

## **ARTICLE VII. SUPPLEMENTARY REGULATIONS**

### **Sec. 94-138. Lots of record.**

Any lot of record which is legal at the time of the adoption or amendment of the ordinance from which this chapter is derived, may be used, subject to the following exceptions and modifications:

(1) *Use of substandard lots.* Where the owner of a lot at the time of the adoption or amendment of the ordinance from which this chapter is derived, does not own sufficient area and width to enable him to conform to the dimensional requirements of this article, such lot may be used as a building site.

(2) *Individual lot not meeting minimum lot dimension requirements.* In addition to subsection (1) of this section, in any residential district, any lot of record existing at the time of adoption or amendment of the ordinance from which this chapter is derived which has a width or area less than that required by this chapter may be used as a building site for a single-family dwelling only. In the case of such a lot, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the zoning board of appeals is empowered to hear the request for a minimum variance.

(3) *Adjoining lots.* When two or more adjoining lots of record with continuous frontage are in one ownership at any time after the adoption or amendment of the ordinance from which this chapter is derived and such lots, individually, have an area or width that is less than required by this chapter, then such contiguous lots shall be considered as a single lot or several lots of the minimum width and area required in the zoning district in which they are located.

(Code 1979, § 40-8.1)

### **Sec. 94-139. Area, yard, and height regulations.**

(a) *Lot area; nonapplicability of limitation of subsection.* Hereafter, no lot shall be reduced in size so that lot width, size of yards, lot area per family or any other requirement of this chapter is not maintained. The limitation of this subsection shall not apply:

- (1) When a portion of a lot is acquired for a public purpose;
- (2) To dormitories, fraternities, sororities and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms;
- (3) To rental units in a hotel, motel, motor lodge, tourist home or to rooms in a rooming or boardinghouse.

(b) *Yards and open space.*

(1) Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.

(2) Every part of a required yard shall be open to the sky, except as provided by this article. Other projections such as sills, window air conditioning units, chimneys, cornices and ornamental features may extend to a distance not to exceed 24 inches into a required yard.

(3) Notwithstanding other provisions of this chapter, fences, walls, and hedges, driveways, and buffer areas may be permitted in any required yard or along the edge of any yard provided that no fence, wall or hedge along the street sides of corner lots shall violate the corner visibility provisions of this chapter.

(4) Except for the following uses, only one principal building, together with its customary accessory buildings, shall be permitted to occupy each lot:

- a. Public/institutional buildings;

- b. Multiple-family dwellings in the R-2 and R-3 districts;
- c. Commercial/industrial buildings in the C-2, and M-1 districts.

The provisions of subsection (b)(4) of this section shall not be construed to allow the erection of any building or portion of a building outside of the buildable area of the lot or the intermingling of uses.

(5) If a lot is to be occupied by two or more related buildings for residential purposes, the front side of a dwelling structure shall not be erected so as to face the rear side of another dwelling structure within the same lot or on adjoining properties, except where differences in terrain and elevation would provide effective visual separation or the units are more than 60 feet apart.

(6) Dwelling structures which are front face to front face or back face to back face or front face to back face shall be not less than 60 feet apart. Dwelling structures which are side face to side face shall be not less than 20 feet apart. Dwelling structures which are side face to front face or back face shall be not less than 40 feet apart.

(c) *Front yards.*

(1) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

(2) On through lots, the required front yard shall be provided on each street.

(3) Corner lots shall meet the minimum front yard requirements on the sides adjacent to both streets and the remaining yards shall be considered side yard requirements.

(4) Open, unenclosed porches, platforms, or paved terraces, which are not covered by a roof or canopy and do not extend above the level of the first floor of the building, may extend or project into the required setback area if it is less than six feet long.

(5) Within the same block and zoning district, when 25 percent or more of the existing buildings which are located within 200 feet of each side of a lot have less than the minimum required setback, the required front setback of such lot should not exceed the average of the existing front setbacks.

(d) *Side yards.*

(1) For the purpose of the side yard regulations, a group of commercial buildings separated by common or party walls shall be considered as one building occupying one lot.

