City of Horace, ND
Title IV
Land Use Code
Effective: Month Day, Year

Horace
HORIZONS EXPAND HERE.

March 12, 2024 DRAFT

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Preface

How to Use This Code

1. Content Organization and Page Layout

The code is organized into seven chapters, which are further divided using standard outline hierarchy. The content and page layout are designed to promote a clear understanding of requirements, as well as quick retrieval of relevant standards, procedures and other information. The following key assists with navigating through this document.

Chapter Tabs link to the first page of each chapter. **Green** tab indicates the chapter in which the current page is located

Sections and subsections contain the code regulations in a hierarchal manner

User Notes provide helpful information for digital and hard copy formats. User Notes are always highlighted in gray

Blue bold font links to standards in other sections of the code

CITY OF HORACE, ND Title IV Effective: Month Day, Year

4-3.1.1 AG Agriculture

1. General Character

Rural, agricultural areas primarily serving as a holding area for future development. It is expected that other areas of the City will develop before there is significant development in these areas.

2. Intent

The intent of the Agriculture district is to allow agricultural activities in areas without fully developed utilities as well as transition into allowing housing development as available utilities permit. Large lot sizes will offer a low-density rural character and provide sufficient open space to ensure that the various principal uses are kept at a level of compatible land use intensity.

3. Building Types

Single-family detached home

Carriage house

See Section 4-5.8 Building Type Standards for Building Type regulations.

Agricultural buildings and buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

3-4

CITY OF HORACE, ND Title IV Effective: Month Day, Year

4-3.1.1 AG Agriculture

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 – Use Standards.

TABLE 4-3.1.1.4 LIST OF USES - AG AGRICULTURE

Use	P/C/A	Use Standard (If any)
Agricultural Uses		
Plant agriculture[1,2]	P	
Animal agriculture[1,2]	P	Section 4-4.6
Roadside stands[1,2]	P	
Indoor food production, local	C	
Keeping of horses and domestic animals,[1,2] but not wild[1,2] or prey animals	P	
Horse stables and training facilities	P	
Community gardens	P	Section 4-4.4
Agricultural research facilities	P	
Residential Uses		
Single-family detached dwellings[1,2]	P	Section 4-4.8
Accessory dwellings[1,2]	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly,[1,2] neighborhood	P	
Public schools: PreK, Kindergarten, Primary[1,2] & Secondary[1,2]	P	
Cemeteries[1,2]	P	
Civic uses[1,2]	P	
Essential and public services[1,2]	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes[1,2] – up to 5 children	P	
Licensed family child care homes[1,2] – up to 9 children	C	
Licensed group child care home or facility[1,2] – up to 30 children	C	
Licensed child care center[1,2] – 19 or more children	C	
Recreational and Open Space Uses		
Outdoor recreation uses, private[1,2]	C	
Public parks and recreation[1,2]	P	
Skeet, trap, and rifle ranges[1,2]	C	Section 4-4.5
Other Uses		
Home occupations[1,2]	A	Section 4-4.14
Temporary buildings and structures related to flood control and farming	P	Section 4-4.16
Small-scale wind energy[1,2] systems	A	Section 4-4.15
Ground-mounted solar arrays, small[1,2]	A	Section 4-4.15
Ground-mounted solar arrays,[1,2] utility-scale	C	Section 4-4.15
Wireless communication facilities,[1,2] excluding towers	P	Section 4-4.3
Wireless communication facilities,[1,2] including towers	C	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

3-5

Pages are numbered sequentially within each chapter

Link to Table of Contents

Link to Zoning Map

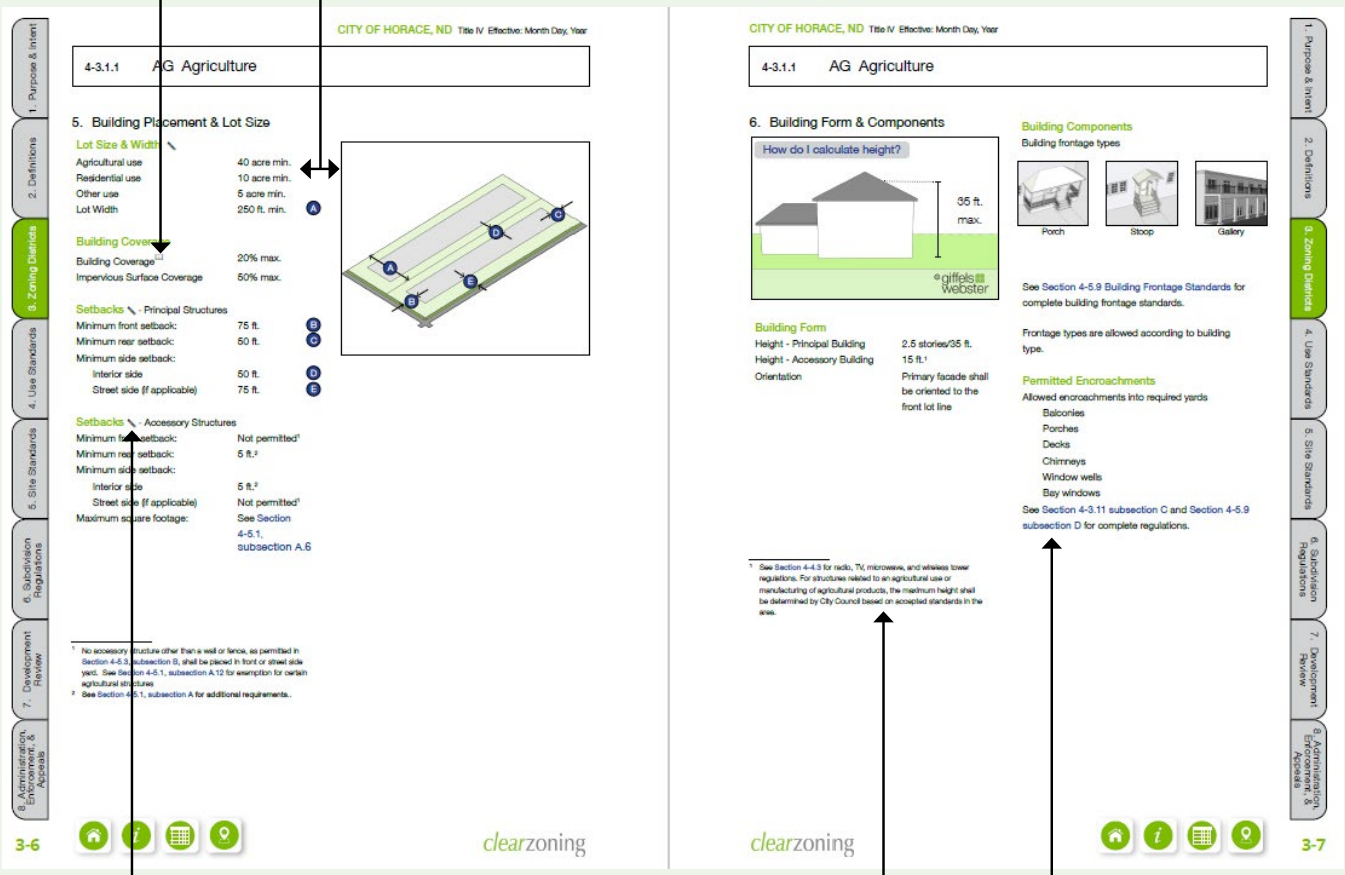
Link to How to Use This Code

Link to Use Matrix

How to Use This Code

Book icons indicate that the term is defined in Section 4-2.2

Graphics, figures, and tables illustrate concepts or clarify regulations



Ruler icons indicate that the item has a specific way of measuring it, outlined in Section 4-2.3

Notes provide relevant information recommended for review

Additional Requirements list other sections or ordinances that may pertain to a development in the district

How to Use This Code

2. Symbols and User Notes

The following symbols are used throughout the code:

📖	Indicates the term is defined in Chapter 2 - Definitions. (Note: Not every defined term is designated with a 📖 symbol. Consult Chapter 2 - Definitions, for a list of all defined terms.)
	Indicates there is a graphic that illustrates the standard or requirement.
	Indicates there is a specific method for measuring that is described in Chapter 2 - Definitions, Section 4-2.3 Measurements.
PL	Identifies a property line.
℄	Identifies the right-of-way centerline.
ROW	Identifies the right-of-way.
ℹ	Identifies a User Note that provides helpful information for all users.
	Identifies a Digital User Note that provides helpful information for users with a digital version of the Land Use Code.

How to Use This Code

3. Reading the Code

Rules have been established to assist with interpreting the code. Below are some rules to keep in mind when reading this document:

- Sometimes there may be general and specific regulations that pertain to one particular aspect of site design. In such instances, the specific regulations must be followed.
- Discrepancies between text and an illustration (including its caption) may occur. In the case of such discrepancies, the text is considered the accurate source of information.
- The use of the word "shall" carries significant meaning. "Shall" regulations must be followed. Requirements that use the word "may" are discretionary, meaning that the requirement is at the discretion of the approving body or City Council.
- Chapter 2 - Definitions, contains over 200 terms. If a term is not listed in this section, it will carry the meaning customarily assigned to it.

Conjunctions are often used and must be read accurately:

- AND indicates that all connected items, conditions, provisions or events shall apply.
- OR indicates that the connected items, conditions, provisions or events may apply singly or in any combination. (OR may also be read "and/or")
- EITHER … OR indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

For more rules, see Section 4-2.1 Construction of Language.

How to Use This Code

4. Digital User Note

What is a link?

A link allows for quick reference to a relevant section. By 'clicking' a link, the user is taken directly to a page in the code or another reference document. The user may return to the original page by clicking the 'Previous view' button in Adobe Acrobat Reader.

If you do not see the 'Previous view' button on your Adobe Acrobat Reader screen, you can add it by turning on your 'page navigation toolbar'. For assistance, refer to the 'Help' menu in your version of Acrobat Reader.

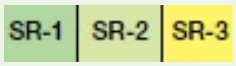
What information is linked?

All blue text is linked to either another page within the Land Use Code, a separate City ordinance or document, or an external website.

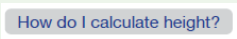
In addition, several other features of the document are linked to allow users to navigate through the code. Click on any of the following features to quickly locate another section:

Chapter tabs located on the side of each page are linked to the Contents page of each Chapter.

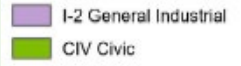
Icons located at the bottom of each page are linked to the 'How to Use This Code' section, the main Table of Contents, the Use Matrix, and the Zoning Map.



Use Matrix district headings are linked to the corresponding district regulations page in Chapter 3 - Zoning Districts.



'How do I calculate height?' button located on each district regulations page is linked to the definition of building height in Chapter 2 - Definitions.



Zoning Map Legend headings are linked to the corresponding district regulations page in Section 4-3.1.

Use Matrix
District Summary Table

Use Matrix

Residential Districts

User Note: Click for the Non-Residential Districts table.

Below is a reference table that summarizes the uses in residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory

USE	AG	SR-1	SR-2	SR-3	CR	UR	MH	FP
Agricultural Uses								
Agricultural research facilities	P							
Animal agriculture	P							P
Community gardens	P	P	P	P	P	P	P	P
Horse stables and training facilities	P							
Indoor food production, local	C							
Keeping of horses and domestic animals, but not wild or prey animals	P	C						
Plant agriculture	P							P
Roadside stands	P							
Residential Uses								
Accessory dwellings	A	A	A	A	A	A		
Duplex dwellings (Two-family dwelling)				P	P	P		
Manufactured housing (mobile home) dwellings							P	
Multi-family dwellings					P	P		
Single-family detached dwellings	P	P	P	P	P	P	P	
Tiny homes							P	
Townhome dwellings					P	P		
Institutional Uses								
Cemeteries	P	P						
Civic uses	P	P	P	P	P	P	P	
Essential and public services	P	P	P	P	P	P	P	P
Places of assembly, neighborhood	P	C	C	C	C	C	C	
Public schools: PreK, Kindergarten, Primary & Secondary	P	P	P	P	P	P	P	

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Use Matrix

Residential Districts

Below is a reference table that summarizes the uses in residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory

USE	AG	SR-1	SR-2	SR-3	CR	UR	MH	FP
Care Uses								
Adult day care (licensed basic care) facilities	C	P	C	C	C	C	C	
Family child care homes - up to 5 children	P	P	P	P	P	P	C	
Licensed child care center - 19 or more children	C	C						
Licensed family child care homes - up to 9 children	C	C	C	C	C	C	C	
Licensed group child care home or facility - up to 30 children	C	C						
Recreational and Open Space Use								
Indoor and outdoor recreation, private								P
Outdoor parks and open space, private								P
Outdoor recreational uses, private	C	C	C	C	C	C	C	
Public parks and recreation	P	P	P	P	P	P	P	P
Skeet, trap and rifle ranges	C							
Commercial Uses								
Finance, insurance, and real estate services					C			
Professional offices and medical clinics						C		
Restaurants, carry out						C		
Restaurants, sit-down						C		
Retail sales and service, limited/micro						C		

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Use Matrix

Residential Districts

Below is a reference table that summarizes the uses in residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory

USE	AG	SR-1	SR-2	SR-3	CR	UR	MH	FP
Other Uses								
Ground-mounted solar arrays,📖 small	A	A	A	A	A	A	A	
Ground-mounted solar arrays,📖 utility-scale	C							
Home occupations📖	A	A	A	A	A	A	A	
Regional stormwater detention/retention ponds								P
Small-scale wind energy📖 systems	A	A	A	A	A	A	A	
Temporary buildings and structures related to flood control and farming	P							P
Wireless communication facilities,📖 excluding towers	P	P	P	P	P	P	P	P
Wireless communication facilities, including towers	C							

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Use Matrix

Non-Residential Districts

Below is a reference table that summarizes the uses in non-residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory
* = Refer to district

USE	17/76	OT	MX	C	I-1	I-2	CIV
Agricultural Uses							
Agricultural research facilities						C	
Community gardens	*	*	P	P	P	P	
Indoor food production, local					P	C	
Indoor food production, general					C	P	
Plant agriculture					C	C	
Residential Uses							
Accessory dwellings📖	*	*	A				
Cottage court bungalow dwellings📖			P				
Duplex dwellings📖	*	*					
Multi-family dwellings📖	*	*	P				
Single-family detached dwellings📖	*	*					
Townhome dwellings📖	*	*	P				
Institutional Uses							
Cemeteries				P	P	P	
Civic uses📖	*	*	P	P	P	P	P
Colleges/Universities	*	*	P	P	P		
Essential and public services📖	*	*	P	P	P	P	P
Hospitals	*	*	P	P	P	P	
Passenger/Transit terminal	*	*	P	P	P	P	
Places of assembly, neighborhood📖 and general📖	*	*	P	P	P	P	P
Public and private schools: PreK, Kindergarten, Primary,📖 and Secondary📖	*	*	P	P			
Trade schools					P		

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Use Matrix

Non-Residential Districts

Below is a reference table that summarizes the uses in non-residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory
* = Refer to district

USE	17/76	OT	MX	C	I-1	I-2	CIV
Care Uses							
Adult day care (licensed basic care) facilities	*	*	P	P			
Family child care homes📖 - up to 5 children	*	*					
Licensed assisted living facilities			P	P			
Licensed basic care facilities			P	P			
Licensed child care center📖 - 19+ children	*	*	P	P			
Licensed family child care homes📖 - up to 9 children	*	*					
Licensed group child care home or facility📖 - up to 30 children	*	*					
Licensed nursing facilities📖			P	P			
Recreational and Open Space Uses							
Indoor recreational uses,📖 private	*	*	P	P	P	P	
Outdoor recreational uses,📖 private	*	*	C	P	P	P	
Parks and open space,📖 private	*	*	P	P	P	P	
Public parks and recreation📖	*	*	P	P	P	P	P
Skeet, trap, and rifle ranges						P	

(Continued on next page)

Use Matrix

Non-Residential Districts

Below is a reference table that summarizes the uses in non-residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
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* = Refer to district

USE	17/76	OT	MX	C	I-1	I-2	CIV
Commercial Uses							
Adult entertainment establishment						C	
Artisan manufacturing	*	*	P	P	P	P	
Banks and financial institutions	*	*	P	P	P	P	
Banks and financial institutions with drive-through	*	*	C	P	P	P	
Bar, tavern, and liquor store	*	*	P	P			
Bed and breakfast establishments📖	*	*	P	P			
Finance, insurance, and real estate services	*	*	P	P	P		
Fuel establishments	*	*	P	P	P	P	
Funeral homes				P			
Hotels📖	*	*	P	P	P		
Medical offices and clinics	*		P	P			
Microbreweries, cideries, and coffee roasters	*	*	P				
Parking lots📖	*	*	C	A			
Parking structures	*	*	P				
Personal services establishments	*	*	P	P	P		
Pet kennels with indoor runs			P	P	P	P	
Pet kennels with outdoor runs			C	C	P	P	
Professional offices	*	*	P	P	P	P	
Restaurants, dine-in, fast food, and carry out	*	*	P	P	P		
Restaurants with drive-through, drive-up, or drive-in service	*	*	C	P	P		
Retail sales and service, general📖	*	*	C	P			
Retail sales and service, limited/micro📖 and local📖	*	*	P	P	P		
Self-storage facility and food locker rentals			P	C	P	P	

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Use Matrix

Non-Residential Districts

Below is a reference table that summarizes the uses in non-residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

P = Permitted
C = Conditional
A = Accessory
* = Refer to district

USE	17/76	OT	MX	C	I-1	I-2	CIV
Tobacco, hookah, and vaping establishments	*	*	P	P			
Vehicle sales, indoor	*	*	P	P	P	P	
Vehicle sales, outdoor		*	C	C	P	P	
Vehicle service and repair, major		*		C	C	P	
Vehicle service and repair, minor		*	P	P	P	P	
Veterinary care and pet day care	*		P	P	P	P	
Industrial Uses							
Airports						C	
Contractor's yards				C		C	
Data processing					P	P	
Dry cleaning operations						P	
Freight terminal/facility						P	
Heliports					C	C	
Industrial, light📖					P	P	
Industrial, heavy📖						P	
Junk or salvage yards						P	
Packing and crating operations				C		P	
Research/Laboratory					P	P	
Sand and gravel operations						C	
Sanitary landfills📖, compost sites, and incinerators						C	
Tech development					P		
Warehouse/Distribution					P	P	
Waste processing or recycling facilities						C	

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Use Matrix

Non-Residential Districts

Below is a reference table that summarizes the uses in non-residential districts listed in the code. Uses below are generalized. Consult Section 4-3.1 as certain conditions and standards may apply. If there are any conflicts between this table and the uses listed in Section 4-3.1, the latter will control.

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C = Conditional
A = Accessory
* = Refer to district

USE	17/76	OT	MX	C	I-1	I-2	CIV
Other Uses							
Compassion centers						C	
Ground-mounted solar arrays, small	*	*	A	A	A	A	
Ground-mounted solar arrays, utility-scale					P	A	
Home occupations	*	*					
Small-scale wind energy systems	*	*	A	A	A	A	
Utilities						P	
Wireless communication facilities, excluding towers	*	*	P	P	P	P	
Wireless communication facilities, including towers				C	C	P	

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District Summary Table

Residential Districts

Below is a reference table that summarizes district regulations.
Consult Chapter 3 - Zoning Districts for additional requirements and exceptions to the information below.

STANDARD	AG	SR-1	SR-2	SR-3	CR	UR	MH	FP
Minimum lot size								
Agricultural use (acres)	40	-	-	-	-	-	-	40
Residential use	10 acres	1 acre	13,500 sf[1]	10,800 sf[1]	4,000 sf	1,600 sf	6,000 sf	-
Other use	5 acres	1 acre	15,000 sf	12,000 sf	4,000 sf	1,600 sf	6,000 sf	5 acres
Minimum lot width (ft.)	250	120	80	70	45	20	60	250
Minimum lot depth (ft.)	-	-	-	-	80	80	-	-
Maximum coverage (%)								
Building coverage	20	20	30	30	65	75	45	-
Impervious surface coverage	50	50	60	50	80	90	60	10
Setbacks for principal structures								
Minimum front setback (ft.)	75	50	30[1]	25[1]	20 (30 max.)	5 (15 max.)	25	[1]
Minimum rear setback (ft.)	50	50	50	40	20	25	20	[1]
Minimum side setback (ft.)								
Interior side	50	25	10	10	7	0	10	[1]
Street side	75	25	30	25	12 (30 max.)	5 (15 max.)	25	[1]
Setbacks for accessory structures								
Minimum front setback (ft.)	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	[1]
Minimum rear setback (ft.)	5[1]	5[1]	5[1]	5[1]	5	5	5[1]	[1]
Minimum side setback (ft.)								
Interior side	5[1]	5[1]	5[1]	5[1]	5	5	5[1]	[1]
Street side	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	[1]

[1] See respective district's development standards for additional requirements/restrictions.

Note: N/A means not applicable since accessory structures are not permitted in front and street side yards.

(Continued on next page)

District Summary Table

Residential Districts

Below is a reference table that summarizes district regulations.
Consult Chapter 3 - Zoning Districts for additional requirements and exceptions to the information below.

