific Name
Boxwood	<i>Buxus sinica</i> var. <i>insularis</i> 'Wintergreen'
Butterfly Bush	<i>Buddlei davidii</i>
Chokeberry	<i>Aronia species</i>
Compact Japanese Holly	<i>Ilex crenata</i> 'Compacta'
Cotoneaster	<i>Cotoneaster species</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria</i> (dwarf cultivars)
Elderberry	<i>Sambucus nigra</i>
English Laurel	<i>Prunus laurocerasus</i>
Fothergilla	<i>Fothergilla gardenia</i>
Foster's Holly	<i>Ilex attenuata</i> 'Fosteri'
Fragrant Sumac	<i>Rhus aromatic</i> 'Gro- Low'
Glossy Abelia	<i>Abelia grandiflora</i>
Hydrangea	<i>Hydrangea species</i>
Inkberry Holly	<i>Ilex glabra</i>
Mugo Pine	<i>Pinus mugo</i>
Nellie R. Stevens Holly	<i>Ilex</i> 'Nellie R. Stevens'

Pieris	<i>Pieris species</i>
Pyracantha	<i>Pyracantha species</i>
Seagreen Juniper	<i>Juniperus X pfitzeriana 'Sea Green'</i>
Spiraea	<i>Spiraea species</i>
Summersweet	<i>Clethra alnifolia</i>
Twig Dogwood	<i>Cornus sericea</i>
Viburnum	<i>Viburnum species</i>
Weigela	<i>Weigela species</i>
Yew	<i>Taxus species</i>
Yucca	<i>Yucca species</i>

§ 153.214 RESIDENTIAL COMPATIBILITY STANDARDS.

The compatibility standards of this section are intended to protect low density residential uses and neighborhoods from the adverse impacts sometimes associated with higher density residential uses and nonresidential development. The standards are intended to mitigate the effects of uses with operating and structural characteristics that are vastly different than those associated with single-family uses.

(A) *Applicability (triggering property).* Compatibility standards shall apply to all development in the A, R-MF-16, C-1, C-2, and I zoning districts when such development is adjacent to "triggering property," which shall include all property:

- (1) Occupied by a single-family dwelling unit that is a use permitted by-right in the zoning district in which it is located; or
- (2) Zoned in an R-E, R-1, R-2, R-3L, R-3 or R-4 district.

(B) *Exemptions.*

(1) Notwithstanding the above applicability provisions, compatibility standards shall not be triggered by property that is public right-of-way, roadway, or utility easement.

(2) The following uses and activities shall specifically be exempt from compliance with compatibility standards:

- (a) Construction of a use permitted by-right in an R-E, R-1, R-2, R-3L, R-3 or R-4 district;
- (b) Structural alteration of an existing building when such alteration does not increase the building's square footage or height, or result in an increase in noise, hours of operation, or other factors which would impact surrounding properties; and
- (c) A change in use that does not increase the minimum number of off-street parking spaces required.

(3) *Setback standards.* The following setback standards shall apply to all development that is subject to compatibility standards:

(a) *Small sites.* On sites with 20,000 square feet of area or less that also have less than two hundred feet (200') of street frontage, structures shall be set back from the lot line of triggering property one and one-half times the required setback.

(b) *Large sites.* On sites with more than 20,000 square feet of area or 200 feet of street frontage or more, structure shall be set back from the lot line of triggering property a minimum distance equal to twice the required setback for the zone in which the structure is to be located.

(c) *Surface-level parking and driveways.* Surface-level off-street parking areas and driveways shall not be subject to the above setback standards; however, such standards shall apply to parking structures. Surface-level parking areas shall be set back a minimum of ten feet from the lot line of triggering property.

(4) *Building height.* No structure shall exceed 35 feet in height within 50 feet from the lot line of triggering property.

(5) *Screening standards.* Decorative walls, vegetative screening, fencing, or earthen berms shall be provided to completely screen off-street parking areas, mechanical equipment, storage areas, and refuse collection areas from view of triggering property.

(6) *Site design standards.* The following additional site design standards shall apply to development that is subject to the compatibility standards of this section:

(a) No swimming pool, tennis court, ball field, or playground area (except those that are accessory to a single-family dwelling unit) shall be permitted within 50 feet of the lot line of triggering property.

(b) Dumpsters and refuse receptacles shall be located a minimum of 25 feet from the lot line of triggering property.

(c) Exterior lighting shall be designed and located to minimize light spilling onto surrounding property.

(Ord. 2017-05-635, passed 5-2-17)