(2) The minimum width of side yards for schools, libraries, churches, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or commercial district, then the width of that yard shall be as required for the district in which the building is located.

(e) *Rear yards.* Open or lattice-enclosed fire escapes, outside stairways, and balconies opening upon fire towers and the ordinary projections of chimneys and flues, may project into the required rear yard for a distance of not more than five feet, but only when not obstructing light and ventilation.

(f) *Fences and walls.* No fence or freestanding wall in a required yard other than a retaining wall shall be more than eight feet in height, or be constructed in a public right-of-way unless otherwise specified and shall be completed prior to occupancy of the primary use structure.

(Code 1979, § 40-8.2)

#### **Sec. 94-140. Corner visibility.**

No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of three feet above the established street grade, shall be erected, planted, or maintained within the area of a corner lot that is included between the lines of

the intersecting streets and a straight line connecting them at points 25 feet distant from the intersection of the street lines.

(Code 1979, § 40-8.3)

#### **Sec. 94-141. Accessory uses and structures.**

(a) An accessory structure shall not be permitted in any required front yard, except as specified in subsection (h) of this section and in article X of this chapter, pertaining to signs.

(b) No accessory building or structure shall be erected beyond a required yard line along any street.

(c) Residential accessory uses such as garages, greenhouses or workshops, shall not be rented or occupied for commercial purposes.

(d) Where a corner lot adjoins in the rear, a lot in a residential district, no accessory building shall be located closer to the street right-of-way line than the principal building or closer than five feet to the rear property line.

(e) No garage or other accessory building shall be located closer than three feet to a side or rear lot line in a residential district.

(f) All residential accessory buildings must be located at least ten feet to the rear of the principal building.

(g) Areas in which the accessory storage of a boat, boat trailer or travel trailer is permitted shall not include the required front yard.

(h) Filling station pumps and pump islands where permitted may occupy the required yards, provided that they shall not be less than 15 feet from street lines; canopies, whether attached or detached from the principal building must be at least 14 feet in height and the outermost edge shall be five feet from any property line.

(i) All nonresidential accessory building shall only be used by the owners, employees, lessee, or tenants of the premises, and shall meet the setback requirements of the principal building.

(j) An open or unenclosed swimming pool may occupy a required rear or side yard, provided that the pool is not located closer than six feet to a rear lot line or ten feet to an interior side lot line. A three-foot-wide walk space shall be provided between pool walls and protective fences or barrier walls.

(Code 1979, § 40-8.4)

#### **Sec. 94-142. Home occupations.**

The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to ensure the compatibility of home occupations with other uses permitted in the R-A, R-I, R-2, and R-3 districts; maintain and preserve the character of residential neighborhoods; and provide peace, quiet, and domestic tranquility within all residential neighborhoods within the district, in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effect of commercial uses being conducted in this district. Home occupations, where permitted, must meet the following special requirements:

(1) A home occupation must be clearly subordinate to the principle use of a parcel. There shall be no exterior indication of the home occupation or variation from the residential character of the principal use;

(2) A home occupation shall be carried on wholly within the principal use. No accessory building can be used in connection with a home occupation;

(3) No more than 25 percent of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation;

(4) There shall be no more than two clients on premises at a time for any residential home occupation except as provided in subsection (11) of this section;

(5) No on-street parking of business related vehicles (either marked or commercially equipped) shall be permitted at any home. No business vehicles larger than a van, panel truck, or pickup truck is permitted to park overnight on the premises. The number of business related vehicles is limited to one;

(6) The residential home occupation is limited to employment of residents of the property and not more than one additional person;

(7) No more than one home occupation shall be permitted within a single-dwelling unit;

(8) No commercial telephone directory listing, newspaper, radio, or television service shall be used to advertise the location of a home occupation to the general public;

(9) A home occupation shall produce no noise or obnoxious odors, vibrations, glare, fumes, or electrical interference detectable to normal sensory perception outside the structure;

(10) A home occupation which will constitute a fire hazard to neighboring residences, will adversely affect neighboring property values, or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, odors, or other circumstances is not permitted.