STANDARD	AG	SR-1	SR-2	SR-3	CR	UR	MH	FP
Building form								
Minimum height (stories/ft.) for principal building	-	-	-	-	-	1/16	-	-
Maximum height (stories/ft.)								
Principal building (stories/ft.)	2.5/35	2.5/35	2.5/35	2.5/35	2.5/35	3/45	2.5/35	-/35
Accessory building (ft.)	16[1]	16[1]	16[1]	16[1]	16[1]	16[1]	16[1]	-/20
Minimum building facade in setback zone (%)								
Front yard	-	-	-	-	50	50	-	-
Side street yard	-	-	-	-	25	25	-	-

[1] See respective district's development standards for additional requirements/restrictions.

Note: N/A means not applicable since accessory structures are not permitted in front and street side yards.

District Summary Table

Non-Residential Districts

Below is a reference table that summarizes district regulations.

Consult Chapter 3 - Zoning Districts for additional requirements and exceptions to the information below.

STANDARD	17/76	OT	MX	C	I-1	I-2	CIV
Minimum lot size							
Residential use (sf per dwelling)	1,600	1,600	6,000	-	-	-	-
Other use (sf)	1,600	1,600	6,000	-	-	-	-
Minimum lot width (ft.)	20	20	40	-	-	-	-
Minimum lot depth (ft.)	80	80	-	-	-	-	-
Maximum coverage (%)							
Building coverage	75	85	65	60	75	75	50
Impervious surface coverage	90	95	85	80	85	85	70
Setbacks for principal structures (other or non-CR-17, as specified)							
Minimum front setback (ft.)	0 (10 max.)	0 (10 max.)	20 (95 max.)	20	25/90	50[2]/90[2, 4]; 35[3]/90[3,4,]	[5]
Minimum rear setback (ft.)	25[1]	25[1]	25[1]	20[1]	25[1]	50[1, 2]; 75[1,3]	[5]
Minimum side setback (ft.)	-	-	-	-	-	-	-
Interior side (ft.)	0[1]	0[1]	0[1]	5[1]	5[1]	50[1,2]; 25[1,3]	[5]
Street side (ft.)	0 (10 max.)	0 (10 max.)	20 (95 max.)	20	25 (90 max.)	50 (90 max.)[2]; 35 (90 max.)[3]	[5]
Setbacks for principal structures with CR-17 frontage (as specified)							
Minimum front setback (ft.)	20 (95 max.)	-	25 (95 max.)	-	-	-	[5]
Minimum rear setback (ft.)	25[1]	-	25[1]	-	-	-	[5]

[1] See respective district's development standards for additional requirements/restrictions.

[2] Outside an industrial park

[3] Inside in an industrial park

[4] On arterial street frontage only

[5] All setbacks equal to the height of the structure up to 50 ft. max. for principal structures and up to 20 ft. max. for accessory structures

Note: N/A means not applicable since accessory structures are not permitted in front and street side yards.

(Continued on next page)

District Summary Table

Non-Residential Districts

Below is a reference table that summarizes district regulations.

Consult Chapter 3 - Zoning Districts for additional requirements and exceptions to the information below.

STANDARD	17/76	OT	MX	C	I-1	I-2	CIV
Minimum side setback (ft.)							
Interior side (ft.)	0[1]	-	0[1]	-	-	-	[5]
Street side (ft.)	20 (30 max.)	-	CR-17: 25 (95 max.), Other: 25 (30 max.)	-	-	-	[5]
Setbacks for accessory structures							
Minimum front setback	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	[5]
Minimum rear setback	5[1]	5[1]	5[1]	5[1]	10[1]	25[1]	[5]
Minimum side setback	-	-	-	-	-	-	-
Interior side	5[1]	5[1]	5[1]	5[1]	5[1]	25[1]	[5]
Street side	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	N/A[1]	[5]
Building form							
Minimum height (stories/ft.) for principal building	1/16	2/20	1/16	1/18[1]	-	-	-
Maximum building height							
Principal building (stories/ft.)	4/65	4/65	4/65	2/30	-/50	-/60[1]	-
Accessory building (ft.)	16[1]	16[1]	16[1]	18[1]	18[1]	18[1]	-
Minimum building facade in setback zone (%)							
Front yard	75[1]	75[1]	55[1]	-	-	-	-
Side street yard	50	50	35	-	-	-	-

[1] See respective district's development standards for additional requirements/restrictions.

[2] Outside an industrial park

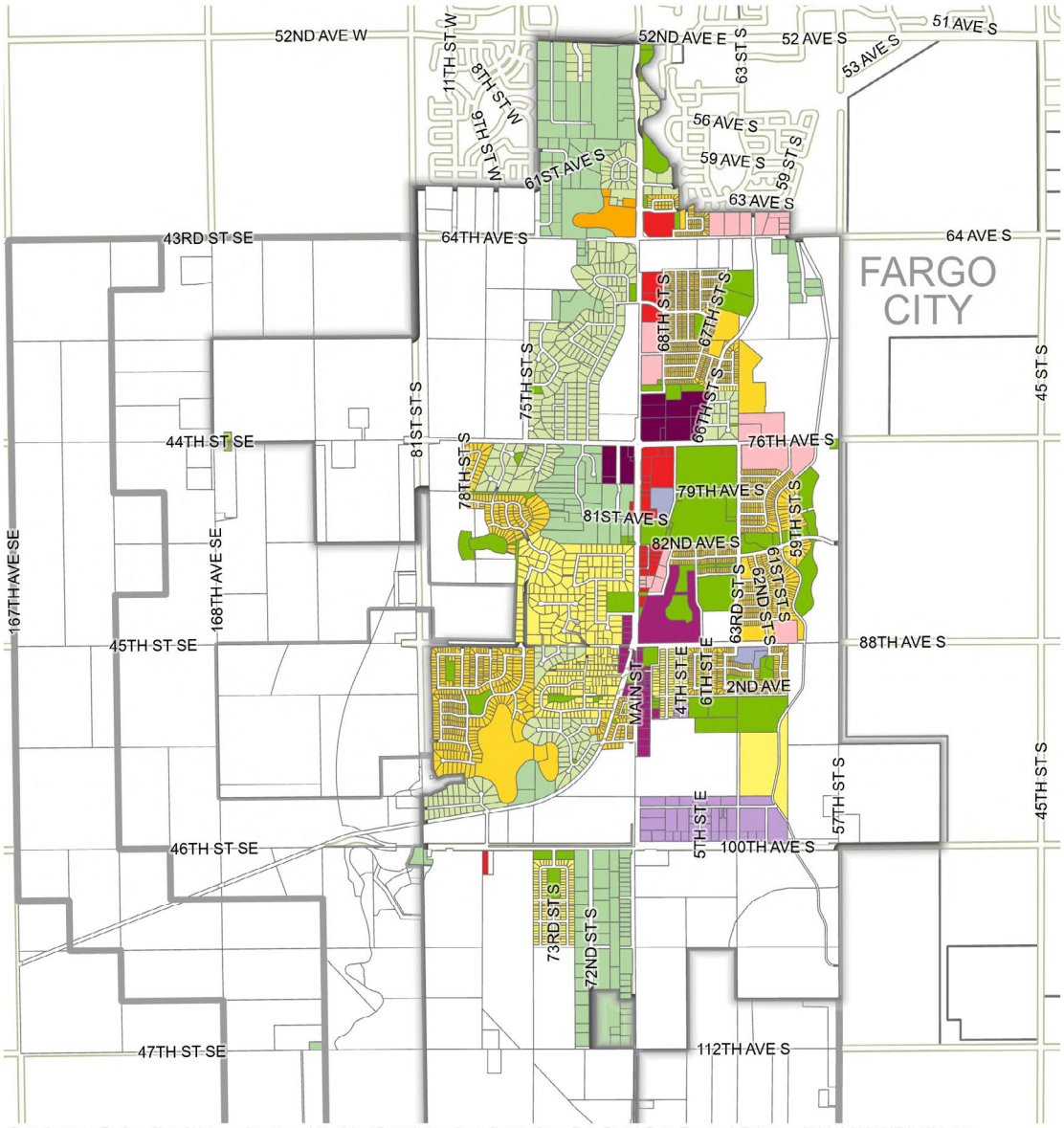
[3] Inside in an industrial park

[4] On arterial street frontage only

[5] All setbacks equal to the height of the structure up to 50 ft. max. for principal structures and up to 20 ft. max. for accessory structures

Note: N/A means not applicable since accessory structures are not permitted in front and street side yards.

Zoning Map



Data Sources: Zoning: City of Horace. Streets and Municipal Boundaries: Cass County Open Data Portal. Date Exported: February, 2024. ©2024Giffels Webster.

0 0.75 1.5 Miles

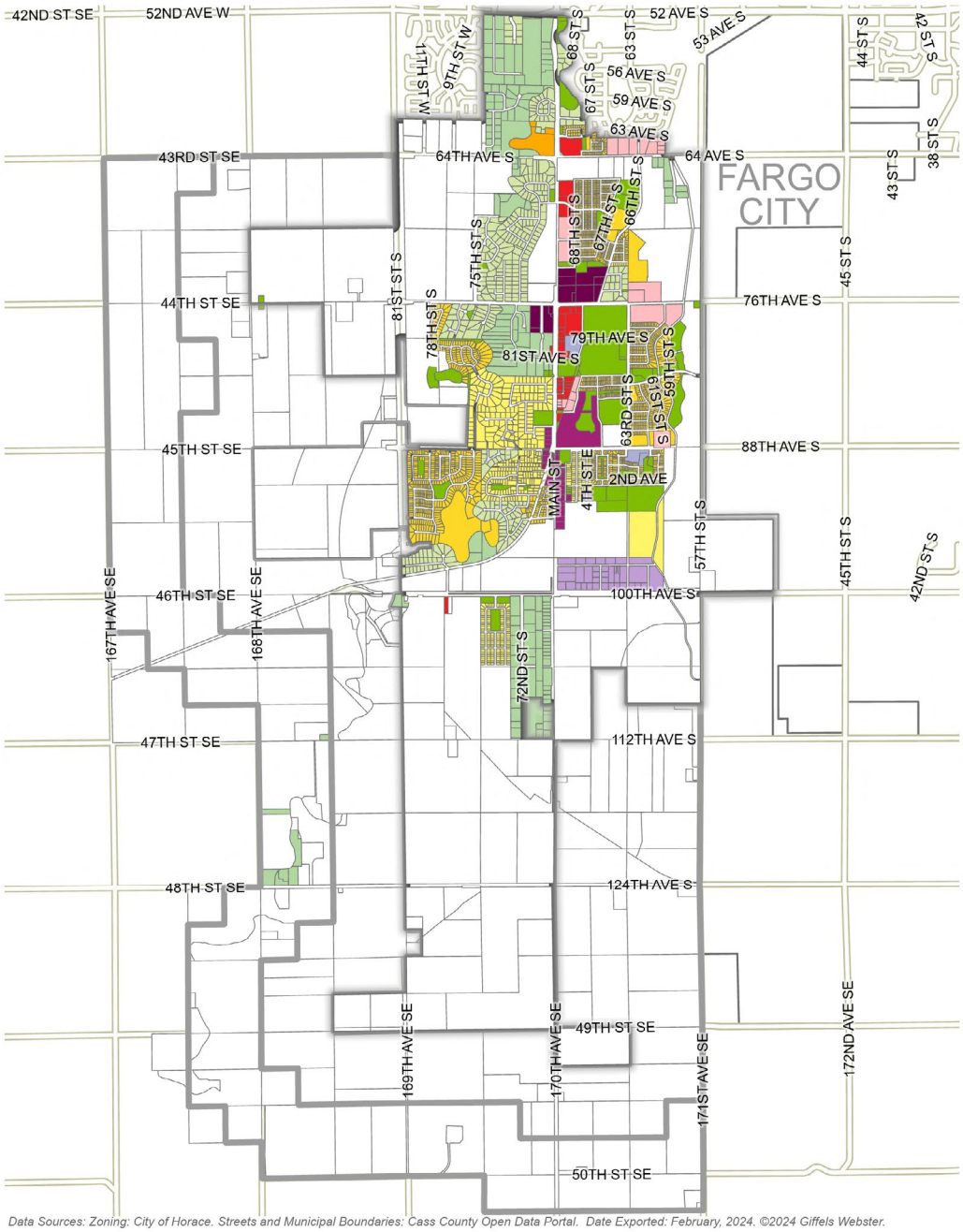
- AG: Agriculture
- SR-1: Suburban Residential 1 < 5 Acres
- SR-2: Suburban Residential 2 < 1 Acres
- SR-3: Suburban Residential 3 < 0.5 Acres
- CR: Compact Residential
- MH: Mobile and Manufactured Home
- 17/76
- OT: Old Town
- MX: Mixed Use
- C: Commercial
- I-1: General Industrial
- CIV: Civic
- PUD: Planned Unit Development

Click here for the
Interactive Zoning Map

giffels webster

Current Zoning Map
City of Horace

Extraterritorial Zoning Map



Data Sources: Zoning: City of Horace. Streets and Municipal Boundaries: Cass County Open Data Portal. Date Exported: February, 2024. ©2024 Giffels Webster.

0 0.5 1 2 Miles

- AG: Agriculture
- SR-1: Suburban Residential 1 < 5 Acres
- SR-2: Suburban Residential 2 < 1 Acres
- SR-3: Suburban Residential 3 < 0.5 Acres
- CR: Compact Residential
- MH: Mobile and Manufactured Home
- 17/76
- OT: Old Town
- MX: Mixed Use
- C: Commercial
- I-1: General Industrial
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Click here for the Interactive Zoning Map

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Current Zoning Map
City of Horace

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Title IV | Chapter 1
Purpose and Intent

Chapter 1 - Purpose and Intent

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4-1.3 Purpose and Intent 1-3
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4-1.7 Exceptions 1-4
4-1.8 Conflicting Provisions 1-4
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4-1.13 Citation 1-5

4-1.1 Title

This code, enacted under the authority granted by Chapters 40-05, 40-47, 40-48, and 40-50.1 of the North Dakota Century Code, governing the incorporated portions of the City of Horace, North Dakota and its extraterritorial planning area authorized by North Dakota laws, shall be known as "City of Horace Land Use Code" for the City of Horace, North Dakota.

4-1.2 Short Title

This code shall be known as the City of Horace Land Use Code and will be referred to herein as "the Land Use Code" or "this code."

4-1.3 Purpose and Intent

This Land Use Code is intended to implement the City's Comprehensive Plan, as amended, and related policies and protect the health, safety, and general welfare of the citizens of Horace by:

A. Providing for the orderly design and use of the public right-of-way by transportation users of various modes and for proper arrangement of streets, alleys, and roads for convenient and efficient access across adjoining properties;
B. Securing safety from fire, panic, and other dangers;
C. Providing for adequate light and air;
D. Providing for appropriate water, sewer, stormwater, and other necessary infrastructure and utilities to serve development;
E. Preventing the overcrowding of land;
F. Facilitating the orderly division of land within the City and its extraterritorial jurisdictions, as authorized by North Dakota laws;
G. Avoiding undue concentration of population;
H. Protecting the value of properties against nuisances that interfere with the use and proper enjoyment of property, endanger personal health or safety or is offensive to the senses, as provided under the City of Horace's ordinances; and
I. Providing for the use of land consistent with the vision in the Comprehensive Plan.

4-1.4 Scope

No building or structure or part thereof shall be erected, constructed, or altered, and no new use or change shall be made of any building, structure, or land or part thereof, and no division of land shall take place, except in conformity with the provisions of this code. No yard or open space surrounding any building shall be encroached upon or reduced in any manner, except in conformity with the regulations established for the district in which such building is located, unless otherwise addressed.

4-1.5 Interpretation

These regulations shall be held to be the minimum requirements unless specifically noted. Whenever, these requirements are at variance with other requirements, rules, regulations, deed restrictions, or covenants, adopted by the City of Horace, the most restrictive shall govern, unless otherwise specifically stated. The City Council, the governing body of the City of Horace, may, from time to time, amend, supplement, or repeal any part of this code after a notice and a public hearing(s).

4-1.6 Validity and Severability

Sections of this code shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this code as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

4-1.7 Exceptions

These regulations shall not apply to the land and buildings used for general agricultural uses, as herein defined.

4-1.8 Conflicting Provisions

A. Whenever any section of the Land Use Code imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the sections of this code shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this code, the provisions of such law or ordinance shall govern.

B. In interpreting and applying the sections of this code, they shall be held to be the minimum or maximum requirements for the promotion of the public safety, health, and general welfare. It is not intended by this code to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the sections of this code, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this code; nor is it intended by this code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this code imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinance or agreements, the provisions of this code shall control.

C. Discrepancies between text and an illustration (including its caption) may occur. In the case of such discrepancies, the text is considered the accurate information.

4-1.9 Vested Right

Nothing in this code should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein and they are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

4-1.10 Minimum Requirements

The provisions of this code are to be interpreted as the minimum requirements necessary to advance the Land Use Code's stated purposes. No building or structure may be erected, converted, enlarged, reconstructed, or altered, no land use may occur, and no lots of record may be created except in accordance with all of the regulations established by this code for the zoning district in which the building, structure, land use, or division is located.

4-1.11 Findings for Adoption of this Code

The City Council of the City of Horace, in adopting this code, finds that the Land Use Code has paid reasonable regard to:

A. The general policies and patterns of development set out in the Comprehensive Plan for the City of Horace, North Dakota;
B. Current conditions and the character of current structures and uses in each district;
C. The most desirable uses of the land in each district that has been established;
D. District, use, site and subdivision standards and other regulations necessary to meet the purpose and intent of this code; and
E. The conservation of property values throughout the City.

4-1.12 Adoption and Effective Date

A. **Repeal of Prior Ordinance**. The Land Use Ordinance adopted by the City of Horace, North Dakota on February 3, 2003, and all amendments thereto, is hereby repealed insofar as it conflicts with this code. The repeal of the code and all amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.
B. **Adoption and Effective Date**. The City of Horace Land Use Code, which specifically includes the Zoning Map, is hereby ordered to be given immediate effect and be in force from and after the earliest date allowed by law, and this code is hereby ordered to be published, in the manner provided by law, in the Forum Newspaper, on _____ 2022.

4-1.13 Citation

When making reference to a section in this code, it shall begin with the title number (this is Title IV, or 4, of the ordinances of the City of Horace, North Dakota). For example, this section shall be referenced as Section 4-1.13.

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Title IV | Chapter 2
Definitions

Chapter 2 - Definitions

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Definitions A - B

Access
Accessory Building and Uses
Addition
Adult Entertainment Establishment
Agriculture*
Alley
Alternative and Emerging Energy Facilities*
Animal Hospital or Kennel
Animals*
Arterial, Major
Arterial, Minor
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Extraterritorial Area

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Junk or Salvage Yard

* Multiple definitions

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Landscaping Plan
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Lot Depth
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Lot of Record
Lot Width
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Manufactured Home Park
Manufacturing
Manufacturing Facility, Marijuana
Marquee
Mini-Storage Facility
Mobile Home
NDCC
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Nursing Home (Elderly Care Facility)

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Parking Space, Off-Street
Parks and Open Spaces
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Permitted Uses
Person
Personal Services
Place of Assembly, General
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Porte Cochere
Poultry, Fish and Fur Farming
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Sanitary Landfill
School, Primary and Secondary
Service Station
Shared Non-Commercial Residential Facility
Shelterbelt
Sign*
Site
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Skeet, Trap, and Rifle Ranges (Shooting Range)
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Structure
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Telecommunication Facilities
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Turning Lane
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Wall
Wireless Communication Facility
Wireless Support Structure
Yard*
Zone
Zoning

* Multiple definitions

Measurements

MEASUREMENTS RELATED TO BUILDING HEIGHT

Basement
Mezzanine
Story
Story, Half
Building Height
Plate Height*

MEASUREMENTS RELATED TO BUILDINGS AND STRUCTURES

Building Coverage
Building Line
Floor Area
Floor Area, Gross
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MEASUREMENTS RELATED TO SETBACKS

Setback
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MEASUREMENTS RELATED TO ALTERNATIVE AND EMERGING ENERGY FACILITIES

Hub Height
Turbine Height

FRACTIONAL NUMBERS

Street Frontage Length
Fractions in the Calculation of Number of Trees and Shrubs

* Multiple definitions

[Intentionally blank]

4-2.1 Construction of Language

The following rules of construction shall apply to the text of this title:

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of this title and any caption, preamble, or illustration, the text shall control.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

E. A building or structure includes any part thereof.

F. The phrase "used for" may include "arranged for," "designated for," "intended for," "maintained for," or "occupied for."

G. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

H. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
3. "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

I. Terms not defined in Section 4-2.2 and Section 4-2.3 shall have the meaning customarily assigned to them.

4-2.2 Definitions

For the purpose of interpreting this code, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this code shall have their everyday meaning as determined by their dictionary definition.

A

ACCESS

A way of approaching or exiting a property. Access also includes ingress, the right to enter, and egress, the right to leave.

ACCESSORY BUILDING AND USES

A subordinate building, structure, or portion of the principal structure the use of which is clearly incidental to and serves exclusively the principal building or principal use and shall be located on the same zoning lot. A detached garage is an accessory building.

ADDITION

Any construction which increases the size of a building. It also means a plat of subdivision in numerical sequence.

ADULT ENTERTAINMENT ESTABLISHMENT

An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.

AGRICULTURE

Activities such as aquaculture, silviculture, livestock raising, cattle and animal grazing, cultivation crops, and other commercial production for sale to others, including apiculture, aquaculture, floriculture, groves and orchards, horticulture, pasturing of animals, training or instruction of animals, sod farming, tree farming, viticulture, on-farm composting, and similar activities.

