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### **CHAPTER 5: SUPPLEMENTARY ZONING REGULATIONS**

### **5.01 Accessory Commercial Uses**

Permitted accessory uses in RMF and MU Districts shall include accessory commercial uses of the types included in Unit 25 provided that:

- (A) Convenience. Such uses are located entirely within a multi-family dwelling or office building as an accessory use for the convenience of the occupants of said building.
- (B) Gross floor area. Do not occupy more than 10% of the gross floor area of the building in which located.
- (C) Signs. Have no signs or other advertising visible from outside the zoning lot on which located.
- (D) Location. Are located in or contiguous to the lobby of the principal building.
- (E) Lobby entrance. Have at least one lobby entrance.

### 5.02 Accessory Structures And Uses

Accessory Structures And Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 1 through 5, and to the following general conditions:

- (A) Accessory structures.
  - (1) When erected. No accessory structure shall be erected on any property prior to the construction of the principal structure, UNLESS such accessory structure has been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.
  - (2) Where erected. No accessory structure shall be erected in any required setback. The accessory structure shall be located to the rear of the extended front of the principal structure, except as approved by the Planning Commission.
  - (3) Size of accessory structure. An accessory structure shall be 50% or less of the size of the principal structure. Any accessory structure requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with Chapter 4, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the

property and those on surrounding properties.

- (i) Exceptions. If the principal structure is 1200 sf in size or less, then the maximum size of accessory structure is 600 sf unless a conditional use permit is obtained from the Planning Commission.
- (4) Height. No accessory structure shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning District it occupies.
- (5) Separation. Minimum separation from the principal structure shall be 15 feet as measured from the outer edge of any eaves, porch covers or overhangs on both buildings.
- (6) Planning Commission Review. Any accessory structure exceeding 600 square feet in floor area shall be subject to review by the Planning Commission. The Planning Commission shall review the location, size, structural and exterior materials, and appearance and shall determine if the proposed building is appropriate and compatible considering, but not limited to the following: the visibility of the proposed structure; the compatibility with surrounding uses and structures; and the size relative to the lot and open space on which it will be located.
- (7) Prefabricated portable buildings and car ports shall be allowed if approved by the Building Offiicial as structurally sound and is anchored to permanent footings or slabs. These buildings shall meet the requirements of this ordinance and the building setbacks for the zoning district it is constructed in..
- (8) All accessory structures shall be made and maintained structurally sound and weather proof. They shall be made with materials compatible and harmonious with existing buildings and presenting an appearance aesthetically consistent with its surroundings.
- (9) The accessory structures shall not be used as a residence, bedroom, or living quarters unless allowed under Chapter 5.15.
- (10) All accessory structures of any nature including gazebos, pool houses and the like shall be governed by this ordinance.
- (11) Open sheds and lean-tos shall be permitted, provided the open side is not visible from the street Right-of-Way.

- (12) An accessory structure may provide shelter for a horse on a residential lot with a minimum area of 2 acres provided that the building is at least 100' from adjacent properties, stall area does not exceed 300 square feet, and no more than two horses are sheltered on the property.
- (B) Swimming pools. Swimming pools shall not be located in any required front setback.

# 5.03 Accessory Residential Uses In Nonresidential Districts

- (A) Attached residential use. Attached residential uses shall be permitted in the C-1, C-2, and I-1 zoning districts as a use by right. Density limitations for attached residential uses in such zoning districts shall be governed by a density of 4 units per acre.
- (B) Detached residential dwelling. A detached residential dwelling unit may be permitted in the C-1, C-2, and I-1 zoning districts as a conditional use. Density limitations shall be governed by §2.14(C). The building site and setback area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4.200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior boundaries of the total tract. The property owner shall execute and record covenant provided that the residential structure shall not be sold separately from the principal structure; the covenant shall run with the land.