(11) The following is a nonexhaustive list of examples of permissible home occupations:

- a. Architectural services.
- b. Beauty shop.
- c. Art studio.
- d. Consulting services.
- e. Data processing.
- f. Dental technician and laboratory.
- g. Direct sale product distribution (i.e., Amway, Avon, Jaffra, Tupperware, Herbalife); provided there is no production on premises.
- h. Drafting and graphic services.
- i. Dressmaking, sewing, tailoring, contract sewing (one machine).
- j. Electronic assembly.
- k. Engineering service.
- l. Financial planning or investment services.
- m. Flower arranging.
- n. Home office.
- o. House cleaning service.
- p. In-home child care, but not more than six children at a time, including the caregiver's own preschool children.
- q. Insurance sales or broker.
- r. Interior design.
- s. Laundry and ironing service.
- t. Locksmith.
- u. Real estate sales or broker.
- v. Telephone answering, switchboard call forwarding.
- w. Tutoring, including all indoor and outdoor instructional services limited to two students at a time.
- x. Writing, computer programming.

(12) Prohibited residential home occupations. The following are prohibited home occupations:

- a. Ambulance service.
- b. Appliance repair.
- c. Automobile repair, pans sales, upholstery, or detailing, washing service, including businesses working at customer's home.
- d. Carpentry, cabinet makers.
- e. Contracting, masonry, plumbing or painting.
- f. Restaurants, food preparation, catering.
- g. Tow truck services.
- h. Veterinary uses, including care, grooming or boarding.

(Code 1979, § 40-8.5)

#### **Sec. 94-143. Electric transformer station and gas regulator station.**

- (a) Uses shall be essential for services to the area in which located.
- (b) Any building or structure, except an enclosing fence, shall be setback not less than 20 feet from any property line and shall meet all applicable yard requirements in excess thereof.
- (c) Such uses shall be enclosed by a fence not less than eight feet in height.
- (d) The required front yard and other open space on the premises outside the fenced area shall be grassed, landscaped, and maintained in an appropriate manner.
- (e) The storage of vehicles and equipment on the premises shall be prohibited.
- (f) The site and development plans shall be approved by the enforcement officer to ensure compatibility of facilities with the neighborhood in which they are located.

(Code 1979, § 40-8.6)

#### **Sec. 94-144. Landscaping requirements for commercial and industrial districts.**

The following requirements apply to all developers and/or owners of real property involved with the erection, repair, alteration or removal of any building or structure, as well as the grading in anticipation of such development in the C-2 and M-I districts:

(1) *Tree planting.*

a. *Street frontage planting requirements.* A tree planting strip, exclusive of access driveways, with an average width of eight feet is required along all property lines abutting the public right-of-way. If large maturing trees are used, the planting strip shall include two trees with a minimum of two inches of caliper and eight feet in height in the first 40 feet and one tree per 40 feet thereafter or fraction thereof. If small maturing trees are used, the same conditions apply; but the increment drops to 30 feet. When a building permit is requested for renovation of a previously developed site and where the required perimeter strip does not exist, trees are still required. However, in lieu of an eight-foot-wide planting strip, a pavement cutout of a minimum of 80 square feet and with a minimum dimension of five feet may be substituted. This substitution, if so agreed upon by all parties, must be constructed within the designated front setback area for the particular property as set forth in this chapter. When a railroad or utility right-of-way separates the perimeter from a city right-of-way, the planting strip requirement and the tree planting requirements must still be met.

b. *Internal lot planting requirements.* Whenever the impervious cover exceeds 10,000 square feet, an area equal to five percent of the total impervious surface must be provided for landscape purposes and tree planting. Tree planting is required at the rate of one tree per 10,000 square feet of impervious cover. Trees must be planted within the

paved area so that no parking space is more than 90 feet from a tree. Minimum unpaved landscape area per tree shall be 160 square feet with a minimum dimension of eight feet. When a building permit is requested for the renovation of a site previously developed, internal tree planting is still required; and the minimum planting area shall be 160 square feet per tree. Five percent of the total impervious cover must be open for landscape purposes.

c. *Tree specifications.* The trees to be planted must be from an approved list supplied by the city. Minimum tree caliper measured six inches aboveground on all trees shall be two inches, and the minimum height shall be eight feet. No trees identified as large maturing shall be planted within 20 feet of an electrical transmissions or distribution line. This does not include low voltage insulated or covered lines of 240 volts or less of telephone or cable vision lines.