- **AGRICULTURAL RESEARCH FACILITIES**. Any premises where the principal use is the experimentation, testing, planting, raising, or growing of agricultural flora or fauna for research purposes.
- **AGRICULTURAL PROCESSING AND MANUFACTURING**. Land, buildings, or structures for the production of vegetable or fruit crops, and the sorting, grading, cooling, washing, and final packaging and shipping of such agricultural products. This term may include animal products production, however, this term shall not be deemed to include an animal farm, animal agriculture, farm, ranch, or feedlot and stockyard.
- **AGRICULTURAL ROADSIDE STANDS**. A structure used for the retail sale of fruit, vegetables, and other agricultural products accessory to the agricultural use which produced them.

ALLEY

A public right-of-way or where permitted, private easement, which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street, and which may be used for public vehicular or utility access. In certain mixed use districts, an alley may serve as a primary means of access for a lot. The term “Alley” shall also be equivalent to the term “Laneway.”

ALTERNATIVE AND EMERGING ENERGY FACILITIES

A facility capable of converting solar, water, wind, wood, fire, and/or other emerging green technology source into a viable energy source for a permitted use in accordance with the provisions and design criteria specified in this code. The following definitions shall specifically apply to "Alternative and Emerging Energy Facilities":

- **ALTERNATIVE ENERGY**. A source of energy generated from solar, water, wind, geothermal, or similar sources, which is capable of providing energy and utility provisions to a permitted use.
- **ALTERNATIVE ENERGY FACILITY**. A private facility capable of converting solar, water, wood, fire, and/or wind into a viable energy source and utility provisions for a permitted use. Such facilities may include solar panels, wind turbines, geothermal systems, and/or other similar alternative energy facilities.
- **ATTACHED ALTERNATIVE ENERGY FACILITY**. A facility that is physically mounted, attached, and/or connected (except utility and energy transfer connections) to a permitted principal or accessory building in accordance with all pertinent zoning, utility and, Building Code requirements.
- **EMERGING ENERGY**. A source of energy generated from a renewable technology source, other than solar, water, wind, geothermal, or biomass sources, which is capable of providing energy and utility provisions to a permitted use.
- **EMERGING ENERGY FACILITY**. A private facility capable of converting an emerging energy source into a viable energy source and utility provisions for a permitted use.
- **FREESTANDING ALTERNATIVE ENERGY FACILITY**. A facility that is not physically mounted, attached, and/or connected (except utility and energy transfer connections) to a permitted principal or accessory building. All such facilities shall be considered a separate or accessory structure that has the ability to convert and convey energy to the principal use in accordance with all pertinent zoning, utility, and Building Code requirements.
- **HUB HEIGHT**. See "Hub Height."
- **NON-PARTICIPATING LANDOWNER**. Any landowner except those on whose property all or a portion of an alternative and/or emerging energy facility is located pursuant to the provisions of this code.
- **SHADOW FLICKER**. The effect of the sun, when low in the sky, shining through the rotating blades of a wind turbine, casting a moving shadow.
- **SOLAR ENERGY SYSTEM**. A private, noncommercial energy producing system consisting of photovoltaic panels that are roof mounted or ground mounted on a support structure for the purpose of collection, storage and distribution of solar energy for space heating or cooling, water heating, or electricity generation.
- **SOLAR ARRAYS**. A number of solar panels or modules connected together in a single structure. One installation can have more than one array.
- **TURBINE HEIGHT**. See "Turbine Height."
- **WIND ENERGY FACILITY**. An electric generating facility, whose main purpose is to convert and supply electricity to a permitted use. Such facilities may include wind turbines, blades, spirals, helixes, and/or other accessory wind generating structures, which may also include buildings, substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

- **WIND TURBINE**. A wind energy conversion system that converts wind energy into electricity through the use of a generator, which may include a nacelle, rotor, tower, transformer pad, blades, spirals, helixes, and/or the supporting energy apparatus.
- **WOOD-FIRED BOILER**. An alternative energy facility designed to burn clean wood or other permitted solid fuels, which transfers heated air or liquid through a piping or ventilation system. All such systems are generally contained within an accessory structure that is not intended for habitation by humans or animals. An outdoor wood-fired boiler may also be known as outdoor wood-fired furnaces, outdoor wood-burning appliances, outdoor hydraulic heaters, and/or water stoves.

ANIMAL HOSPITAL OR KENNEL

A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

ANIMALS

- **DOMESTIC ANIMALS**. Any animal customarily kept by humans for companionship, including, but not limited to dogs, cats, birds, fish, rabbits, ferrets, gerbils, hamsters, turtles, and the like.
- **LIVESTOCK**. Animals commonly raised, bred, or used for agricultural or livestock purposes, including, but not limited to: cattle, sheep, poultry, swine (including miniature pot-bellied pigs), horses, ostriches, emus, rheas, goats, and other livestock. Farm animals shall not be deemed to include common household pets or pot-belly pigs.
- **WILD/EXOTIC**. Category 2 and Category 3 animals as defined by the State of North Dakota Department of Agriculture (Non-Traditional Livestock).

ARTERIAL, MAJOR

Roadways, including associated right-of-way, designed to accommodate long trips and connect various neighborhoods. Examples of arterial roadways are Cass County Highway 17, Cass County Highways 6 and 15, 64th Ave South, 76th Ave South, or other roadways placed at the section lines in north-south or east-west directions.

ARTERIAL, MINOR

Roadways, including associated right-of-way, designed to accommodate intermediate trips and distribute traffic to collector/connector streets to serve individual properties including, houses, apartments, and businesses. Minor arterials, where possible, will be located at one-half (½) mile intervals between major arterials in a north-south or east-west direction.

ARTISAN MANUFACTURING

Small-scale businesses that produce artisan goods or specialty foods, primarily for direct sales to consumers, such as artisan leather, glass, wood, paper, ceramic, textile and yarn products, specialty foods, and baked goods.

ASSISTED LIVING

A building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under Chapter 23-16, Chapter 23-17.7, Chapter 25-16, or Section 50-11-01.4 of the North Dakota Century Code.

AUTOMOBILE SALVAGE YARD

Any place where two or more motor vehicles, not in running condition, or bearing current North Dakota license plates are stored in the open or land for the purpose of selling parts or just storage.

B

BASIC CARE FACILITY

A state-licensed facility that provides room and board to five or more individuals who are not related by blood or marriage to the owner or manager of the residence and who, because of impaired capacity for independent living, require health, social, or personal care services, but do not require regular twenty four (24) hour medical or nursing services.

BED AND BREAKFAST ESTABLISHMENTS

A private residence used in whole or in part for the overnight lodging of guests for a fee.

BLOCK FACE

The frontage of a block, which may contain one or more lots, along one side of a public or private street between intersections.

BUILDING

Any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels, or property.

BUILDING FRONTAGES

- **FORECOURT**. A forecourt is a space open to the sky formed by a recess in the central portion of the building facade. Porches, stoops, and galleries may encroach into the forecourt.
- **GALLERY**. A raised platform that provides additional space for upper floor uses, with access solely from the interior of a building. A gallery may be roofed or uncovered and may be projecting or be integral to the building.
- **PORCH**. A porch is a raised, roofed platform attached to a building to form an articulated entryway and semiprivate social space. Porches may be projecting, engaged, or integral to a building facade.
- **STOOP**. A stoop is a small, raised platform that serves as an entryway to a building, typically for residential uses with small setbacks. A stoop may be roofed or open to the sky. A covered or recessed stoop provides shelter from the elements.
- **STOREFRONT**. A storefront is used for retail uses featuring a primary entrance at grade and incorporating substantial windows at the sidewalk level for the display of goods, services, and signs.
- **TERRACE**. A terrace accommodates a change in grade by using an elevated platform to provide circulation and access across the front of a building.

BUILDING, PRINCIPAL

A building, the main use of which is single-family and multi-family dwellings, offices, shops, stores, and other uses permitted in the appropriate zoning district.

BUILDING TRANSPARENCY

The degree to which a building uses an opening or glass as a primary building material in the composition of the building facade. Areas covered by film, tinting, or similar material on windows or otherwise transparent surfaces shall not be considered transparent, except as expressly provided in this division.

BUILDING TYPES

- **CARRIAGE HOUSE**. This building type is an accessory structure typically located at the rear of a lot. It typically provides either a small residential unit, home office space, or other small use permitted in the district that may be above a garage or at ground level. In certain mixed use districts, the residential unit may have access only to an alley or laneway. This building type is important for providing affordable housing opportunities and, where permitted, for incubating small businesses.
- **COTTAGE COURT**. The cottage court type consists of a series of small, detached buildings (cottages) arranged to front upon a shared court. Cottages typically have one unit, but they can have up to two units. The court includes a sidewalk system and it is typically placed perpendicular to the street. The courtyard shall be either partially or wholly open to the street.
- **DUPLEX (TWO-FAMILY) HOME**. This building type is typically a small- to medium-sized structure that consists of two side-by-side or stacked dwelling units, both facing the street and within a single building massing. This type has the appearance of a medium to large single-family home and is appropriately scaled to within primarily single-family neighborhoods or medium-density neighborhoods.
- **SMALL MULTIPLEX**. This type is a medium-sized structure that consists of three (3) or four (4) side-by-side and/or stacked dwelling units, typically with a shared entry. This type has the appearance of a large family home and is appropriately scaled to fit within primarily medium-density and mixed use neighborhoods.
- **SHOP**. The shop type is a structure intended to provide pedestrian oriented retail and services on the ground floor. It may be a single story or provide a vertical mix of uses with upper-floor residential or office uses. Upper floor units are typically accessed by a common entry, preferably located along the street. This type is the primary component of a neighborhood center and may be found in mixed use districts. It is a critical component to creating a walkable environment that encourages pedestrians to stroll from storefront to storefront.
- **SINGLE-FAMILY DETACHED HOME**. This building type is a detached structure on a lot that incorporates one residential unit. It is typically located within a primarily single-family residential neighborhood and typically will have either a detached or attached garage/accessory structure.
- **STACKED FLATS**. The stacked flats type is a medium-to-large-sized structure that consists of five (5) or more side-by-side and/or stacked dwelling units. Units typically share one (1) or more common entries, but may have an individual entry accessed off of a courtyard or series of courtyards. This type is appropriately scaled to fit within medium density neighborhoods, neighborhood centers, or mixed use districts.
- **TOWNHOUSE (TOWNHOME)**. A townhome is an attached structure that consists of three to eight (3–8) townhouses placed side-by-side on narrow lots that share a party wall. Alternatively, they could all be on one lot under shared ownership, and the individual units are leased. These units are typically located within medium-density neighborhoods or in a location that transitions from residential into a neighborhood or mixed use center. Each unit has an individual entrance along a street or open space. Garages may be detached or attached, often tucked under the main living floor above.

C

CAR WASH
Any facility used for washing of motorized vehicles in an enclosed structure. Also referred to as "Auto Wash."

CEMETERIES
Land used for the burial of the dead, and dedicated for cemetery purposes, including columbariums and mausoleums, but excluding crematories and mortuaries.

CHILD CARE HOMES AND FACILITIES
- **FAMILY CHILD CARE HOME**. A private residence not licensed providing care for up to five (5) children at one (1) time.
- **LICENSED FAMILY CHILD CARE HOME**. A private residence licensed to provide early childhood services for no more than seven (7) children at any one (1) time, except that the term includes a residence licensed to provide early childhood services to two (2) additional school-age children.
- **LICENSED GROUP CHILD CARE HOME OR FACILITY**. A child care program licensed to provide early childhood services for thirty (30) or fewer children in a home or a facility.
- **LICENSED CHILD CARE CENTER**. An early childhood program in a facility licensed to provide early childhood services to nineteen (19) or more children.

CIVIC USES
A use providing for public functions under the auspices of a government body and includes offices, public works buildings, fire halls, police station, courts of law, and schools.

CLUB OR LODGE
A structure designed for a group of persons which is a nonprofit association of persons for the purpose of gatherings and entertaining members, including consumption of food and beverages.

COLLECTOR STREET
Roadways, including associated right-of-way, which are designed to collect traffic from local streets and distributing it to and from major or minor arterial streets or highways.

COMMUNITY DEVELOPMENT DEPARTMENT
The Community Development Director, or, in the event that no Community Development Department is in place, the City Administrator, or any designee of the City Administrator, performing the duties of the Community Development Department.

COMMUNITY GARDEN
Community gardens consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Such land may include available public land.

COMPASSION CENTER
A medical marijuana manufacturing facility or dispensary.

COMPREHENSIVE PLAN

The most recent version of the City of Horace comprehensive plan.

CONDITIONAL USE

A use not automatically permitted in a zoning district and which requires review and approval of the City Council after a public hearing. It is a use which may not be appropriate in a particular zoning district, but which if controlled as to the number, location, or relation to the surrounding uses and the area, may be consistent with the purpose and intent of these regulations. A conditional use is permitted in a district specifically allowing it, subject to the approval of the City Council and only when the City Council finds that such use meets all of the requirements applicable to it as specified in the City ordinances including these regulations. When restrictions in this code restrict the distance from a property to be granted a conditional use permit and another zoning district, the distance is measured from the nearest lot line to the nearest lot line.

CONFORMING BUILDING OR STRUCTURE

A building or structure which complies with all requirements of this code and other regulations adopted by the City of Horace.

CONNECTOR STREET ROADWAYS

Roadways, and the associated right-of-way, which are designed to connect local streets to collector streets and arterial streets.

D

DEVELOPER
The owner, or agent of landowner involved, in land subdivision or development for a specific or aggregate of use(s).

DEVELOPMENT
Any person-made (also known as man-made) change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation, and drilling operations.

DEVELOPMENT PLAN
A document including maps and data for physical development of an area as may be required by this code.

DISPENSARY, MARIJUANA
An entity registered by the North Dakota State Department of Health as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.

DISTRICT, RESIDENTIAL
Any district zoned for residential uses.

DISTRICT, ZONING
A section or sections of Horace for which regulations governing the use of land, building, building heights, size of yards, lot area, lot width, and the uses of land and buildings are set forth.

DITCHING
The process of excavation for the purpose of surface water drainage and removal.

DRAIN
The surface ditch designed and maintained by a unit of government in Cass County, North Dakota.

DWELLING

Any building, or portion thereof, designed and used for residential occupancy by a single household, which includes provisions for sleeping, eating, cooking, and sanitation.

- **DWELLINGS, ACCESSORY**. A subordinate dwelling unit added to, created within, or detached from a single-family dwelling. It may not be subdivided or otherwise segregated in ownership from the primary dwelling unit. The property owner shall occupy either the accessory or primary dwelling unit; a family member or caretaker of the owner or the property shall occupy the other unit.
- **DWELLINGS, ATTACHED SINGLE-FAMILY**. A residential structure designed to house a single-family unit, with a private outside entrance, with a common wall adjoining other single-family unit(s), and containing at least three (3) total attached units but not more than eight (8) attached units. Each unit shall have its own separate lot or other comparable ownership equivalent.
- **DWELLINGS, COTTAGE COURT**. A dwelling unit that is part of a cottage court development, which is a group of small detached houses, but may also include attached houses (two (2) units maximum per building) or townhouses (two (2) units maximum per building), centered around a common open space or courtyard with a shared sidewalk system. The central courtyard enhances the character of the area through the provision of consolidated and shared open space. A cottage court may be developed on individual lots or with a common form of ownership.
- **DWELLINGS, DUPLEX**. A building designed exclusively for occupancy by two (2) families independently of each other and having separate cooking and bath facilities for each. Also referred to as a "Two-Family Dwelling."
- **DWELLINGS, MOBILE HOME**. Any relocatable manufactured, modular, or prefabricated structure or unit that is designed to be used as residential living quarters. The term does not include a recreational vehicle.
- **DWELLINGS, MULTI-FAMILY**. A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.
- **DWELLINGS, MULTIPLEX (SMALL)**. A building with up to eight (8) dwelling units in a building. This includes triplex, quadplex, and similar types up to eight (8) units.
- **DWELLINGS, MULTIPLEX (LARGE)**. A building with more than eight (8) dwelling units in a building.
- **DWELLINGS, SINGLE-FAMILY DETACHED**. A dwelling unit which is not attached to any other dwelling unit by any means.
- **DWELLINGS, TINY HOME**. A dwelling unit less than four hundred (400) square feet that meets the standards of the International Residential Code.
- **DWELLINGS, TOWNHOME**. A residential structure with two (2) or more floors of living space designed to house a single-family unit from lowest level to roof, with a private outside entrance, but not necessarily occupying a private lot, and sharing a common wall adjoining dwelling units.

E

EASEMENT

A right to the use of land for a specific purpose, such as placing a utility line, drainage way, or access to another property, such right being held by someone other than the owner who holds the title to the land.

ENCROACHMENT

Any fill, building, structure, or use including accessory uses projecting into the required yard areas of public or private property.

ESSENTIAL SERVICES AND PUBLIC SERVICES

The erection, construction, alteration, or maintenance by public utilities, as defined herein, of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare. Essential services shall not include storage yards, cellular telephone towers, commercial reception towers, air quality monitoring stations, school bus parking yards, sales or business offices, or commercial buildings or activities.

ESTABLISHMENT

A place of business for processing, production, assembly, sales, and/or service of goods and materials.

EXTRATERRITORIAL AREA

Areas surrounding the City of Horace within a distance of the City corporate limits in all directions, where the City has zoning and platting jurisdiction under the provisions of the North Dakota Century Code.

F

FAMILY

Either of the following:

- An individual or group of two (2) or more persons related by consanguinity, marriage, or adoption, together with foster children or live-in housekeepers of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- A collective number of individuals domiciled together, up to six persons, in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. This definition also does not include halfway houses for prisoner re-entry and similar facilities. It also does not include medication-assisted treatment for substance abuse patients, substance abuse disorder treatment facilities, and similar facilities for those not recovered from substance abuse treatment.

FEED LOT

An enclosed parcel of land which contains a commercial operation for feeding or raising of fifty (50) or more animals which is operated as a separate activity and not incidental to farming of the premises.

FLOOD

A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

FLOOD FRINGE

That portion of the floodplain outside the flood way which is covered by flood waters during a regional flood.

FLOODPLAIN

The land adjacent to a body of water which has been or may be covered by flood water, which includes flood way and flood fringe.

FLOOD PROTECTION ELEVATION

A point two and one-half (2 ½) feet of freeboard above the water surface profile of the regional flood as recommended by the City Engineer.

FLOOD PROOFING

A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, in order to reduce or eliminate flood damage to properties, structures, and their contents.

FLOOD, REGIONAL

A flood determined by the State and Federal Emergency Management Agency and is representative of large floods known to have occurred in Cass County, North Dakota.

FLOODWAY

The channel of a stream and those parts of the floodplain adjoining the channel that carries and discharges the flood waters.

FRONTAGE

The front part of a lot abutting a public right-of-way, a private street, or road or highway.

FRONTAGE ZONE

The area adjacent to the property line where transitions between public sidewalk and the space within and along the building occurs. It may occur along the edge of the public right-of-way, it may occur on private property adjacent to the right-of-way line or it may straddle the property line / right-of-way line and occur on both public and private property.

G

GRADE

The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the buildings if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building and the average of the several averages.

GRADE, BUILDING

The land elevation at the horizontal intersection of the ground and the building.

GREENBELT

Greenbelt refers to an area of land that is planted with the primary objective of screening or buffering the use on that property from neighboring uses.

GREEN WALL

An internal or external wall partially or completely covered with vegetation that includes a support structure, growing medium, and integrated water delivery system. Also referred to as a “Living Wall” or “Vertical Garden.”

H

HOME OCCUPATION

An occupation conducted entirely within a single-family dwelling unit by the resident(s) thereof, provided that the home occupation is incidental and secondary to the use of the dwelling unit for residential purposes and includes no employees other than the residents of the home plus one non-resident. This includes instruction of the arts, music, and dance up to four (4) persons at a time.

HOTEL OR MOTEL

A building in which lodging accommodations, with or without meals, are provided for compensation.

I

IMPROVEMENTS

Street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees, streetlights as may be required by the City of Horace.

INDUSTRIAL PARK

A special or exclusive type of area designed and equipped to accommodate a group of compatible industries in an attractive setting. All industrial uses shall be based on detailed site plan as provided in this code.

INDUSTRY, HEAVY

Uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using, flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. Heavy industry shall also mean those uses engaged in the operation, parking, and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, and truck terminals.

INDUSTRY, LIGHT

A use that involves the compounding, processing, assembly, treatment, repair, improvement, or packaging of finished products, predominantly from previously prepared or refined materials (or from raw materials that do not need refining) such as canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings), shell, soil, textiles, tobacco, wax, wire, wood, or yarn. Examples of compounding, processing, packaging, and treatment include products such as bakery goods, candy, cosmetics, food products, hardware and cutlery, pharmaceuticals, and toiletries. Examples of manufacturing include that of pottery, figurines, or other similar ceramic products using only previously pulverized clay or kilns fired only by electricity or gas; musical instruments, toys, novelties, metal or rubber stamps or other small molded rubber products; electrical appliances, electronic instruments and devices, radios and phonographs (excluding large stamping). Manufacture or repair of electronic or neon signs and light sheet metal products (including heating and ventilating equipment, cornices, eaves, etc.) is considered light industry. Warehousing, wholesaling, storage, and distribution of the finished products produced at the site is allowed as part of this use. Laboratories, experimental, film, or testing is considered light industry. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc., such that any external effects are not greater at the property lines than surrounding uses.

INSTITUTIONAL USE

A nonprofit or quasi-public use, such as a religious institution, library, public, or private school, hospital, or government-owned or government-operated structure or land used for public purpose.