### 5.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Livestock are permitted uses by right, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:

- (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
- (2) There shall be no outside slaughtering of hens.
- (3) All hens must be kept in a secure, fenced enclosure constructed with a minimum area of 100 square feet. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
- (4) A chicken coop/roost area shall not be located closer than twenty-five (25) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
- (5) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.
- (6) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.
- (D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural, or other zoning districts in which Use Unit #6, Agriculture and Use Unit #7, Animal Husbandry are permitted uses by right.
- (E) Separation of use. The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

#### 25 FEET

Chicken Coop in Residential districts (from residential dwelling on adjacent lot)

#### 50 FEET

Animal hospital; serving household pets and similar small animals

Commercial breeding, raising

Boarding: breeding, raising, or boarding of household pets or similar small animals for commercial purposes

Kennel

Egg farm

#### **100 FEET**

Animal hospital: serving livestock and similar animals

Boarding or training of horses

Dairy farm

Poultry farm

Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

#### **200 FEET**

Hog raising

Livestock: assembly, breeding, feeding, sales or shipment

## 5.05 Automobile Garages

In any district where permitted, automobile garages shall be subject to the regulations set forth in Chapter 3 for Use Unit 18 for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 25 feet from any side or rear lot line in an A or R district.

#### 5.06 Automobile Wash Service

Automobile wash service shall be subject to the provisions set forth in Chapter 3 for Use Unit 18 drive-in facilities. The following provisions shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

## 5.07 Fences, Walls, And Vegetation

Fences, walls, and vegetation may be permitted in any required setback or any required setback area, or along the edge of any setback, provided the fence, wall, or vegetation does not materially impede vision, as determined by the City, between vehicular or pedestrian traffic. In any required setback or any required setback area, nothing permanent over 2½ feet (30 inches) high may be installed which materially impedes vision between vehicular or pedestrian traffic.

## 5.08 Garage/Yard Sales

Garage and yard sales are permitted in any zoning district subject to the following conditions:

(A) Permit Required. All garage and yard sales must have a garage sale permit obtained through the City Clerks Office.

- (B) Frequency. Garage sales shall not locate in one (1) location more than two (2) times per year.
- (C) Term. Garage sales may be held for a duration not to exceed three (3) consecutive days.
- (D) Signs. One on-site and three off-site temporary signs are allowed to be posted, however, posting may not occur more than two (2) days before the sale begins. Each sign shall not exceed 4.5 square feet in area. The off-site signs shall include address and date(s) of sale. All signs shall be removed by 8:00 a.m. on the day following the sale. Any such signs not so removed the following day, or located in public rights-of-way may be removed by city staff and for any such sign removed a collection fee maybe imposed.

# 5.09 Height or Setback Regulations; Exceptions

- (A) The height limitations contained in the Zoning Ordinance, Chapter 2, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (B) Side Setbacks. Zero lot line and common wall development. Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses; but townhouses shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

# 5.10 Nonconforming Uses And Structures

- (A) Intent.
  - (1) Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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- (2) It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities.
- (3) Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district involved.
- (4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (B) Nonconforming lots of record.
  - (1) Single-family dwellings. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that setback dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
- (C) Nonconforming uses of land (or land with minor structures only). Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:
  - (1) Enlargement. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
  - (2) Moving of use. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.

- (3) Cease of use. If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located; and
- (4) Additional structures. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.
- (D) Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, setbacks, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - (1) Alterations. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:
    - (a) Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.
    - (b) Carports in residential zones may be extended into the required setback if:
      - (i) The carport is setback at least 10 feet from the street right-of-way;
      - (ii) The carport is setback at least five feet from any interior side property line;
      - (iii) The carport is setback at least 10 feet from the rear property line;
      - (iv) The area below the roof is open on the sides; and
      - (v) The carport does not materially obstruct vision.
    - (c) In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front setback or rear setback if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet

may be erected in any required interior side setback.

- (d) In residential zones, porch roofs and open porches may extend into required setbacks by one foot on each side of the entry door to maximum depth of six feet in required front setbacks and rear setbacks and to a maximum depth of four feet in required interior side setbacks.
- (2) Destruction. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Moving. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

### (E) Repairs and maintenance.

- (1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure, or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- (2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe, or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located, or as required by other ordinances.
- (G) Conditional use provisions not nonconforming uses. Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

# 5.11 Parking And Storage Of Certain Vehicles

Automotive vehicles or trailers of any kind, or type without current license plates shall not be parked, or stored in any zones, except those allowing auto sales or salvage unless completely enclosed in buildings or carports connected to the principal structure. Disabled vehicles must be stored inside buildings except in zones allowing auto salvage.