(2) *Utility responsibility.* Public and private utilities which install overhead and underground utilities including CATV installations, and water and sewer by or at the direction of all utility departments shall be required to accomplish all work on property subject to this article in accordance with the company's written pruning and trenching specifications or as mutually agreeable to the property owner and the utility. Written specifications shall have been first, approved by the city council.

(Code 1979, § 40-8.7)

#### **Sec. 94-145. Insect and rodent control.**

The following requirements apply to all properties in the city:

(1) All buildings, structures, grounds and storage areas shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the appropriate state regulatory authority.

(2) Lumber, pipe, and other building materials shall be stored at least one foot above the ground.

(3) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be screened with appropriate wire mesh or other suitable materials.

(4) The growth of brush, weeds, and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Open areas shall be maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health.

(Code 1979, § 40-8.8)

#### **Sec. 94-146. Barbecue pits, fireplaces, stove and incinerators.**

Community service facilities such as cooking shelters, barbecue pits, fireplaces, woodburning stoves, and incinerators shall be located, constructed, maintained and used to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

(Code 1979, § 40-8.9)

#### **Sec. 94-147. Telecommunication towers.**

The location of freestanding communication towers may be permitted under the provision of this section. The intent of this section is to provide for the appropriate location and development of communication towers to serve the residents and

businesses of the city; minimize adverse visual impacts of towers through careful design, siting, landscape and innovative camouflaging techniques; and to encourage and promote the location of new communication towers in areas which are not zoned for residential use. The following are regulations for telecommunication towers and antennas:

(1) *Height requirements.*

- a. For a single user, no more than 70 feet in height;
- b. For two users, no more than 100 feet in height; and
- c. For three users, no more than 150 feet in height.

(2) *Rooftop-mounted antennas.* Rooftop-mounted communications towers and antennas may be located on any nonresidential buildings and alternative tower structures in the city so long as:

- a. Such tower or antenna is set back from any existing or planned off-site residence and separated from any residentially zoned property at least a distance equal to two times the full height of the tower and antenna, but in no event less than 100 feet;
- b. The existing freestanding nonresidential structure other than a tower on which such tower or antenna will be placed is 50 feet in height or greater and the tower and antenna will add no more than 20 feet total to the height of said existing structure;
- c. The number and location of antennas, communication towers or other receiving or transmitting devices located on a single structure that is not excessive and does not adversely affect adjacent properties and views.

(3) *Safety standards.* To ensure the structural integrity of communication towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Tower owners shall conduct periodic inspections of communication towers at least once every three years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in the state.

(4) *Regulatory compliance.* All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate communications towers and antennas. If such standards and regulations are changed then the owners of the communications towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Tower owners shall provide documentation showing that each communication tower is in compliance with all federal requirements. Evidence of compliance must be submitted every 12 months.

(5) *Security.* Communication towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device.

(6) *Lighting.* No illumination is permitted on an antenna or tower unless required by the FCC, FAA or other state or federal agency of competent jurisdiction in which case the planning commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

(7) *Advertising.* No advertising is permitted on an antenna or tower.

(8) *Visual impact.*

- a. Towers shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color, so as to reduce visual obtrusiveness.

- b. At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Towers clustered at the same site shall be of similar height and design.
- e. Towers shall be at a minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

(9) *Landscaping.* Landscaping shall be used to effectively screen the view of the tower compound from adjacent public ways, public property and residential property and shall be as follows:

- a. For towers 150 feet tall or less, a buffer area no less than six feet wide shall commence at the property line.
- b. The buffer zone is to consist of materials of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting.
- c. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities staff and maintenance.
- d. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be replanted to replace that lost.
- e. In lieu of these standards, the enforcement officer may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved by the provisions above, except as lesser requirements are desirable for adequate visibility for security purposes and/or for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be reduced or waived by the planning commission.