J

JUNK OR SALVAGE YARD

An open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled, or handled.

L

LANDSCAPING

The improvement of a lot, parcel, or tract of land with grass, shrubs, or trees. Landscaping may include pedestrian walks, flowerbeds, and ornamental objects such as fountains, artworks, or monuments to produce an aesthetically pleasing environment.

LANDSCAPING PLAN

A detailed drawing(s) of scale for placement of walks, flowers, trees, parking, shelters, seating, and picnic areas.

LANEWAY

See "Alley."

LIGHTING

The following definitions are related to lighting:

- **CANOPY STRUCTURE**. Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.
- **EDISON BULB**. An incandescent light bulb with an exposed filament or an LED bulb simulating the appearance of such a bulb, meant to provide atmospheric lighting and producing a light output not greater than four hundred (400) lumens.
- **FLOODLIGHT**. Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
- **FOOTCANDLE**. A unit of illuminance, which is the quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, amounting to one (1) lumen per square foot.
- **FULLY SHIELDED FIXTURE**. A luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below the horizontal plane through the luminaire's lowest light emitting part as determined by photometric test or certified by the manufacturer.
- **GLARE**. Direct light emitted by a luminaire that causes reduced vision or momentary blindness.
- **LIGHT FIXTURE**. The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.
- **LIGHT POLLUTION**. Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky, or causes undesirable glare or unnecessary illumination of adjacent properties.
- **LIGHT TRESPASS**. The shining of light produced by a luminaire beyond the boundaries of property in which it is located.
- **LUMEN**. As used in the context of this code, the light-output rating of a lamp (light bulb).
- **LUMINAIRE**. The complete lighting system including the lamp and light fixture.
- **LUMINAIRE CUT-OFF ANGLE**. The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

- **LUMINOUS TUBE LIGHTING**. Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.
- **OUTDOOR LIGHT FIXTURES**. Outdoor artificial illuminating devices, installed or portable, used for floodlighting, general illumination, or advertisement.
- **STRIP LIGHTING**. A device or devices installed that attract attention to a non-residential use wherein a source or sources of light are arranged to be visible from the exterior of a building or structure including, but not limited to, strips of LED lights or neon tubes placed along the perimeter of building windows, along building edges, and other locations that serve to attract attention to a non-residential use. This definition shall not include any device or devices classified as a sign by the definitions and regulations in this code. Temporary lights otherwise regulated by this code are also excluded from this definition.

LOADING SPACE

A space or berth on the sale lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley, or other appropriate means of access.

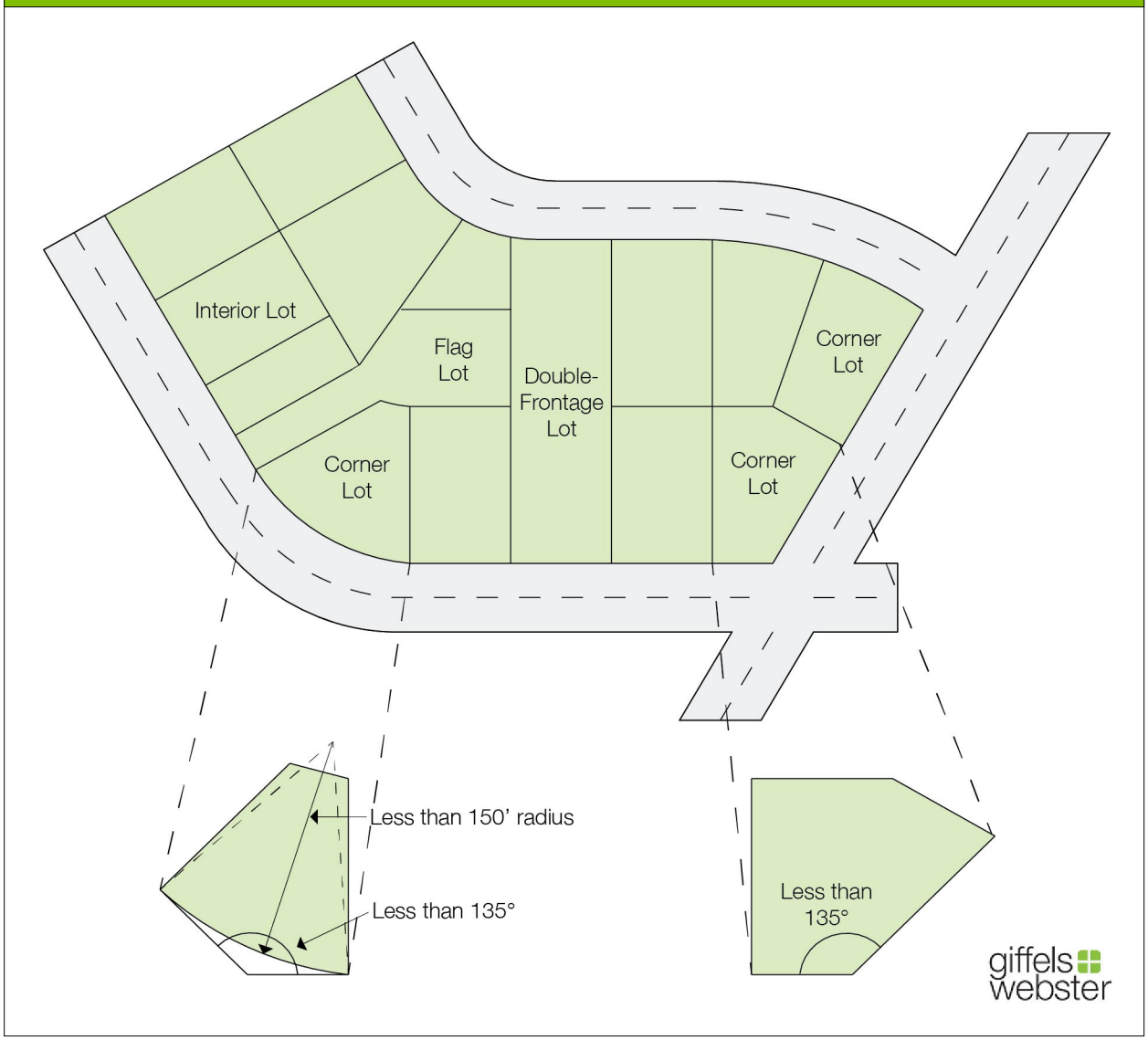
LOT

A piece, parcel, or area of land established by survey, plat, or deed that meets the yard requirements of this code and fronts on a public or private street.

LOT, CORNER

A lot abutting two (2) or more public or private streets at their intersection. ✍

FIGURE 4-2.2.A CORNER, FLAG, INTERIOR, AND THROUGH LOTS



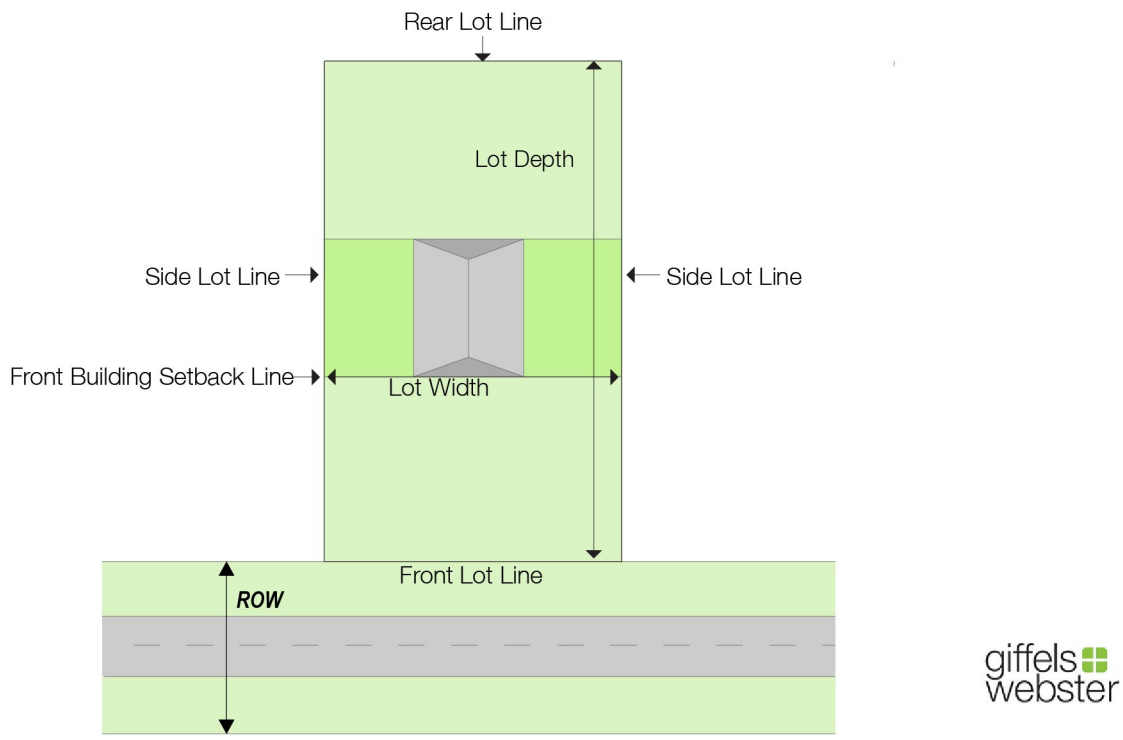
LOT COVERAGE, BUILDING AREA

The total surface area of a lot which may be used for permitted or conditional uses, excluding the yard areas.

LOT DEPTH

The average horizontal distance between the front lot line and rear lot line. ✍

FIGURE 4-2.2.B LOT DEPTH AND WIDTH



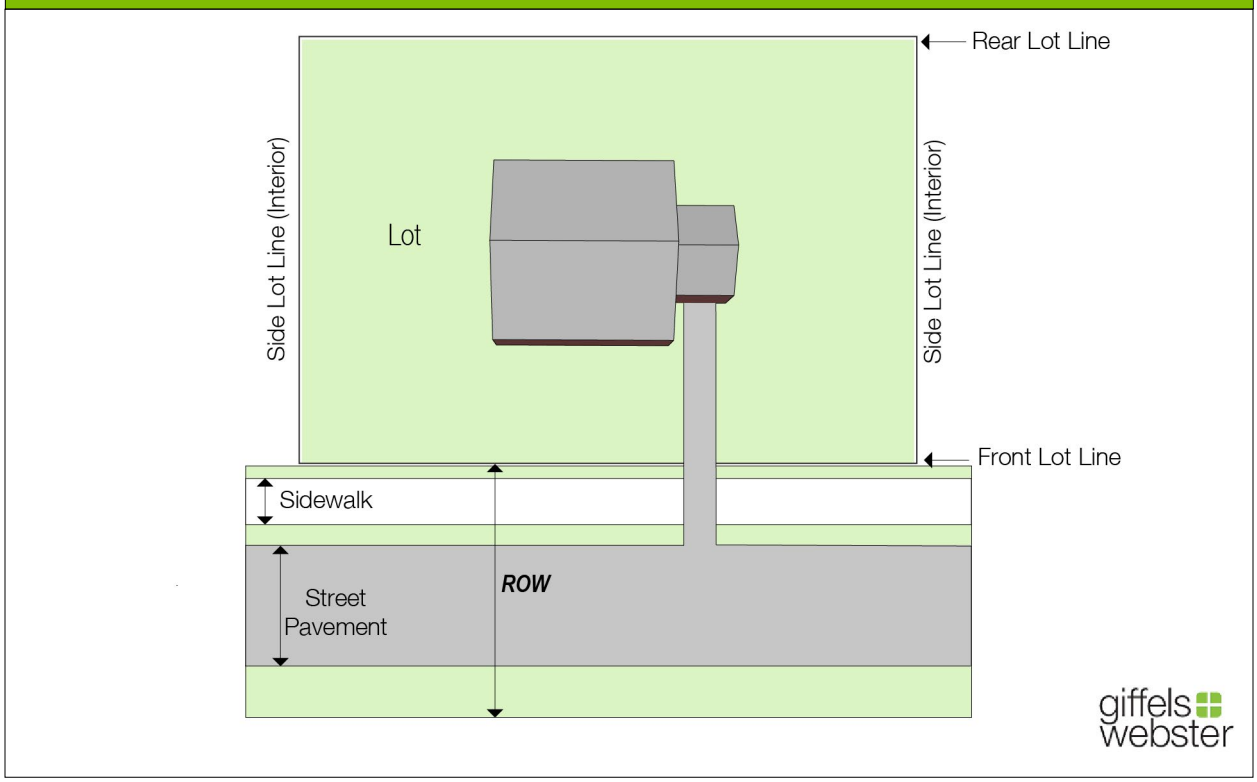
LOT, FLAG

A parcel of land that is generally situated behind a lot or lots fronting a street; does not have a required street frontage as per this code (but does maintain some street frontage along the width of the access strip); and is accessible from the street only over an access strip that is owned in fee title. (See "Lot, Corner." ✍)

LOT LINES

The property lines bounding the lot. ✍

FIGURE 4-2.2.C LOT LINES



- **FRONT LOT LINE**. In the case of an interior lot, the line separating such lot from the street. In the case of a corner lot or double frontage lot, the line separating such lot from that street which is designated as the front street in the plat, the request for zoning compliance permit, or site plan.
- **REAR LOT LINE**. The line opposite the front lot line and intersecting the side lot lines. In the case of a three (3) sided lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line, and wholly within the lot.
- **SIDE LOT LINE**. Any lot lines other than the front lot lines or rear lot lines. A side lot line separating a lot from a street is an exterior lot line or street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

FIGURE 4-2.2.D FRONT LOT LINES FOR CORNER AND THROUGH LOTS

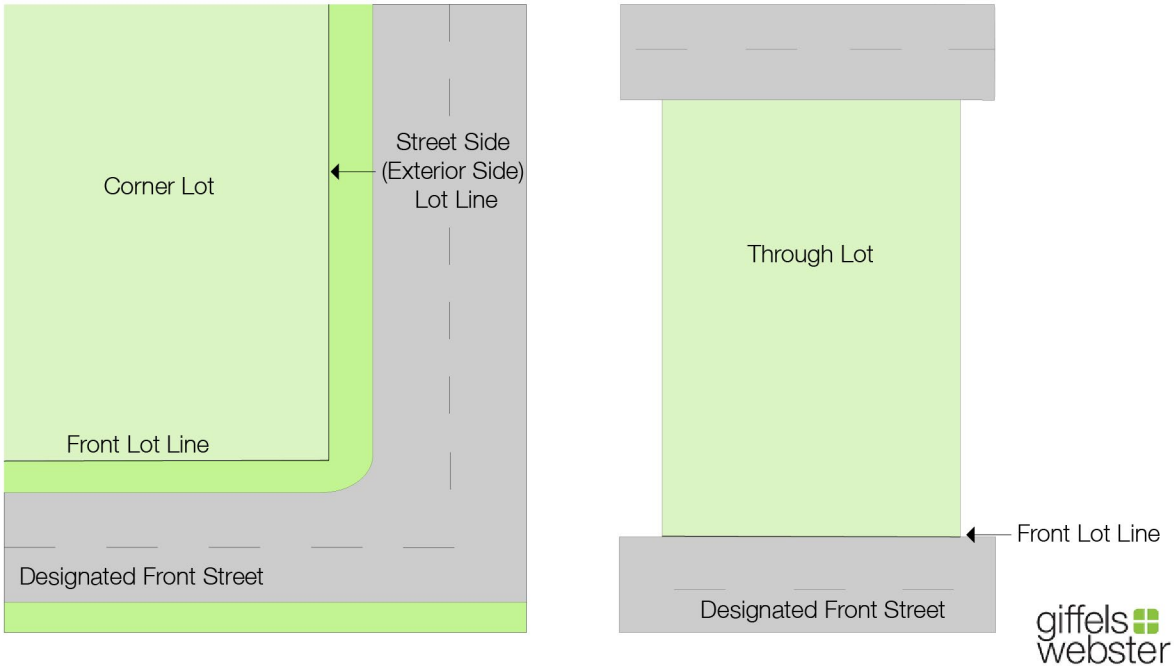
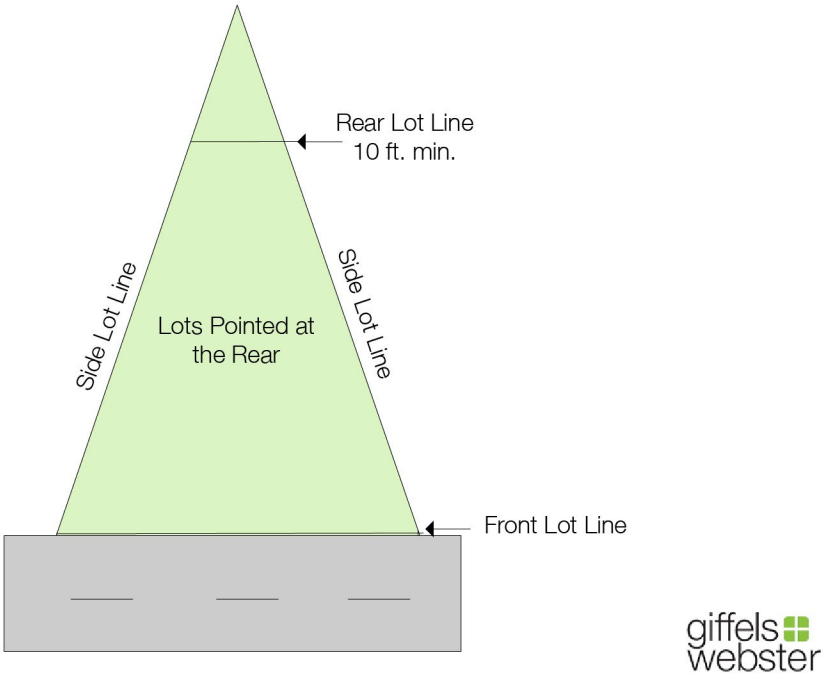


FIGURE 4-2.2.E REAR LOT LINES FOR LOTS POINTED AT THE REAR



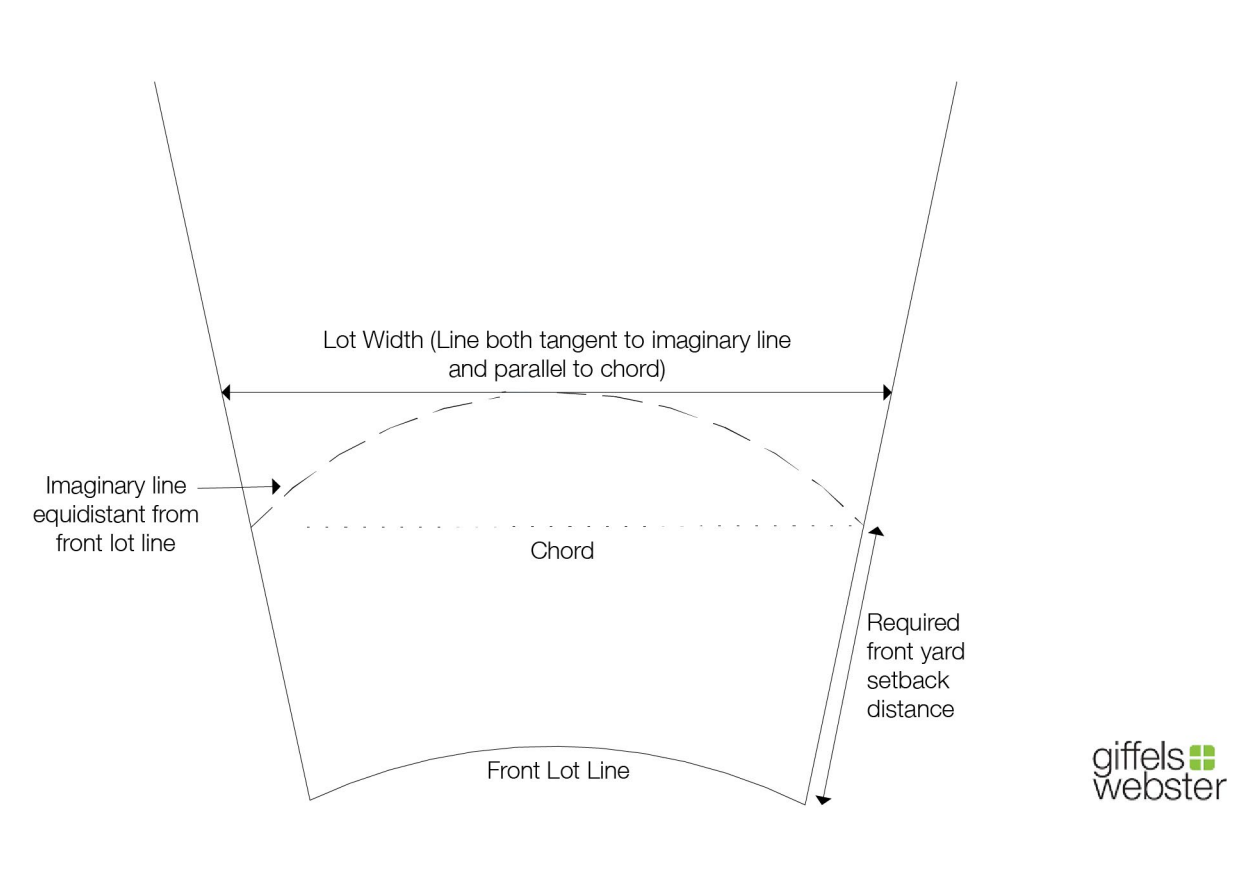
LOT OF RECORD

A lot, which is a part of a subdivision or a parcel of land which has been recorded in the Cass County Recorder's Office.