# 5.12 Prefabricated Construction (Manufactured Homes)

- (A) Residential unit. Prefabricated residential units shall be considered as a single-family and shall meet the requirements of the governing district.
- (B) Additional requirements. In addition it shall be necessary for all units to meet the following requirements:
  - (1) The building codes of the city:
  - (2) Skirting shall be permanently and securely attached to the structure;
  - (3) Have permanent water and sewer connections:
  - (4) Front entry shall be oriented to the front yard of the lot and shall have a covered front porch permanently anchored to a concrete footing. A rear entry with permanent patio, deck and/or steps shall be provided.

#### 5.13 Structures To Have Access

Every building hereafter erected or moved shall be located on a lot which has frontage on a public street; provided, the Planning Commission shall have the authority to waive this requirement where the property owner provides safe and convenient access for fire protection and sanitation vehicles. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

## 5.14 Supplementary Use Regulations

- (A) Automobile garages. In any district where permitted, automobile garages shall be subject to the regulations set forth in §3.01(R) for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in a Residential District.
- (B) Gasoline service stations. A gasoline service station shall be subject to the following requirements:

(1) Bulk and area. Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located rand the following:

Minimum setback of pump island, compressed air connection and similar equipment from all right-ofway lines	25 ft.
Minimum setback of canopy covering pump island, compressed air connection and similar equipment from all right-of-way lines. (**Canopies shall not be considered a part of the building for determining building setbacks even if said canopies are attached to the principal structure.)	20 ft.

- (2) Auto washing. Washing of autos shall be within an enclosed structure.
- (C) Retail liquor stores. Retail liquor stores may be located in those zoning districts where such use is permitted, subject to the following conditions:
  - Church/school/hospital. No retail liquor store shall be located within 1000 feet of any church, hospital, or school house
  - (2) Residential zone. No retail liquor store shall be located on any property two or more sides of which abut or are across the street from and perpendicular to property zoned residential

## 5.15 Accessory Dwelling Units (ADU)

- (A) Purpose. The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed concurrently with single-family dwellings.
- (B) Intent. Planning Commission shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:
  - (1) Exterior design of the accessory dwelling unit should be compatible with the principal dwelling unit through architectural use of building forms, height, construction materials, and colors.
  - (2) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.

- (3) The location and design of the accessory dwelling unit shall meet the required setbacks of the zoning district.
- (4) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.
- (5) The orientation and location of buildings, structures, open spaces and other features of the site should protect and maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. Building profiles, location and orientation should relate to natural land forms.
- (C) Permitted Zoning Districts: Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and may be permitted on lots in the following Zoning districts:
  - (1) R-A Residential Agricultural
  - (2) RSF 1 Residential Single Family One Unit per Acre
  - (3) RSF 2 Residential Single Family Two Units per Acre
  - (4) MU Mixed Use
  - (5) R-O Residential Office
- (D) Design Review and Approval. All accessory dwelling units shall meet the following standards for approval by the Planning Commission. Prior to approval of an accessory dwelling unit, the Planning Commission shall find that:
  - (1) Maximum Square Feet and Number of Bedrooms. The accessory dwelling unit shall not be greater than 600 square feet of habitable space with a maximum of one bedroom. Detached accessory dwelling units located above garage space shall be permitted so long as they meet the height requirement herein.
  - (2) Zoning. The accessory dwelling unit shall comply with all underlying zoning requirements including but not limited to building area, bulk and area, and setbacks with the exception of density.

- (3) Parking. One parking space shall be provided on-site for each accessory dwelling unit. Required parking for the accessory dwelling unit is in addition to the required parking for the principal dwelling unit.
- (4) Maximum Number of Accessory Dwelling Units per Lot. A maximum of one accessory dwelling unit shall be permitted for each lot.
- (5) Maximum Occupancy of the Accessory Dwelling Unit. A maximum of two persons shall reside in an accessory dwelling unit.
- (6) Building Height and Stories.
  - (a) Height. No accessory structure shall exceed the lesser of the existing building peak height or the maximum height allowed in the Zoning District it occupies.
  - (b) Separation. Minimum separation from the principal structure shall be 15 feet as measured from the outer edge of any eaves, porch covers or overhangs on both buildings.
- (7) Building Design. The architectural design of the accessory dwelling unit shall relate to the design of the principal dwelling by the use of similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch.
- (E) Site Plan Requirements. Three sets of detailed site plans are required with the following information:
  - (1) Scale no smaller than 1" = 30' (one inchequals thirty feet)
  - (2) A north arrow
  - (3) Property lines
  - (4) Locations and dimensions of all rights-ofway, utility, drainage and tree preservation easements, and building setbacks
  - (5) All existing and proposed structures with accompanying uses
  - (6) Size of parcel in square feet or acres.
  - (7) Size of all existing and proposed structures in square feet
  - (8) Name of the applicant or property owner, plan preparer, project name and project address in a title block