(Code 1979, § 40-8.10)

### **Sec. 94-148. Planned unit development (PUD).**

The intent of a PUD is to encourage flexible and creative concepts in site planning and building arrangements under a unified plan of development rather than under conventional lot by lot regulations. The developer benefits from better land utilization, economy in the provision of roads and utilities, and flexibility in design. The community benefits from efficient use of land, preservation of natural amenities and environmentally sensitive areas, and lower maintenance costs after development. Review and approval of the development plan provides the opportunity to ensure that the development will be in harmony with the character of the neighborhood in which it is located. Innovation and ingenuity in design are encouraged.

(1) *Creation of a PUD.* A PUD is a conditional use within the residential agriculture (R-A) zone district and exists after approval of a properly filed conditional use application. As such, a zoning decision is required per the requirements of this chapter.

(2) *General development criteria.*

- a. *Minimum site area.* A minimum site area of 15 acres is required for consideration of a PUD. If the PUD proposes to contain commercial uses of any type, then the minimum site area shall be 50 acres or more.
- b. *Minimum lot area and yard requirements.* Such requirements for each use may be waived upon the approval of a final site plan and subsequent final plats.
- c. *One principal building per lot.* Lots developed for single-family detached dwellings shall have only one principal building per lot.
- d. *Multiple buildings per lot.* Areas of the PUD that are dedicated to serving condominiums, townhouses, multifamily dwellings, or commercial buildings, if applicable, may have more than one building per lot.
- e. *Dwelling size minimum floor area.*
1. Single-family detached dwelling, 1,400 heated square feet (excluding basements, finished or nonfinished, and any floor areas below ground level(s), heated or nonheated);
  2. Single-family attached dwelling, 1,000 square feet; and
  3. Multifamily dwellings, 800 square feet.
- f. *Separation of buildings.* The minimum distance between all buildings shall be 20 feet, except for zero lot line developments which shall be ten feet. Such distances shall be measured from the outermost projection of the any part of the building.
- g. *Gross density.* The maximum gross density in a PUD shall not exceed eight dwelling units per acre.
- h. *Parking/loading.* Individual uses within the PUD shall comply with the parking standards as required in article IX of this chapter.
- i. *Streets/utilities.* The application for a PUD shall stipulate whether the streets within the development are to be public or private. If the streets are proposed to be private, the developer shall submit a legal instrument or instruments setting forth a plan for the perpetual maintenance and repair of the proposed private streets. Regardless, whether the streets are publicly or privately owned and maintained, they shall be constructed to the minimum standards specified by the city. All PUDs shall be served by a public water system and a public sewage disposal system.
- j. *Ownership.* A PUD site shall be under single ownership and/or unified control until developed. If upon application, the applicant does not have a full ownership interest in the land, then evidence of full ownership by a single individual, a partnership, tenants in common, a corporation, or by some other legal entity must be provided before final plats are approved.
- k. *Buffers.* When the uses proposed within a PUD are adjacent to existing dissimilar uses outside the PUD, no matter whether city or county jurisdiction, a buffer is required for the PUD boundary, consistent with the table in section 94-106(b). In order to maintain the community environment that is created by the PUD concept, the perimeter of the PUD should generally require a minimum "buffer A" design, 12 feet wide, with a combination of plantings or a fence or wall or a berm. Separation of unlike uses within the PUD with a buffer is discretionary for the land developer. If due to the topography or other conditions, the review process determines that the buffer requirements of article VI of this chapter are not adequate, then additional buffer requirements may be recommended for cause. Similarly, the review process may also waive the buffer.
- l. *Signage.* Signage within a PUD is limited to ground, window, or wall signs as defined by this chapter. Signage on the PUD perimeter is limited to only one round sign per entrance/exit to the development.
- m. *Open space requirements.* Common open space shall comprise at least ten percent of the gross area of the PUD. The open space area shall be used for recreational or park facilities or undeveloped natural areas, which adds environmentally to the development

and the collective enjoyment of the residents. Common open space shall not include public or private streets, parking areas, driveways, or utility rights-of-way, unless the latter also serves as a part of a developed trail system for walking, hiking, or equestrian usage.