LOT WIDTH

The horizontal distance between the side lot lines of a lot, measured at the front setback. For purposes of measuring the lot width of a cul-de-sac lot, an arc following the circumference of the cul-de-sac circle shall be drawn between the two (2) intersecting points of the front setback line and the side lot lines, and the distance of said arc shall be the lot width. (See "Lot Depth." ✍)

FIGURE 4-2.2.F LOT WIDTH OF A CUL-DE-SAC LOT



LOT, ZONING

A single lot, parcel, or tract of land within a zoning district.

M

MANUFACTURED AND MODULAR HOMES

Factory built dwelling units, transportable in one or more sections, with at least nine hundred (900) square feet of living space, which are designed as year-round dwelling units and shall be placed on a permanent foundation or basement. The manufactured dwelling units shall bear a label certifying that such units were built in compliance with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development for manufactured homes. The Uniform Building Code shall apply to modular homes.

MANUFACTURED HOME PARK

A parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities, and utilities, is prepared subject to the requirements of this code to accommodate manufactured homes for rent or ownership.

MANUFACTURING

The assembling, processing, and converting of raw, unfinished or finished materials, products, or parts into an article of different or new character.

MANUFACTURING FACILITY, MARIJUANA

An entity registered by the North Dakota State Department of Health as a compassion center authorized to produce, process, and sell usable marijuana to a dispensary.

MARQUEE

Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

MINI-STORAGE FACILITY

A building or buildings in which storage space (also known as storage units) is rented to tenants, including businesses and individuals, usually on a short-term basis, such as month-to-month; such facilities are also known as “Self-Storage Facilities.”

MOBILE HOME

Manufactured homes.

N

NDCC

The North Dakota Century Code.

NONCONFORMING BUILDING

Any building or structure which does not conform to any or all of this code but existed at the time of adoption of this code. ✍

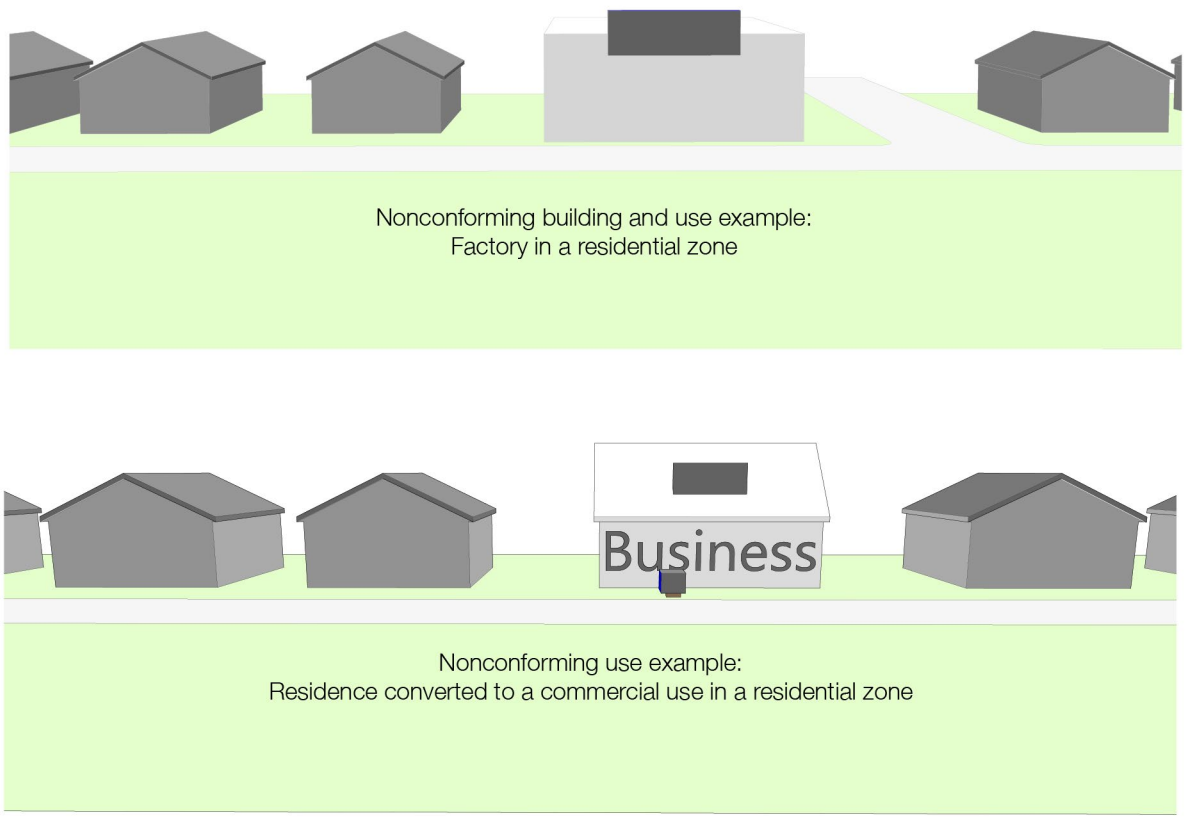
NONCONFORMING LOT

A lot which does not conform to the lot size and regulations of the district in which it is located, but existed and was legally established before adoption of this code.

NONCONFORMING USE

Any principal use of land or building which does not conform with any or all parts of this code, but existed and was legally established at the time of adoption of the code. ✍

FIGURE 4-2.2.G NONCONFORMING BUILDING AND USE



NON-RESIDENTIAL PLAT
A plat that has an intended use other than residential, such as commercial or industrial uses.

NOXIOUS MATTER OR MATERIALS
Material that may cause injury to living organisms including plants, animals, and humans.

NUISANCE
Anything that interferes with the use or enjoyment of public or private property, endangers personal health, safety, or is offensive to the senses.

NURSERY
An area or buildings used to raise trees, flowers, shrubs, or plants for sale.

NURSING HOME (ELDERLY CARE FACILITY)
A residential facility for the aged or infirm in which unrelated persons are accommodated for compensation. Also known as "Licensed Nursing Facility."

P

PARKING LOT

An off-street area designated for parking of motor vehicles accessible from a public street or alley where each parking space shall not be less than specified in Section 4-5.2, subsection C.

PARKING SPACE, OFF-STREET

A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

PARKS AND OPEN SPACES

An open outdoor space designed for active or passive recreational use or natural resources protection. Includes such uses as parks, plazas, greens, botanical or ornamental gardens, playfields and game courts, playgrounds, and monuments. Includes related ancillary facilities, such as picnic areas, gazebos, and swimming pools.

PERMANENT FOUNDATION

An extension of the outer walls of a building or structure made of solid materials such as concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the City. Pilings shall not be accepted as permanent foundation.

PERMITTED USES

Those uses, buildings, or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of this code are met, including a public hearing.

PERSON

Any individual, firm, corporation, partnership, or legal entity.

PERSONAL SERVICES

Establishments providing services such as, but not limited to: barber shops, beauty salons and spas; licensed massage therapy; clothing rental; laundromat and dry cleaning pick-up stores; shoe repair; dressmaking, millinery and tailoring; photographer or artist studio; pet grooming; studios for instruction in music and dance; indoor fitness; and similar uses as determined by the City Council.

PLACE OF ASSEMBLY, GENERAL

A larger-scale facility over twenty thousand (20,000) square feet of gross floor area that has organized services, meetings, events, or programs to benefit, educate, entertain, worship, or promote discourse in a public or private setting indoors. Includes such uses as community centers, recreation centers, places of worship, meeting or lecture halls, exhibition rooms, or auditoria.

PLACE OF ASSEMBLY, NEIGHBORHOOD

A smaller-scale facility of twenty thousand (20,000) square feet or less of gross floor area that has organized services, meetings, events, or programs to benefit, educate, entertain, worship, or promote discourse in a public or private setting indoors. Includes such uses as community centers, recreation centers, meeting or lecture halls, exhibition rooms, places of worship, or auditoria. If an assembly use is ancillary to another principal use, and has a gross floor area of less than five thousand (5,000) square feet, it is considered part of that use and is not considered a separate principal use.

PLANNED UNIT DEVELOPMENT

A plan for grouping of buildings and structures on a site in single ownership which is based on a detailed layout plan and recorded in the Cass County Recorder's Office upon approval by the City of Horace.

PLANNING COMMISSION

Planning Commission means the City of Horace Planning and Zoning Commission.

PLAT

A map of a subdivision of land including lot splits and replats prepared according to the provisions of this code.

PORTE COCHERE

A roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

POULTRY, FISH, AND FUR FARMING

Land or structures used for raising of poultry, fish, or fur animals for the purpose of harvesting and sale.

PROFESSIONAL OFFICE

Professional office includes a structure or space which contains the business office of a person or persons who supply a professional service other than a personal service use or medical office / medical clinic use.

PUBLIC WATER AND SEWER

Water and sewer system operated and managed by the City of Horace, and water system operated and managed by the Cass Rural Water Users District.

PUBLIC WAY

Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads, or highways.

R

REASONABLE ACCOMMODATION

A change, modification, exception, or adjustment to this code that is needed for a person with a disability to use and enjoy a dwelling. A Reasonable Accommodation does not include an accommodation which would 1) impose an undue financial or administrative burden on the City; or 2) require a fundamental alteration to the nature of this code or City policies.

RECREATIONAL USES

- **INDOOR RECREATIONAL USE**. An indoor facility, with or without seating for spectators, including, but not limited to, skating rinks, water slides, miniature golf courses, amusement arcades, bowling alleys, and billiard halls, but not movie theaters.
- **OUTDOOR RECREATIONAL USE**. A use conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart, and motorcycle tracks, but not skeet, trap, or rifle ranges.

RECREATIONAL VEHICLE

A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted on or towed by another vehicle. The term includes the following: 1) An independent recreational vehicle, containing toilet and lavatory facilities, and 2) a dependent recreational vehicle, which contains either toilet or lavatory facilities or having neither facility.

REPLAT

A change in an approved or recorded plat requiring changes in street layout, lot lines, or blocks.

RETAIL SALES AND SERVICE

Includes drug & proprietary stores, convenience stores (general goods and groceries), hardware stores, variety/general merchandise (dollar stores), grocery stores, meat & fish markets, fruit & vegetable markets, candy, nut & confectionery stores, retail bakery, shoe repair, watch and jewelry [repair] stores, diet workshops, sporting goods & bicycle repair shops, appliance repair, bookstores (excluding adult bookstores), stationery, office supply & office machine repair shops, hobby, toy, & game shops, camera & photo supplies, studio/gallery, quilting for individuals, museum & art galleries, costume or tuxedo rental, pet shop, gift, novelty & souvenir shops, florists, tobacco stores, luggage & leather goods stores, sewing & needlework stores, and similar uses.

- **RETAIL SALES AND SERVICE, LIMITED/MICRO**. A retail sales and service establishment that is less than five thousand (5,000) square feet (gross floor area) on a lot.
- **RETAIL SALES AND SERVICE, LOCAL**. A retail sales and service establishment that also may include liquor stores, provided that no individual use exceeds twenty thousand (20,000) square feet (gross floor area) on a lot.
- **RETAIL SALES AND SERVICE, GENERAL**. A retail sales and service establishment that includes uses listed with limited/micro and local retail sales and service and also may include toning & tanning salons, tattoo and body piercing salons, department stores, supermarkets, paint, glass & wallpaper stores, retail nursery, lawn & garden supply stores, membership organizations (such as big box membership clubs), or similar uses and may be twenty thousand (20,000) square feet (gross floor area) or greater.

RIDING STABLE

A building or structure used to accommodate horses and similar domestic animals, but not the predatory and wild animals, prohibited by North Dakota laws or administrative rules.

RIGHT-OF-WAY

A strip of land designated or dedicated for streets, sidewalks, railroads, electric transmission line, telephone and telegraph lines, oil or gas pipelines, sanitary sewer, storm sewer, and/or public water systems.

ROADSIDE STAND

A temporary structure for the seasonal display and sale of agricultural products to be removed when not in use.

ROOF LINE

The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

ROOF

The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction, and roof covering sections of the Uniform Building Code.

S

SAND AND GRAVEL OPERATION

The removal of rocks, gravel, sand, topsoil, or other natural material from the earth by excavating, stripping, or other processes.

SANITARY LANDFILL

A type of land disposal operation for solid waste, including household and commercial wastes, under the provisions of North Dakota Century Code and administration of rules of the North Dakota Department of Health. Inert landfills are not sanitary landfills, but fall under the jurisdiction of the North Dakota Department of Health.

SCHOOL, PRIMARY AND SECONDARY

An institution providing full time instruction for students up through grade 12, including accessory facilities traditionally associated with a program of study which meets the requirements of the State of North Dakota.

SERVICE STATION

Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to motorists.

SHARED NON-COMMERCIAL RESIDENTIAL FACILITY

A facility that is provided for the common use by residents of a subdivision or neighborhood. Examples include clubhouse, sports courts, swimming pools, and the like.

SHELTERBELT

A shelterbelt, or windbreak, is a planting made up of one or more rows of trees or shrubs planted in such a manner as to provide shelter from the wind and to protect soil from erosion. They are commonly planted in hedgerows around the edges of fields on farms.

SIGN

Any words, numerals, figures, devices, designs, pictures or trademarks, painted upon or otherwise affixed to a building, wall, board, plate, or any other structure for the purpose of making anything known. The definition of a sign shall not include the following:

1. Signs not exceeding one (1) square foot in area;
2. Flags and insignia of any government;
3. Legal notices, identification information or directional signs erected by governmental bodies;
4. Decorative holiday displays;
5. Lawful motor vehicle signs; or
6. Any sign not visible from a street, public park or open space, or adjacent property.

- **A-FRAME SIGN**. A sign made of wood, plastic, metal, or other similar rigid material having the capability to stand on its own support(s) and being portable and movable. Also known as a "Sandwich Board Sign."
- **AWNING**. A roof-like cover, typically constructed of metal, canvas, or similar fabric stretched over a framework, that projects from the wall of the building for the purpose of shielding a doorway, a window, or pedestrians.
- **AWNING, FLAT**. An awning that projects horizontally, parallel to the ground.
-
- **AWNING, SHED**. An awning with a sloping, flat surface that intersects with a vertical surface at the bottom.
- **AWNING SIGN**. A sign printed or mounted on an awning.
- **BANNER SIGN**. A sign constructed of cloth, canvas, flexible plastic, or other similar light material which can be easily folded or rolled, but not including paper or cardboard.
- **CANOPY**. A roof structure, free of enclosing walls, that is freestanding or extends from a building for the purpose of providing shelter over an entryway.
- **CANOPY SIGN**. A sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance.
- **FLAG**. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes.
- **FLASHING SIGN**. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. The term "Flashing Sign" also means any mode of lighting which resembles zooming, twinkling, or sparkling.
- **FREESTANDING SIGN**. A sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
- **HANGING SIGN**. A sign that hangs from and is supported by or attached to the underside of a canopy, arcade, covered entrance, awning, eve, or marquee.
- **MARQUEE**. A permanent, roof-like structure projecting from a building.
- **MARQUEE SIGN**. A building sign painted, mounted, constructed, or attached in any manner, on a marquee.

- **MONUMENT SIGN**. A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.
- **PERMANENT SIGN**. A sign that is constructed or intended for long-term use and is permanently affixed to its location.
- **PORTABLE SIGN**. A sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is attached temporarily or permanently to the ground.
- **PROJECTING SIGN**. A sign which is affixed to a building or wall in such a manner that its leading edge extends more than one (1) foot beyond the surface of such building or wall, and said face is perpendicular to the wall of the building.
- **ROOF SIGN**. A sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- **SIGN FACE**. The surface of the sign upon, against, or through which the message of the sign is exhibited.
- **SIGN STRUCTURE**. A structure, including the supports, uprights, bracing, and framework which supports or is capable of supporting a sign.
- **TEMPORARY SIGN**. A sign which is not constructed or intended for long-term use or permanently affixed to the ground or a structure.
- **WALL SIGN**. A sign attached parallel to and within one (1) foot of a wall, including signs painted on the wall surface, which displays only one (1) sign surface.
- **WINDOW SIGN**. A sign that is applied, painted, posted, displayed, or etched onto a glazed surface, regardless of opacity or perforation, including those placed or posted inside and located within twenty (20) feet of the window that are visible and legible from the exterior as determined by the Community Development Department.

SITE

A lot or combination of contiguous lots which are intended, designated, and/or approved to function as an integrated unit.

SITE PLAN

A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code and as required in Section 4-7.2 Site Plan Review.

SKEET, TRAP, AND RIFLE RANGES (SHOOTING RANGE)

The use of land outdoors for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, or temporary competitions, such as turkey shoots. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

SKYGLOW

Light from a luminaire that is emitted above the horizontal plane that passes through the lowest part of the luminaire.

SPECIAL ACCOMMODATION RESIDENCE

A use that provides equal housing opportunities particularly suited to the needs of persons entitled to a reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) et seq, the Americans with Disabilities Act, as amended, 42 USC §12131 et seq, and the Rehabilitation Act, as amended, 29 USC §794(a). The definition of "Special Accommodation Residence" shall be applicable to various types of transitional and permanent homes or living arrangements that occupy dwellings or other structures.

STREET

A public or private way used or intended to be used for passage or travel by motor vehicles and other users, including associated right-of-way and/or easement area. Streets are further classified according to their design and the function they perform.

- **STREET, COLLECTOR**. See Collector Street.
- **STREET, LINE**. The outer boundary of a public way or private street easement.
- **STREET, LOCAL**. A street intended for a low volume of traffic traveling short distances, which provides access to individual properties.
- **STREET, MAJOR**. A street, classified as an arterial. In general, the street classification in the Comprehensive Plan shall be used. See Section 4-6.17 Street Design for more information regarding street classification.

STREET FRONTAGE LANDSCAPING

Street frontage landscaping refers to landscaping in the right-of-way or within ten (10) feet of the right-of-way for any portion of a lot abutting a street.

STRUCTURAL ALTERATIONS

A change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls, and embankment.

STRUCTURE

Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

SUBDIVIDER

A person, group, corporation, entity, or agency dividing or proposing to divide land so as to create a subdivision.

SUBDIVISION

The division of a tract or parcel of land into lots for the purpose of sale or of building development including lot splits and replats.

T

TELECOMMUNICATION FACILITIES

Includes all devices, equipment, machinery, structures, or supporting elements necessary to produce electromagnetic radiation and operating as a unit to produce a signal or message. The structures may be self-supporting, guyed, mounted on poles, other structures, light posts, power poles, or buildings. For the purpose of this code, the amateur radio towers are distinguished from the commercial and public broadcasting, radio/TV transmission towers, and cellular phone towers. (See also "Wireless Communication Facility.")

TEMPORARY USE

A use of property conducted from an area, structure, or facility that does not require a building permit from the City and which may not comply with the use or dimensional standards of this code. Such area, facility, or structure may include parking lots, lawns, trucks, tents, or other temporary structures.

TRAFFIC LANE

A strip of roadway intended to accommodate a single line of moving vehicles.

TREE TOPPING

Tree topping is the practice of removing whole tops of trees or large branches and/or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader. Other common names for the practice include hat-racking, heading, rounding over, and tipping.

TURNING LANE

A traffic lane for connecting one (1) arterial street to another arterial street, collector or connector, or local street.

V

VARIANCE

The relaxation of the dimensional terms of this code in relationship to building height, size of the front, rear, and side yards, where the literal enforcement of this code would create an undue hardship, but it is not contrary to the purposes of the Comprehensive Plan and this code. The variance shall not be contrary to the public interest. It shall not be interpreted for relaxation of the uses instead of rezoning.

W

WALL

A structure which defines the exterior boundaries or courts of a building or structure, and which has a slope of sixty degrees (60°) or greater with the horizontal plane.

WIRELESS COMMUNICATION FACILITY

A fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images, or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service, and paging service. A wireless communication facility includes antennas, radio transceivers, coaxial, fiber-optic, or other cabling and accessory equipment, and power supply (including backup batteries) and comparable equipment, regardless of technological configuration. A wireless communication facility does not include an underlying wireless support structure. (See also "Telecommunication Facilities.")

WIRELESS SUPPORT STRUCTURE

A fixed, above-grade structure in the public right-of-way used to house or support wireless communication facilities and equipment.