- (9) Pertinent special features such as drainage features, berms, fences, and retaining walls
- (10) Parking areas, including driveways, with paving materials and dimensions
- (F) Planning Commission Approval. An applicant may request approval from the Planning Commission of a variance from the maximum requirements for size (square feet), height, and materials for an accessory dwelling unit, where unique circumstances exist and the effect will not adversely affect adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.
- (H) Existing Detached (Accessory) Dwelling Units.
  - (1) Nonconforming Units. Existing detached dwelling units that were not approved by the Planning Commission shall be considered nonconforming. An application for approval may be made to convert an existing nonconforming detached accessory dwelling unit to a conforming legal detached accessory dwelling unit, where the existing unit can meet the requirements herein. Where an existing nonconforming accessory dwelling unit exists as of the date of the adoption of this ordinance that can not meet the requirements herein, the applicant may apply for a variance of the requirements stated.
- (I) Non-Conforming Structures. Non-conforming structures may not be converted into an accessory dwelling unit unless a variance has been granted by the Board of Adjustment.
- (J) Violation. Violation of the requirements herein shall be prosecuted to the maximum extent of the law

### 5.16 Limited Business

- A. Purpose. These regulations are intended to mitigate the potential adverse impacts associated with commercial uses adjacent to or within residential areas by allowing limited neighborhood commercial uses that are compatible in size, scale, massing and residential appearance with adjoining and surrounding residential uses. The following standards shall apply:
  - Enhance and regulate the appearance of neighborhood commercial uses
  - b. Protect adjoining properties from the potential adverse impacts associated with commercial uses

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- adjacent to residences such as traffic, noise, appearance, lighting, drainage, and effect on property values
- Provide areas for off-street parking that will be appropriate in size, location and scale within residential areas
- d. Provide commercial uses that are accessible for the convenience of individuals living in residential districts
- B. Similar Uses Allowed. When a use is not specifically listed as a permitted use in Use Unit 12 (Neighborhood Business), the use may be permitted if it is determined by the Planning Commission that the use is similar to other uses listed. In determining "similarity," the Planning Commission shall make all of the following findings:
  - The proposed use meets the purpose of this section and the goals and policies of the Future Land Use Plan.
  - The proposed use shall not adversely impact the public health, safety and general welfare of the neighboring residents;
  - The proposed use shall be similar to the uses listed above considering use intensity and characteristics.
- C. Conditions for Approval. The uses listed may be allowed as a permitted use and shall meet the following conditions.
  - The proposed use shall not adversely affect local traffic conditions on the adjoining streets.
  - New structures located within a residential zoning district shall incorporate design elements similar to and compatible with those found within the neighborhood, including materials, roof pitch, scale, etc.
  - c. New parking areas or lots, utility equipment and trash enclosures shall be designed to have minimal visual impact to adjacent property owners and to the street. Screening of these elements shall be accomplished with plantings, walls, architectural elements, and/or fencing.
  - d. One wall sign shall be allowed with a maximum area of eight square feet. The color of the sign shall be compatible with the colors of the structure, and only indirect external lighting is permitted.
  - e. Hours of operation shall be limited to Sunday through Thursday, 6am

- to 9pm, and Friday and Saturday, 6am to 11pm, unless otherwise further restricted by the Planning Commission.
- All new or enlarged structures shall comply with the zoning requirements of the underlying district.

## D. Design Review.

- a. a site plan drawn to scale showing location of parking, building footprint, all other improvements
- color elevation drawings of all sides of the structure, indicating the type of materials to be used on the exterior of the building, and proposed sign
- landscape plan showing the location of all proposed landscaping, size and species of plant material
- d. abbreviated tree preservation plan