n. *Covenants.* The entire PUD shall be included within private deed covenants running with the land to assure the continuance of the PUD in accordance with the approved plans.

o. *Homeowners' association.* A declaration of covenants and restrictions that will govern the creation and continuation of a homeowners' association shall be submitted with the final development plans. The homeowners' association shall be established before any lots/homes are sold and shall include provisions that:

1. Membership must be mandatory for each buyer and any successive buyer;
2. The open space restrictions are permanent, not just for a period of years, and the perpetual maintenance of the open space, private streets, and other communally held areas is assured;
3. The association must be responsible for liability insurance and local taxes; and
4. The financial assessment of the association must be adjustable to meet changing needs.

(3) *Permitted uses.*

- a. Single-family detached dwellings.
- b. Single-family attached dwellings.
- c. Multifamily dwellings.
- d. Zero lot line dwellings.
- e. Neighborhood/community centers.
- f. Schools and fire stations, with the concurrence from the county board of education or mayor and council of the city, respectively.
- g. Churches.
- h. Country club/club house/swimming pool/tennis/playgrounds.
- i. Golf course/driving ranges.
- j. Government buildings.
- k. Utility facilities (water, gas, electric, telephone, cable).
- l. Parks and recreations facilities, including equestrian facilities and lakes for swimming, fishing, and boating; trail systems.
- m. Cemeteries (five acres or larger).
- n. Commercial uses.
  1. Pastry shops;
  2. Book, card, and stationary stores;
  3. Convenience stores with fuel service;
  4. Drugstores;
  5. Florist shops;
  6. Shoe repair;
  7. Bank auto-tellers;
  8. Dry cleaning pickup services;
  9. Office, business and professional;
  10. Video sales and rental;
  11. Tanning, beauty shops, barbershops;
  12. Child care facilities;
  13. Public and private clinics;
  14. Retail stores offering general merchandise;
  15. Restaurants;
  16. Assisted living facilities.

o. Accessory uses.

(4) *PUD implementation.*

a. *Major revisions of the PUD.* Major or substantial changes in an approved PUD that affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes shall require the developer to submit a written request for revision of the plan and shall require a new public hearing to review such changes consistent with this chapter.

b. *Construction permits.* After approval of the PUD plan and recording of the final plat, the enforcement officer shall issue permits for grading and the buildings and structures if they are in substantial conformity with the approved development plan and other applicable regulations. No building permit for any approved commercial facility shall be issued until at least 25 percent of all planned residential dwelling units have received a certificate of occupancy.

c. *Lapse of approval.* Under the following two conditions, a PUD approval is voided:

1. *Lack of construction.* Approval of a PUD shall lapse one year from the date of the zoning decision by the mayor and council unless actual construction has been initiated or a request for an extension of one year is granted by the mayor and council. Not more than one extension shall be granted.

2. *Default of the developer.* If the developer should default regarding the implementation of an approved PUD, the approval shall lapse one year from the date of the default, unless another developer initiate efforts to continue the approved PUD plan within the one-year period. The revised schedule of construction shall be acknowledged and approved by the mayor and council.

(Code 1979, § 40-8.11; Ord. of 8-6-08)

## **Sec. 94-149. Outdoor lighting.**

(a) *General provisions.*

(1) *Purpose and intent.* This section is intended to reduce the problems created by improperly designed and installed outdoor lighting. They are intended to eliminate problems of glare and minimize light trespass, with regulations that avoid unnecessary direct light from shining onto abutting properties or streets.

(2) *Definitions.* For purposes of this article, the following terms are defined:

*Direct light* means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

*Fixture* means the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

*Footcandle* means a unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot. One footcandle (FC) is the equivalent of 10.76 Lux (1 Lux = 0.0929 FC).