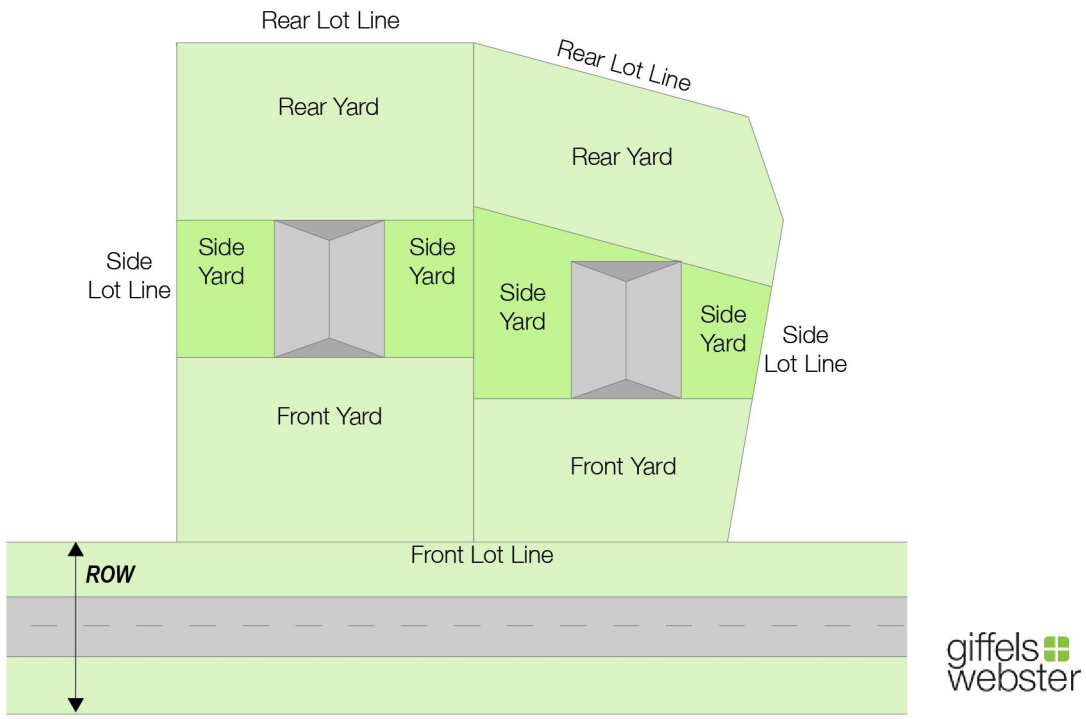
Y

YARD

An open space on a lot which is unoccupied or unobstructed by a portion of a structure from the ground upward.

- **YARD, FRONT**. A yard that extends across the full width of the lot as the least distance between the front lot line and the front building line. When a private roadway easement or access easement is located along a front lot line, the front yard width shall be measured from the interior edge of said easement rather than the actual lot line. ✍
- **YARD, REAR**. A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line. ✍
- **YARD, SIDE**. A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line. ✍

FIGURE 4-2.2.H FRONT, REAR, AND SIDE YARDS



Z

ZONE

An area of land within which certain uses of land and buildings are permitted and certain other uses are prohibited. Each zone, as provided for in this code, requires certain lot area, building height limit, front, side, and rear yards.

ZONING

The process of permitting certain uses in one area while prohibiting other uses.

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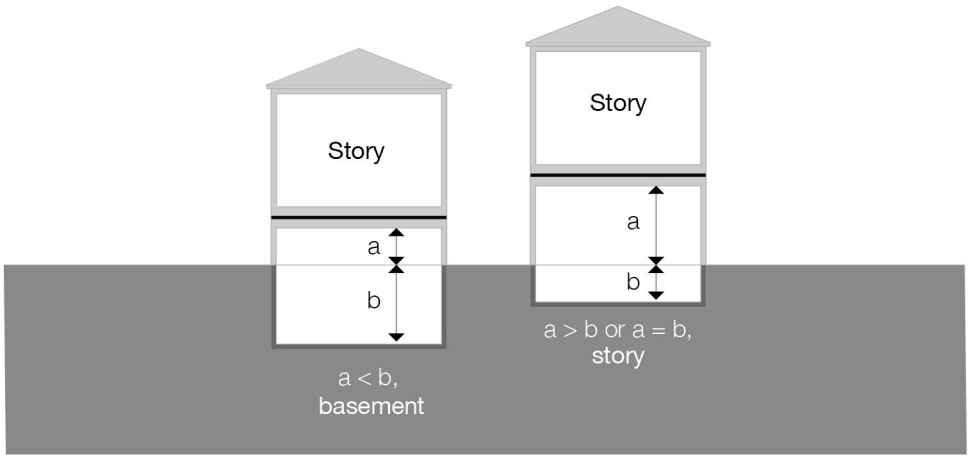
4-2.3 Measurements

MEASUREMENTS RELATED TO BUILDING HEIGHT

BASEMENT

A story, partly underground with more than one-half (½) of its height below grade. ✍

FIGURE 4-2.3.A BASEMENT AND STORY



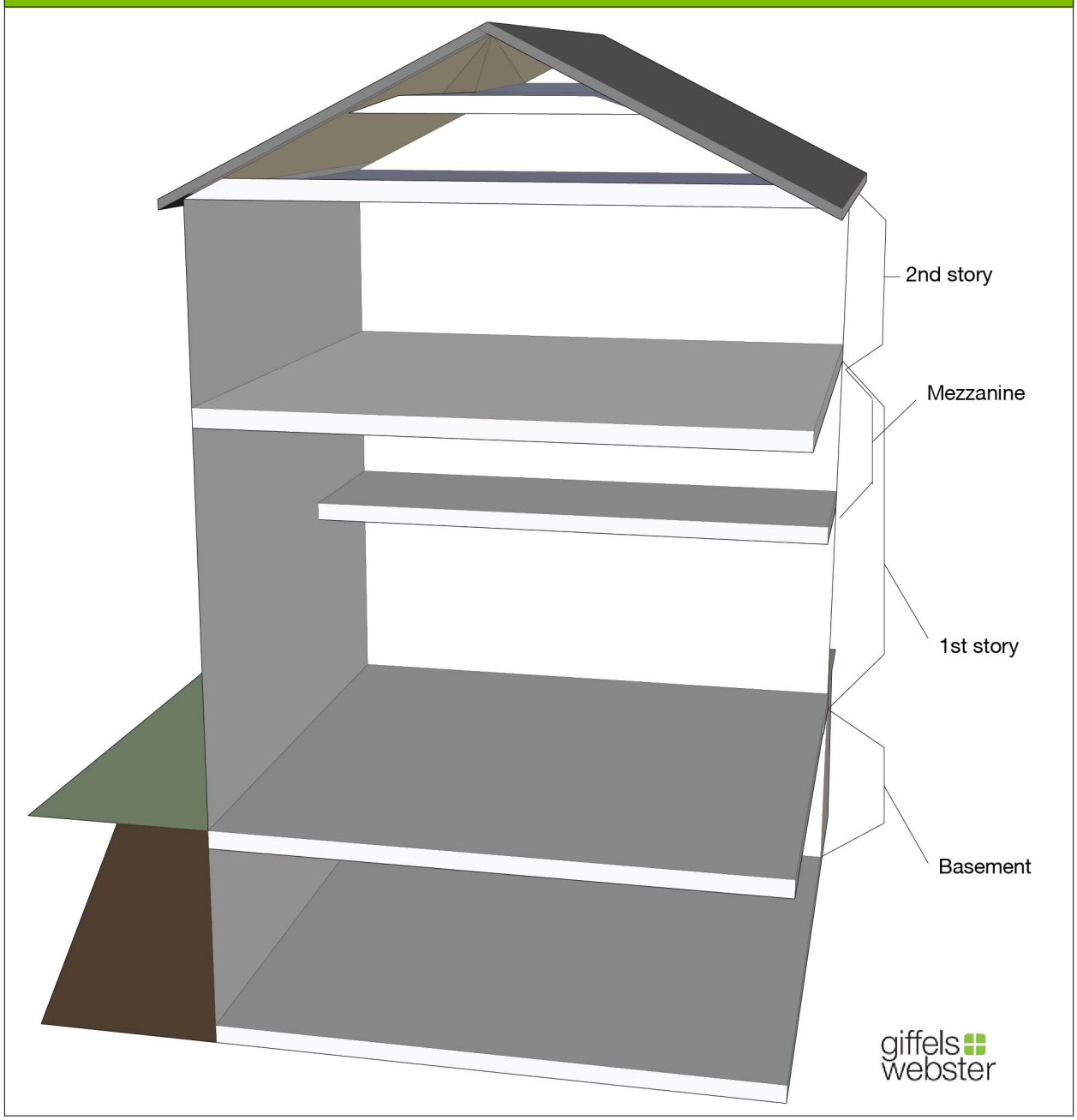
MEZZANINE

An intermediate floor in any story occupying no greater than one-third (1/3) of the floor area of such story. (See illustration for Story. ✍)

STORY

The portion of a building between the finished elevation of a floor and the finished elevation of the floor above. If there is no floor above, a story shall be measured between the finished elevation of a floor and the finished elevation of the ceiling above. A portion of a building where the floor to ceiling distance is five (5) feet or less for more than fifty percent (50%) of the area shall not be considered a story. A mezzanine shall not be considered a story. ✍

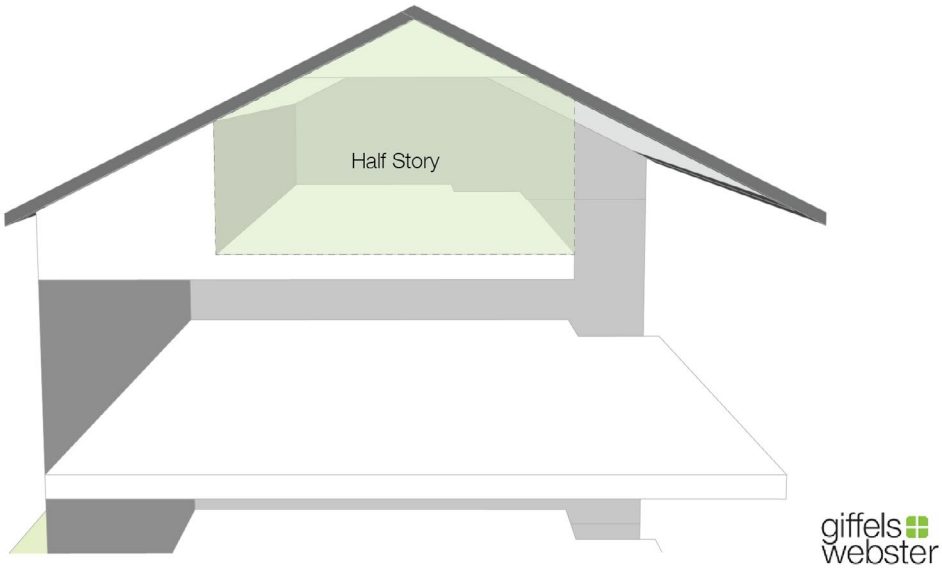
FIGURE 4-2.3.B STORY AND MEZZANINE



STORY, HALF

An area for finished or unfinished rooms under a sloping roof that does not exceed one-half (½) of the floor area of the story immediately below. ✍

FIGURE 4-2.3.C HALF STORY



BUILDING HEIGHT

The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the highest midpoint between eaves and ridge for gable, hip, and gambrel roofs. A-frame building height is measured at a point that is seventy-five percent (75%) of the height of the peak from average grade at the building's base. ✍

FIGURE 4-2.3.D BUILDING HEIGHT

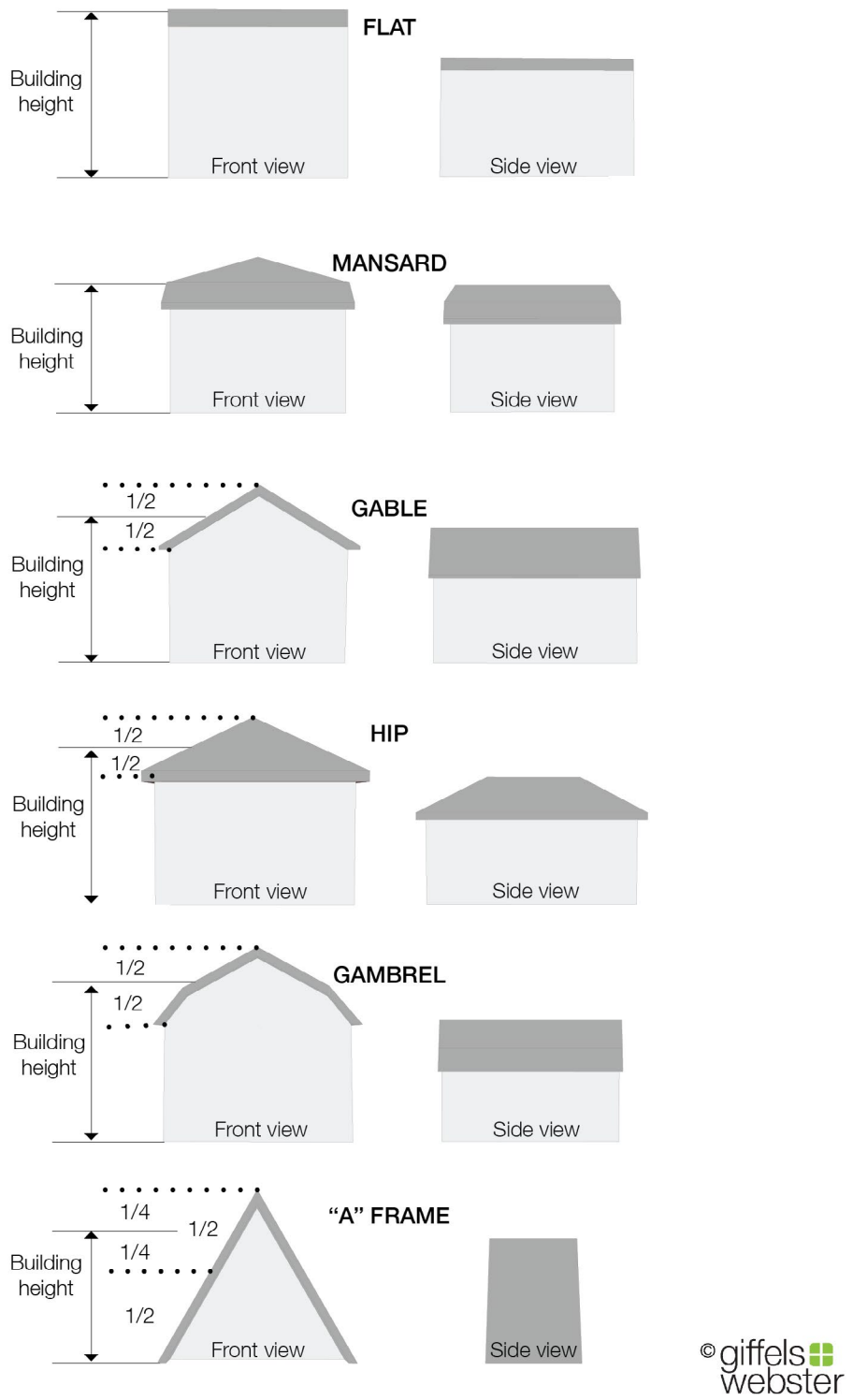
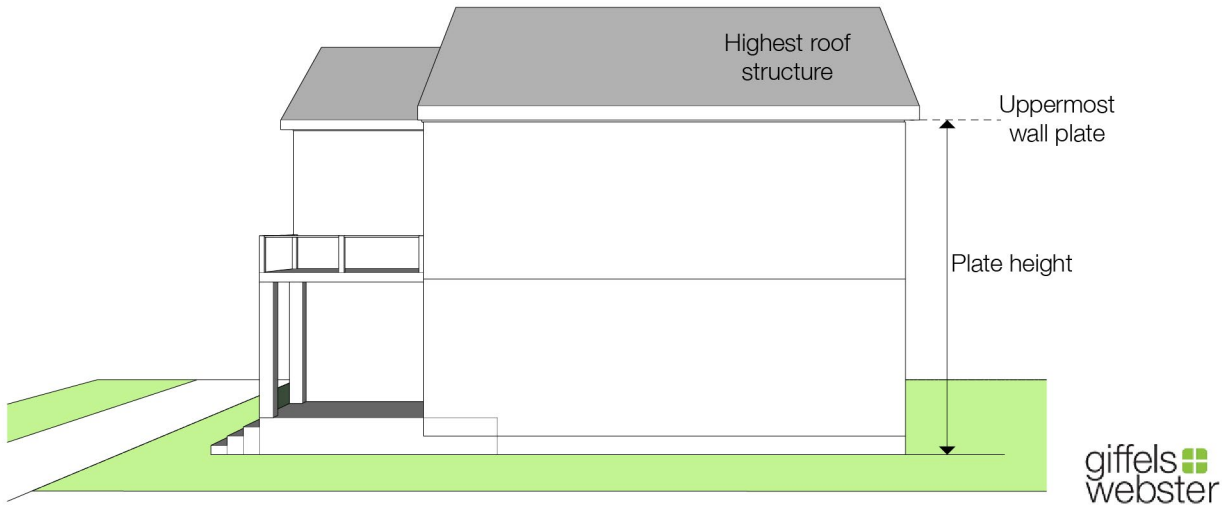


PLATE HEIGHT

- **PLATE HEIGHT**. Plate height is the distance, measured vertically plumb, between a point on the top of the uppermost wall plate of the exterior wall that bears the building's highest roof structure and the existing grade directly below that point. ✍
- **WALL PLATE**. A wall plate is the horizontal member placed on a wall to bear the joists of a ceiling or floor or the rafters or trusses of a roof.

FIGURE 4-2.3.E PLATE HEIGHT



MEASUREMENTS RELATED TO BUILDINGS AND STRUCTURES

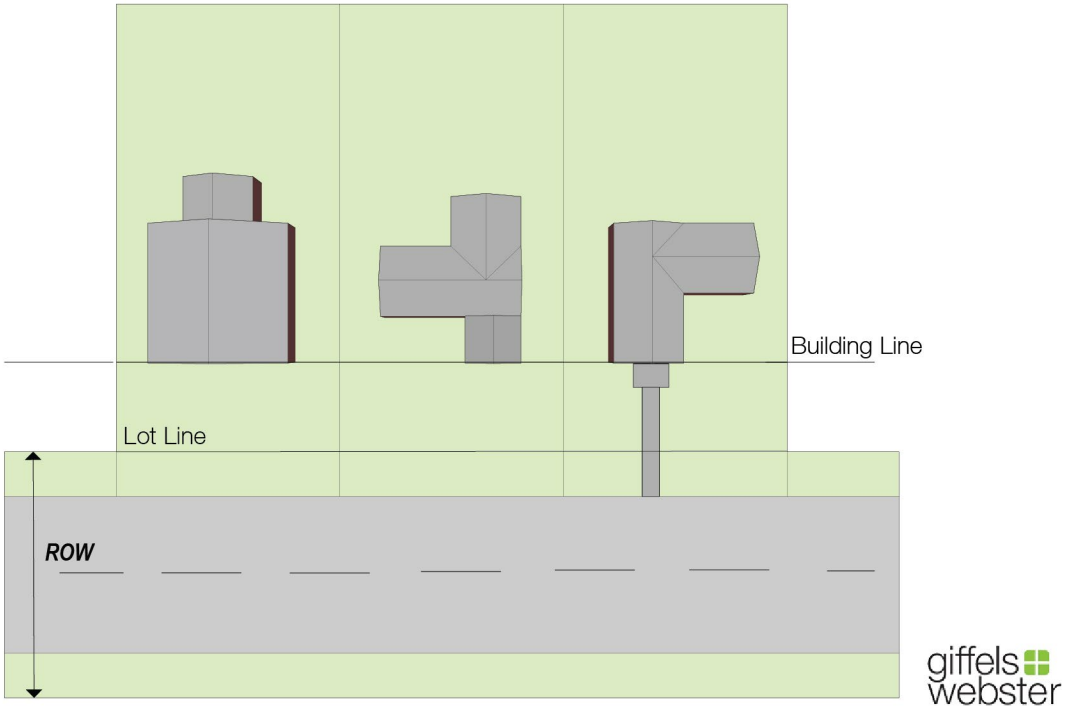
BUILDING COVERAGE

The area of a lot covered by buildings (principal and accessory) or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies, and the first three (3) feet of a roof overhang.

BUILDING LINE

A line formed by the face of the building or the defined extension of a building or structure. ✍

FIGURE 4-2.3.F BUILDING LINE



FLOOR AREA

The floor area of a building or structure including the gross horizontal areas of several floors measured from the interior faces of interior walls. Basement floor area is counted in the floor area calculation provided that at least one-half (½) of the basement height is above the finished lot grade. For non-residential uses, all basement floor area, regardless of elevation, is calculated as part of the total usable floor area if it is occupied by a permitted use in the district other than storage and utility uses related to the building or principal use. ✍

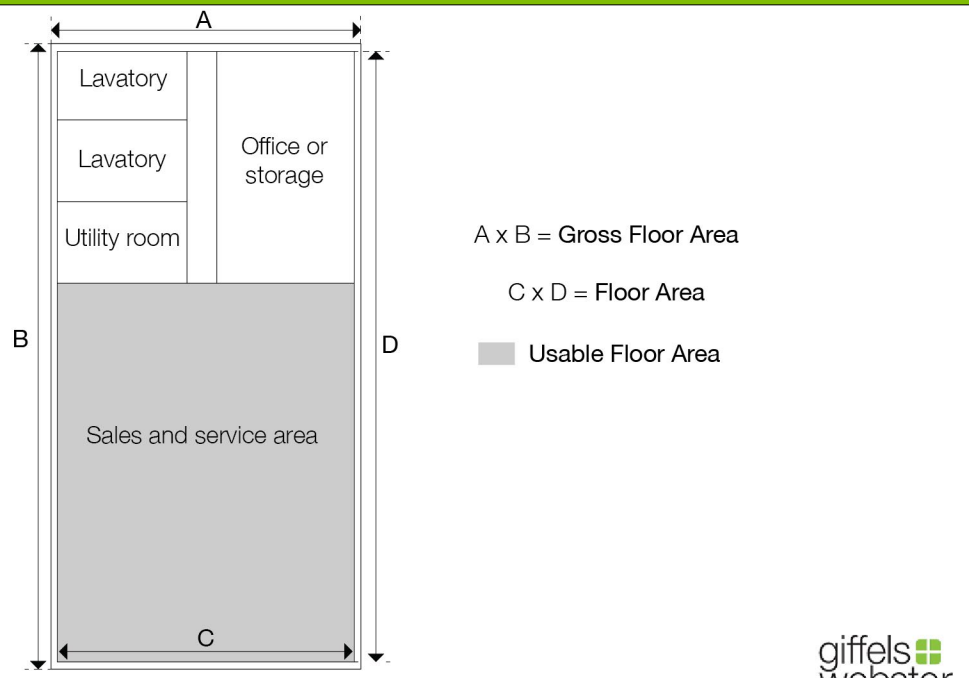
FLOOR AREA, GROSS

The sum of the horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls, including basements or mezzanines. Unfinished attics, attached garages, breezeways, and areas solely used for motor vehicle parking shall not be included. ✍

FLOOR AREA, USABLE

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurements of usable floor area shall be the sum of the horizontal area of the several floors of the building, measured from the interior faces of the exterior walls. ✍

FIGURE 4-2.3.G FLOOR AREA



MEASUREMENTS RELATED TO SETBACKS

SETBACK

The minimum horizontal distance between the building line and the related front, side, or rear property line. Roof overhangs, fire balconies, fire escapes, basement window wells, and steps leading to a five (5) foot or less wide landing area by the front door, back door, side door are permitted within the setback area. Uncovered decks no more than five (5) feet wide are permitted in the front yard within the setback areas. Uncovered decks of no more than three (3) feet are permitted in the side yard within the setback area. If the setback area is larger than the requirements stipulated in these regulations, the depth of uncovered deck may be increased up to the difference between the actual setback and the minimum required setback. Open work fire balconies, fire escapes, basement window wells, steps, and decks that are permitted in required side yard setbacks, must maintain a minimum setback of three (3) feet to any side yard lot line unless the district has no minimum side yard setback requirement. Uncovered decks in the rear yard should comply with rear yard setback requirements for accessory uses.

CONTEXTUAL SETBACK

In order to create consistent setbacks along a block where existing buildings are in front of the required minimum front setback or beyond the maximum front setback, a new building may use the average setback of existing principal buildings along the same block face. This is determined by adding the existing front setback of each lot on the same block face (based on location of principal building) and dividing that sum by the total number of lots with a principal building on that block face. The following also applies:

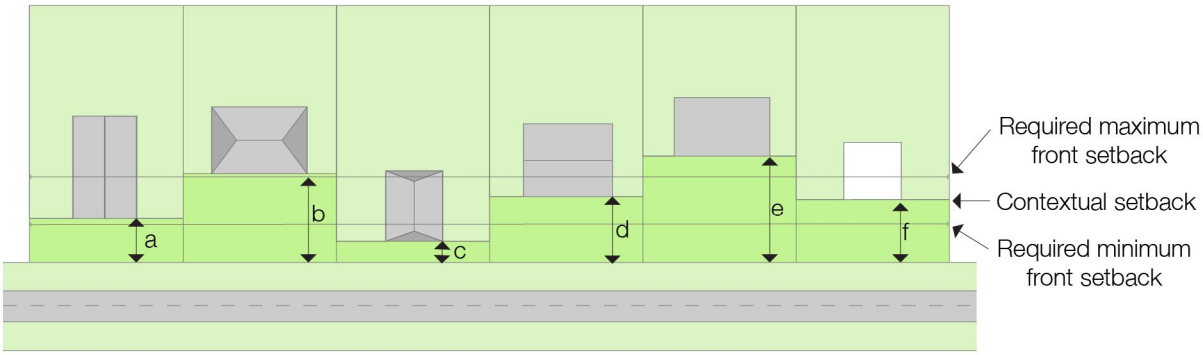
A. Where less than twenty-five percent (25%) of the lots along a block face have primary buildings, the contextual front setback line using averaging shall not apply. The minimum and maximum (where applicable) setback requirements shall apply.

B. Where one (1) or more adjacent lots, located along the same block face as the subject lot, vary from the average front setback line by more than twenty (20) feet, the contextual front setback line shall be determined by the Community Development Department. ✍

FIGURE 4-2.3.H CONTEXTUAL SETBACK

$$\frac{a+b+c+d+e}{5} = f$$

where 75% or more of the lots on Street A have primary buildings and no single lot varies from the average front setback line by more than 20 feet

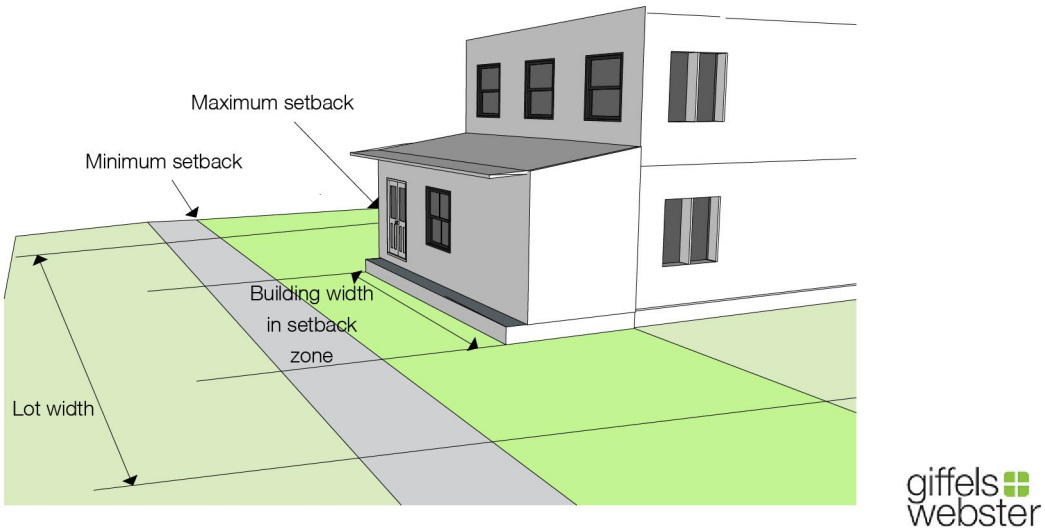


giffels webster

SETBACK ZONE

That area between the minimum required setback and maximum required setback for the district. In the case of a build-to line, the measurement of building facade in the setback zone shall be made along the build-to line.

FIGURE 4-2.3.I SETBACK ZONE



BUILD-TO LINE

A set building line on a lot, measured parallel from the front and/or street side lot line, where the structure must be located.

BUILD-TO ZONE

An area of lot designated for placement of a building façade along a street frontage, located parallel to a front or street side property line.

MEASUREMENTS RELATED TO ALTERNATIVE AND EMERGING ENERGY FACILITIES

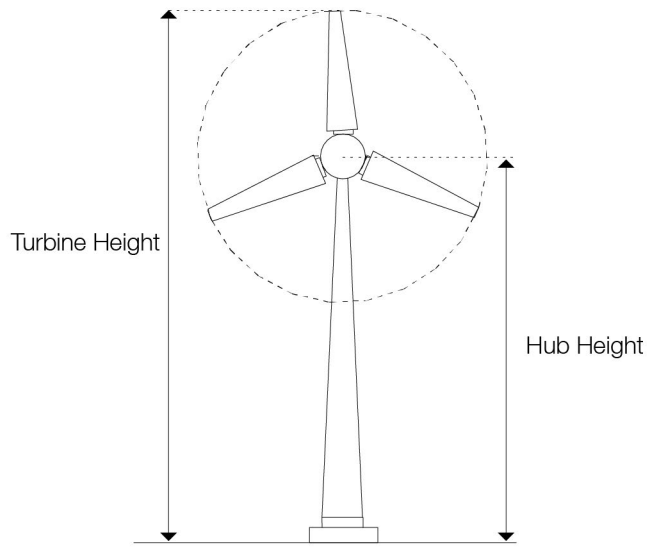
HUB HEIGHT

The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade or other accessory components are attached. ✍

TURBINE HEIGHT

The distance measured from the surface of the tower foundation to the lowest and/or highest point of the turbine rotor plane. ✍

FIGURE 4-2.3.J HUB HEIGHT



giffels webster

FRACTIONAL NUMBERS

STREET FRONTAGE LENGTH

Length of street frontage along a right-of-way line.

FRACTIONS IN THE CALCULATION OF NUMBER OF TREES AND SHRUBS

In the calculation of trees and shrubs for street frontage, greenbelts, or parking landscaping, all fractions shall be rounded to the nearest whole number. When calculating landscaping requirements based on street frontage, take the street frontage length and divide it by the district requirement for street trees, which will equal the total number of trees required. For totals that result in fractional numbers less than one-half (0.5), round down and for fractional numbers one-half (0.5) or more, round up. (See Section 4-5.3 Landscape and Natural Features.)

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1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

Title IV | Chapter 3
Zoning Districts

Chapter 3 - Zoning Districts

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- 4-3.1.3 SR-2 Suburban Residential 2 3-16
- 4-3.1.4 SR-3 Suburban Residential 3 3-22
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- 4-3.1.7 MH Mobile and Manufactured Home 3-40
- 4-3.1.8 17/76 3-46
- 4-3.1.9 OT Old Town 3-54
- 4-3.1.10 MX Mixed Use 3-62
- 4-3.1.11 C Commercial 3-70
- 4-3.1.12 I-1 Light Industrial 3-78
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4-3.3 Uses Permitted in All Districts 3-110
4-3.4 Permissive Zoning and Uses Not Expressly Permitted 3-110
4-3.5 Average Lot Widths 3-111
4-3.6 Vacated Areas 3-111
4-3.7 Certification 3-112
4-3.8 Compact Residential District Standards 3-112
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4-3.10 Mobile and Manufactured Home District Standards 3-114
4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards 3-115
4-3.12 Exceptions to Zoning District Standards 3-117

4-3.1 Established Districts

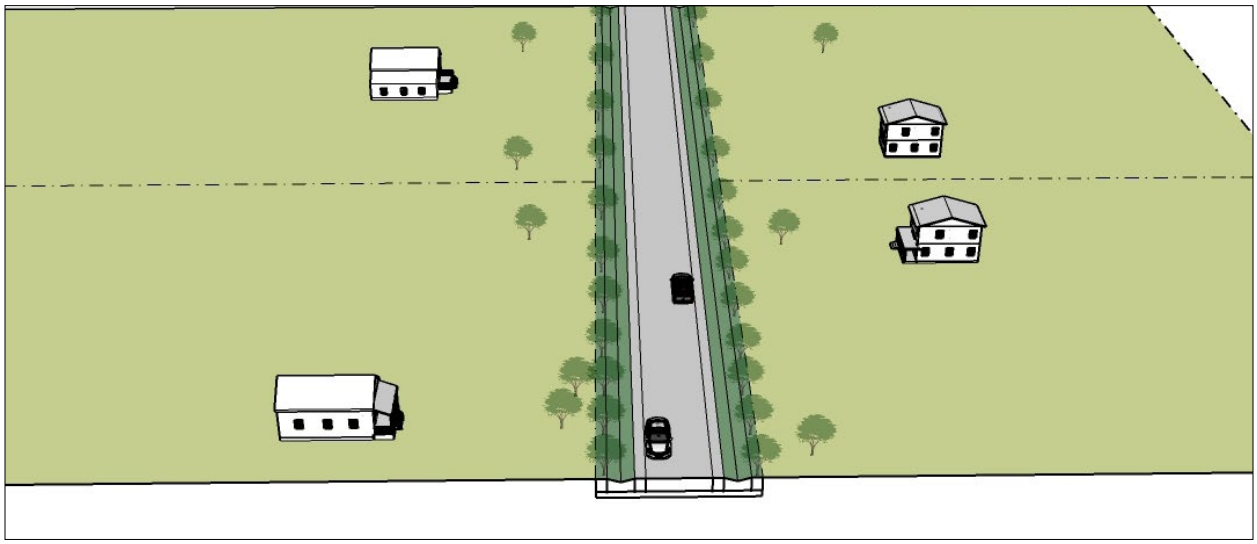
For the purpose of this chapter, the City of Horace is hereby divided into the following zoning districts:

3.1.1	AG	Agriculture
3.1.2	SR-1	Suburban Residential 1
3.1.3	SR-2	Suburban Residential 2
3.1.4	SR-3	Suburban Residential 3
3.1.5	CR	Compact Residential
3.1.6	UR	Urban Residential
3.1.7	MH	Mobile and Manufactured Home
3.1.8	17/76	17/76
3.1.9	OT	Old Town
3.1.10	MX	Mixed Use
3.1.11	C	Commercial
3.1.12	I-1	Light Industrial
3.1.13	I-2	General Industrial
3.1.14	CIV	Civic
3.1.15	FP	Floodplain

User Note: Click on a district's name for its requirements.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.1 AG Agriculture



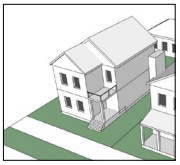
1. General Character

Rural, agricultural areas primarily serving as a holding area for future development. It is expected that other areas of the City will develop before there is significant development in these areas.

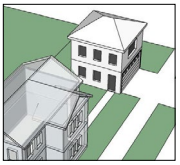
2. Intent

The intent of the Agriculture district is to allow agricultural activities in areas without fully developed utilities as well as transition into allowing housing development as available utilities permit. Large lot sizes will offer a low-density rural character and provide sufficient open space to ensure that the various principal uses are kept at a level of compatible land use intensity.

3. Building Types



Single-family detached home



Carriage house

See Section 4-5.8 Building Type Standards for Building Type regulations.

Agricultural buildings and buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.1 AG Agriculture

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.1.4 LIST OF USES - AG AGRICULTURE

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Plant agriculture	P	
Animal agriculture	P	Section 4-4.6
Roadside stands	P	
Indoor food production, local	C	
Keeping of horses and domestic animals, but not wild or prey animals	P	
Horse stables and training facilities	P	
Community gardens	P	Section 4-4.4
Agricultural research facilities	P	
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	P	
Public schools: PreK, Kindergarten, Primary & Secondary	P	
Cemeteries	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Licensed group child care home or facility - up to 30 children	C	
Licensed child care center - 19 or more children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Skeet, trap, and rifle ranges	C	Section 4-4.5
Other Uses		
Home occupations	A	Section 4-4.14
Temporary buildings and structures related to flood control and farming	P	Section 4-4.16
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Ground-mounted solar arrays, utility-scale	C	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3
Wireless communication facilities, including towers	C	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.1 AG Agriculture

5. Building Placement & Lot Size

Lot Size & Width

Agricultural use	40 acre min.	
Residential use	10 acre min.	
Non-residential use	5 acre min.	
Lot width	250 ft. min.	A

Building Coverage

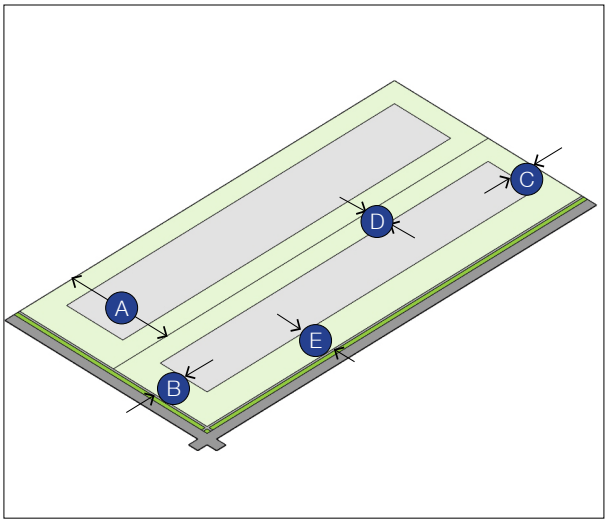
Building coverage	20% max.
Impervious surface coverage	50% max.

Setbacks - Principal Structures

Minimum front setback:	75 ft.	B
Minimum rear setback:	50 ft.	C
Minimum side setback:		
Interior side	50 ft.	D
Street side (if applicable)	75 ft.	E

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[1]
Minimum rear setback:	5 ft.[2]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

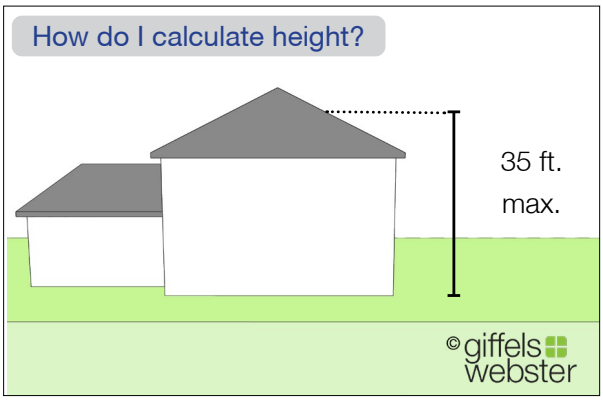


[1] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard. See Section 4-5.1, subsection A.12 for exemption for certain agricultural structures.

[2] See Section 4-5.1, subsection A for additional requirements.

4-3.1.1 AG Agriculture

6. Building Form & Components

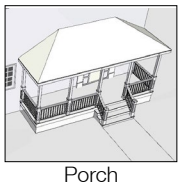


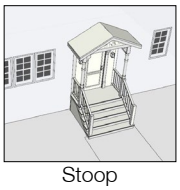
Building Form

Height - Principal Building	2.5 stories/35 ft.[1]
Height - Accessory Building	16 ft.[2]
Orientation	Primary facade shall be oriented to the front lot line.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] Structures related to an agricultural use or manufacturing of agricultural products are exempt from height limits.

[2] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. Structures related to an agricultural use or manufacturing of agricultural products are exempt from height limits.

4-3.1.1 AG Agriculture

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height[1]

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] For agricultural uses, see Section 4-5.3, subsection B.2.

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

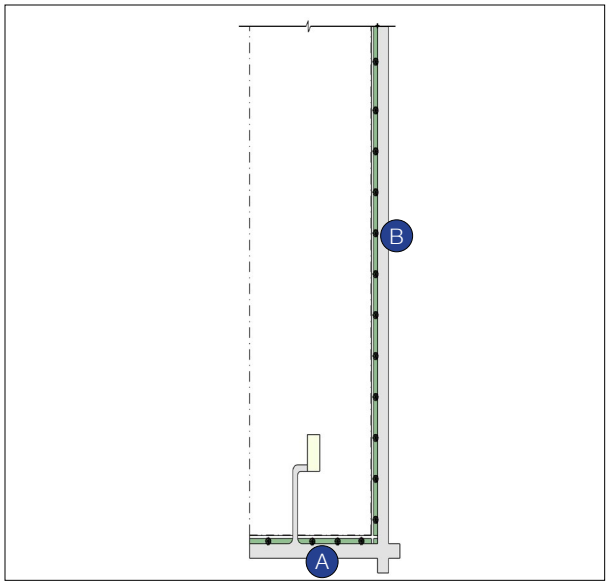
Vehicular Parking Setbacks[1]

Front	25 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.1 AG Agriculture

10. Landscaping



Landscape

Street trees	1 tree per 75 ft. of street frontage[1] Example shown: A Front: 4 trees required for 275 ft. of street frontage length B Side: 12 trees required for 871 ft. of street frontage length
Foundation	Residential use: None Non-residential use: See Section 4-5.3, subsection A
Landscape screening	Residential use: None Non-residential use: See Section 4-5.3, subsection B

[1] Street tree requirements apply only to non-residential or non-agricultural uses. Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

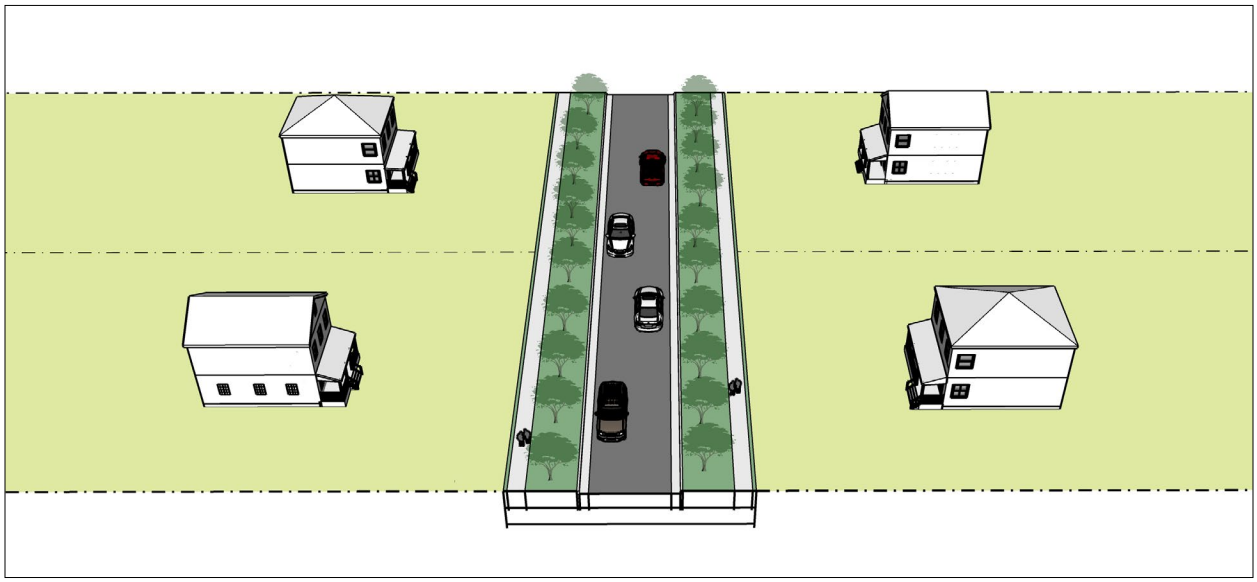
Sign Types Permitted

Residential use	Wall
Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.2 SR-1 Suburban Residential 1



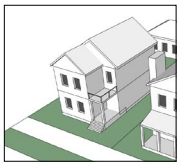
1. General Character

Large lot residential areas, generally semi-rural in nature with wide lots and open space between buildings.