*Full cutoff luminaire* means outdoor light fixtures shielded or constructed so that no direct light rays are emitted by the installed fixture at angles above the horizontal plane.

*Glare* means light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness, or that causes annoyance or discomfort.

*Illuminance* means the area density of the luminous flux incident at a point on the surface. It is a measure of light incident on a surface, expressed in lux or footcandles.

*Isofootcandle plan* means a site plan of a proposed development showing proposed outdoor illuminance with a series of isofootcandle lines that join points on a surface where the illuminance is the same.

*Light trespass* means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

*Luminaire* means a complete lighting system, including a lamp or lamps and a fixture. This term shall be interpreted broadly as applying to all outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement.

*Outdoor lighting* means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

*Safety lighting* means exterior lighting that involves ensuring proper levels of illumination to provide safe working conditions, safe passage, and the identification of outdoor hazards.

(3) *Applicability.* All public and private outdoor lighting installed in the city shall be in conformance with the requirements established by this section.

(b) *Exemptions.* The following shall be exempt from the provisions of this section:

(1) All temporary emergency lighting needed by police or fire departments or other emergency services;

(2) All hazard warning luminaires required by federal regulatory agencies;

(3) All vehicular luminaires;

(4) Safety lighting, as defined in this section;

(5) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels;

(6) Aesthetic lighting limited to interior roadway lighting with a maximum height of two feet within a development, not intended to take the place of required street lighting, or lighting to be utilized within open space used to feature decorative plantings, sidewalks, walkways, or ornamental objects, such as fountains or similar features. Aesthetic lighting, although exempt from an isofootcandle plan, shall be identified on all design plans as to type of light and location to ensure appropriate use of aesthetic lighting in accordance with this section.

(c) *Outdoor lighting regulations.*

(1) *Cutoff fixtures.* All luminaires not exempted from this section hereafter installed for outdoor lighting shall be full cutoff luminaires, as defined by this section, or another luminaire which does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

(2) *Glare.* See chapter 26, sections 26-57(11).

(3) *Intensity specifications.* Illuminance levels for outdoor lighting fixtures shall comply with the standards in table 1-1, measured at three feet above the ground or finished grade.

TABLE 1-1  
OUTDOOR LIGHTING REGULATIONS

TABLE INSET:

At Property Lines Including Rights-Of-Way	Minimum Footcandles	Maximum Footcandles
At property line abutting a residential use	0	0.5
At property line abutting an office or institutional use	0	1.0
At property line abutting a commercial or light industrial use	0	1.5

TABLE INSET:

Off-Street Parking Lots	Minimum Footcandles	Average Footcandles	Maximum Footcandles
Residential areas	0.5	2	4
Office-professional areas	1.0	3	6
Commercial areas	2.0	6	12
Light industrial areas	1.0	4	8

(d) *Lighting plan required.* A lighting plan, approved by the planning and zoning director, shall be required for all nonsingle-family residential developments of three acres or more in size, and for community recreation, as defined, when lighting is proposed. It is the intent of this section that small sites with a limited number of fixtures should be exempted from preparing and submitting a professional lighting plan, and that the zoning director will exercise discretion to provide such relief where appropriate. When required, lighting plans shall illustrate proposed lighting. The plan shall show areas of night illumination and the amount of light at various places measured in footcandles. When required, the lighting plan shall consist of either isofootcandles (connecting points of equal light illumination levels, similar to a topographic contour) or a photometric grid with individual spot readings. No lighting plan shall be approved which will result in direct light that exceeds the requirements or is otherwise inconsistent with this section. Appeals for any plan not approved by the planning and zoning director shall be made to the mayor. Any further appeal shall be made to the city council.

(e) *Type of lighting.* Unless otherwise approved by the planning and zoning director, outdoor lighting shall be incandescent or high pressure sodium.

(f) *Recommended practice.* The planning and zoning director should consider and apply the following design standard in their review of outdoor lighting plans:

The illuminated distance of any given luminaires shall not exceed three times the height of the given luminaire.

(Ord. of 4-6-09(3))

Secs. 94-150--94-179. Reserved.