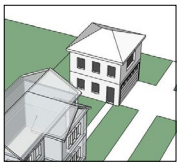
2. Intent

The Suburban Residential 1 district is established to permit single-family residential developments that include lots of a minimum one (1) acre in size.

3. Building Types



Single-family detached home



Carriage house

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.2 SR-1 Suburban Residential 1

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.2.4 LIST OF USES - SR-1 SUBURBAN RESIDENTIAL 1

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Keeping of horses and domestic animals, but not wild or prey animals	C	
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Cemeteries	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	P	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Licensed group child care home or facility - up to 30 children	C	
Licensed child care center - 19 or more children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.2 SR-1 Suburban Residential 1

5. Building Placement & Lot Size

Lot Size & Width

Residential use	1 acre min.	
Other use	1 acre min.	
Lot width	120 ft. min.	A

Building Coverage

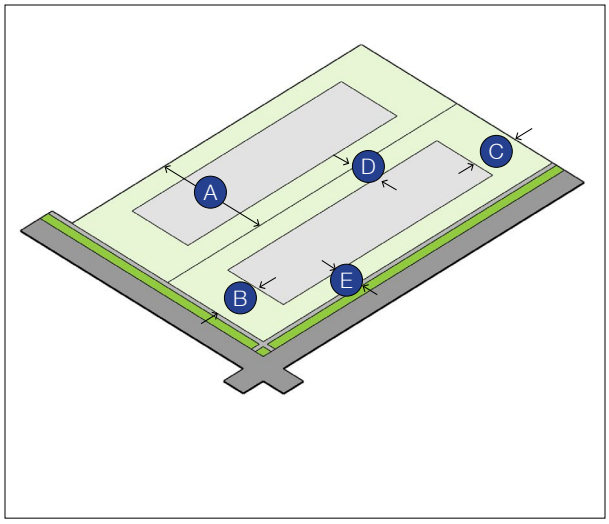
Building coverage	20% max.
Impervious surface coverage	50% max.

Setbacks - Principal Structures

Minimum front setback:	50 ft.	B
Minimum rear setback:	50 ft.	C
Minimum side setback:		
Interior side	25 ft.	D
Street side (if applicable)	25 ft.	E

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[1]
Minimum rear setback:	5 ft.[2]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

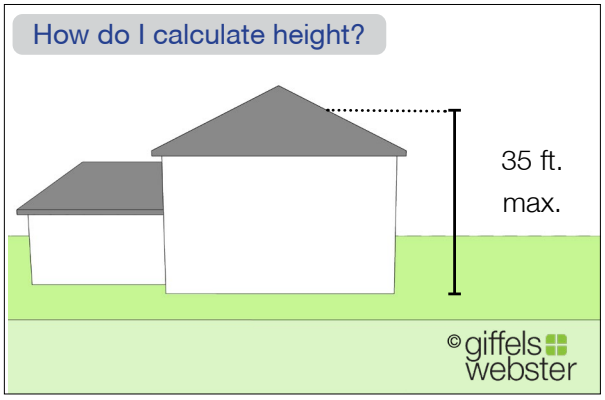


[1] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard. See Section 4-5.1, subsection A.12 for exemption for certain agricultural structures.

[2] See Section 4-5.1, subsection A for additional requirements..

4-3.1.2 SR-1 Suburban Residential 1

6. Building Form & Components



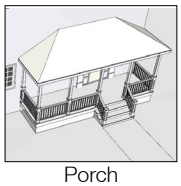
Building Form

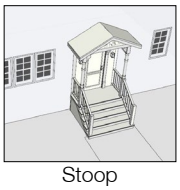
Height - Principal Building	2.5 stories/35 ft.
Height - Accessory Building	16 ft.[1]
Orientation	Primary facade shall be oriented to the front lot line.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12, subsection C and Section 4-5.9, subsection D for complete regulations.

4-3.1.2 SR-1 Suburban Residential 1

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height[1]

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] For agricultural uses, see Section 4-5.3, subsection B.2

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

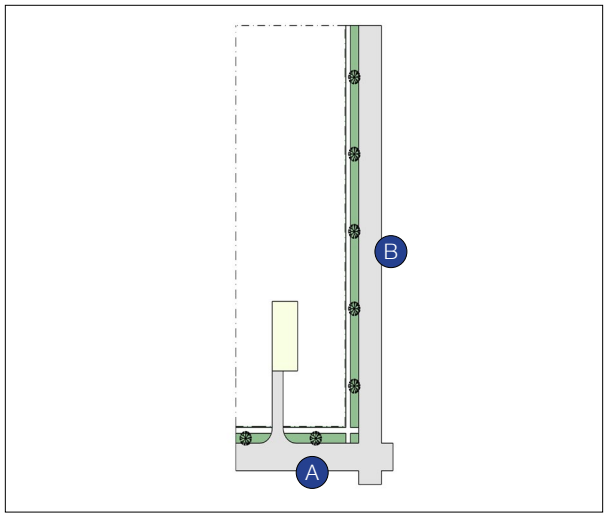
Vehicular Parking Setbacks[1]

Front	25 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	25 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.2 SR-1 Suburban Residential 1

10. Landscaping



Landscape

Street trees	1 tree per 75 ft. of street frontage[1] Example shown: A Front: 2 trees required for 120 ft. of street frontage length B Side: 5 trees required for 363 ft. of street frontage length
Foundation	Residential use: None Non-residential use: See Section 4-5.3, subsection A
Landscape screening	Residential use: None Non-residential use: Section 4-5.3, subsection B

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

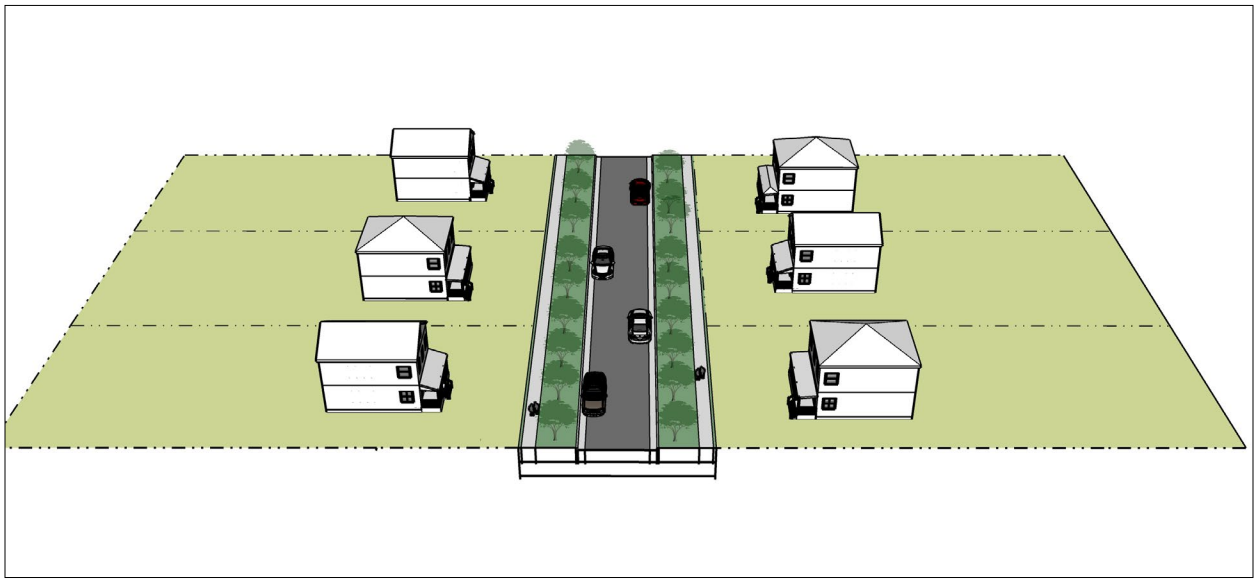
Sign Types Permitted

Residential use	Wall
Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.3 SR-2 Suburban Residential 2



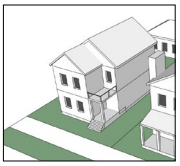
1. General Character

Residential areas, gentle density suburban in nature with some open space between buildings. It is expected that there is more flexibility in neighborhood layout in these districts.

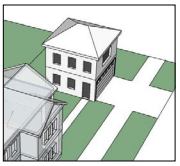
2. Intent

The Suburban Residential 2 district is established to permit single-family residential developments with a density of up to 2.3 dwellings per acre.

3. Building Types



Single-family detached home



Carriage house

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.3 SR-2 Suburban Residential 2

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.3.4 LIST OF USES - SR-2 SUBURBAN RESIDENTIAL 2

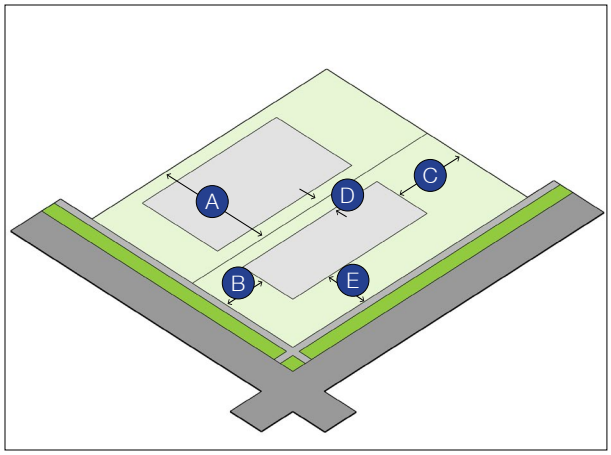
Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.3 SR-2 Suburban Residential 2

5. Building Placement & Lot Size



Lot Size & Width

Residential use	13,500 sf min.; 15,000 sf average for development	
Other use	15,000 sf	
Lot width	80 ft. min.	A

Building Coverage

Building coverage	30% max.
Impervious surface coverage	60% max.

Setbacks - Principal Structures

Minimum front setback:	30 ft.[1]	B
Minimum rear setback:	50 ft.	C
Minimum side setback:		
Interior side	10 ft.	D
Street side (if applicable)	30 ft.	E

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[2]
Minimum rear setback:	5 ft.[3]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

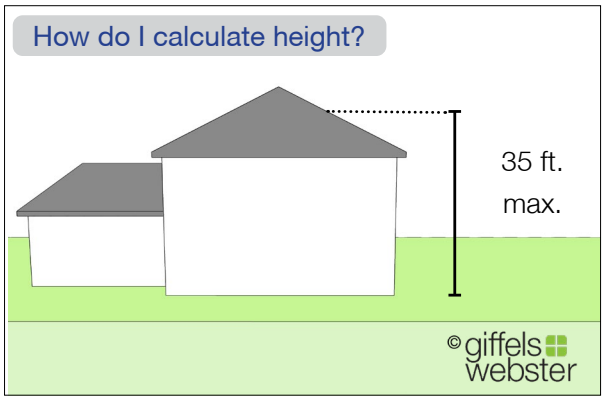
[1] See Contextual Setback in Section 4-2.3

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.1, subsection A shall be placed in front or street side yard.

[3] For accessory structures 840 sf or less. Add 1 ft. of additional setback for each additional 100 sf in area.

4-3.1.3 SR-2 Suburban Residential 2

6. Building Form & Components

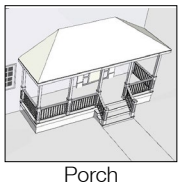


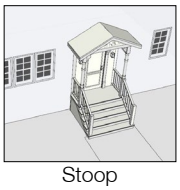
Building Form

Height - Principal Building	2.5 stories/35 ft.
Height - Accessory Building	16 ft.[1]
Orientation	Primary facade shall be oriented to the front lot line.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.3 SR-2 Suburban Residential 2

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

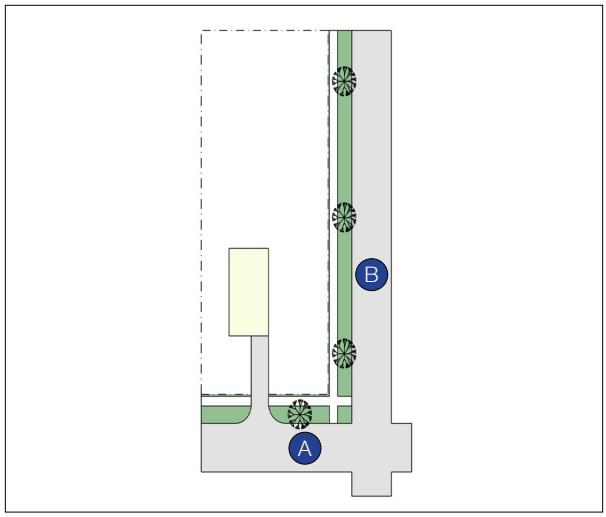
Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks

Front	25 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

4-3.1.3 SR-2 Suburban Residential 2

10. Landscaping



Landscape

Street trees	1 tree per 70 ft. of street frontage[1] Example shown: A Front: 1 tree required for 80 ft. of street frontage length B Side: 3 trees required for 187 ft. of street frontage length
Foundation	Residential use: None Non-residential use: See Section 4-5.3, subsection A
Landscape screening	Residential use: None Non-residential use: See Section 4-5.3, subsection B

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

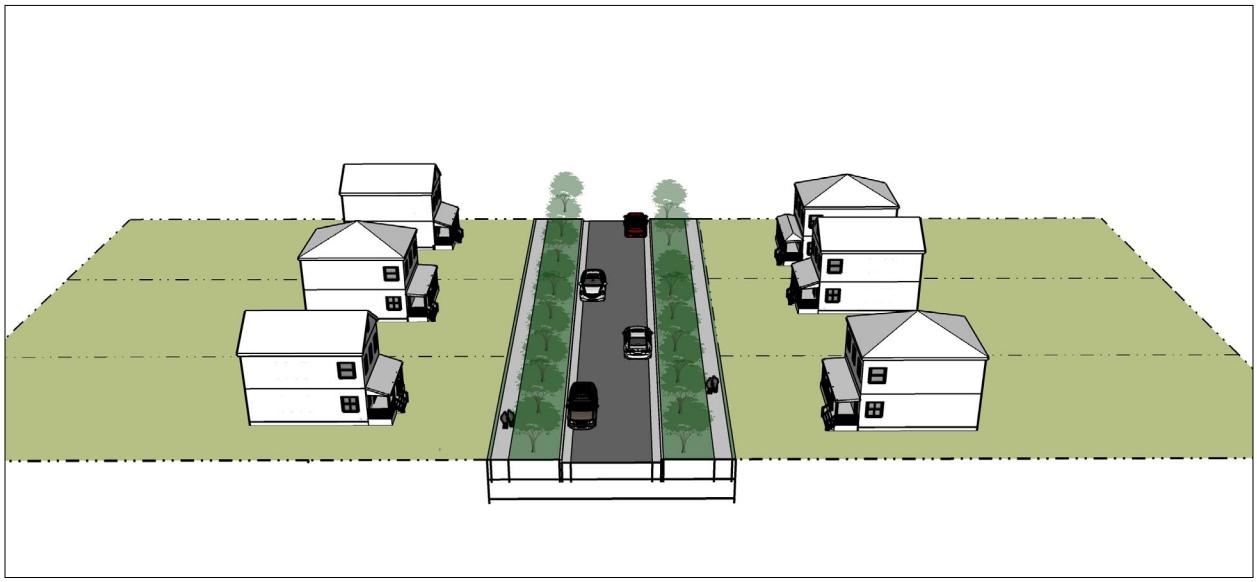
Sign Types Permitted

Residential use	Wall
Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.4 SR-3 Suburban Residential 3



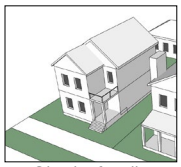
1. General Character

Residential areas, gentle density suburban in nature with some open space between buildings. It is expected that there is more flexibility in neighborhood layout in these districts.

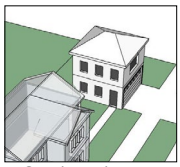
2. Intent

The Suburban Residential 3 district is established to permit single-family residential developments with a density of up to 2.9 dwellings per acre.

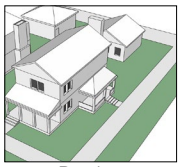
3. Building Types



Single-family detached home



Carriage house



Duplex

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.4 SR-3 Suburban Residential 3

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.4.4 LIST OF USES - SR-3 SUBURBAN RESIDENTIAL 3

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Duplex dwelling (Two-family dwelling)	P	Section 4-4.8
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

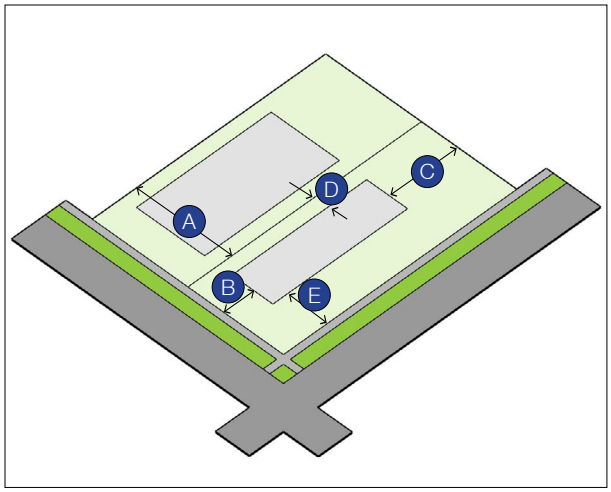
P = Permitted C = Conditional A = Accessory

4-3.1.4 SR-3 Suburban Residential 3

5. Building Placement & Lot Size

Lot Size & Width

Residential use	10,800 sf min.; 12,000 sf average for development	
Other use	12,000 sf	
Lot width	70 ft. min.	A



Building Coverage

Building coverage	30% max.
Impervious surface coverage	50% max.

Setbacks - Principal Structures

Minimum front setback:	25 ft.[1]	B
Minimum rear setback:	40 ft.	C
Minimum side setback:		
Interior side	10 ft.	D
Street side (if applicable)	25 ft.	E

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[2]
Minimum rear setback:	5 ft.[3]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

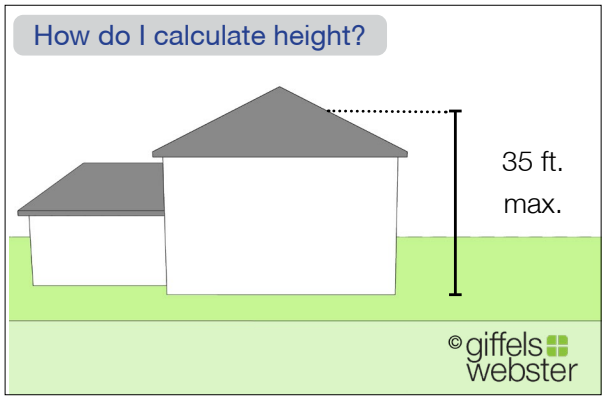
[1] See Contextual Setback in Section 4-2.3

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard.

[3] For accessory structures 840 sf or less. Add 1 ft. of additional setback for each additional 100 sf in area.

4-3.1.4 SR-3 Suburban Residential 3

6. Building Form & Components

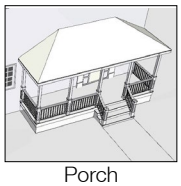


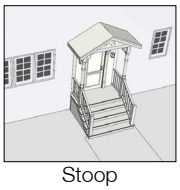
Building Form

Height - Principal Building	2.5 stories/35 ft.
Height - Accessory Building	16 ft.[1]
Orientation	Primary facade shall be oriented to the front lot line.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.4 SR-3 Suburban Residential 3

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

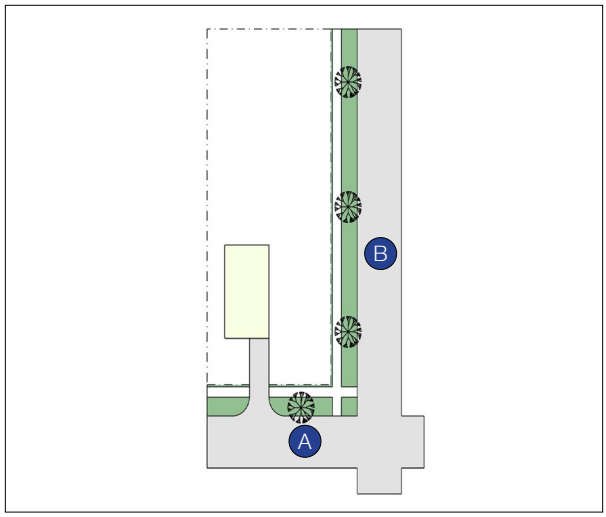
Vehicular Parking Setbacks[1]

Front	25 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.4 SR-3 Suburban Residential 3

10. Landscaping



Landscape

Street trees	1 tree per 60 ft. of street frontage[1] Example shown: A Front: 1 tree required for 70 ft. of street frontage length B Side: 3 trees required for 171 ft. of street frontage length
Foundation	Residential use: None Non-residential use: See Section 4-5.3, subsection A
Landscape screening	Residential use: None Non-residential use: See Section 4-5.3, subsection B

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

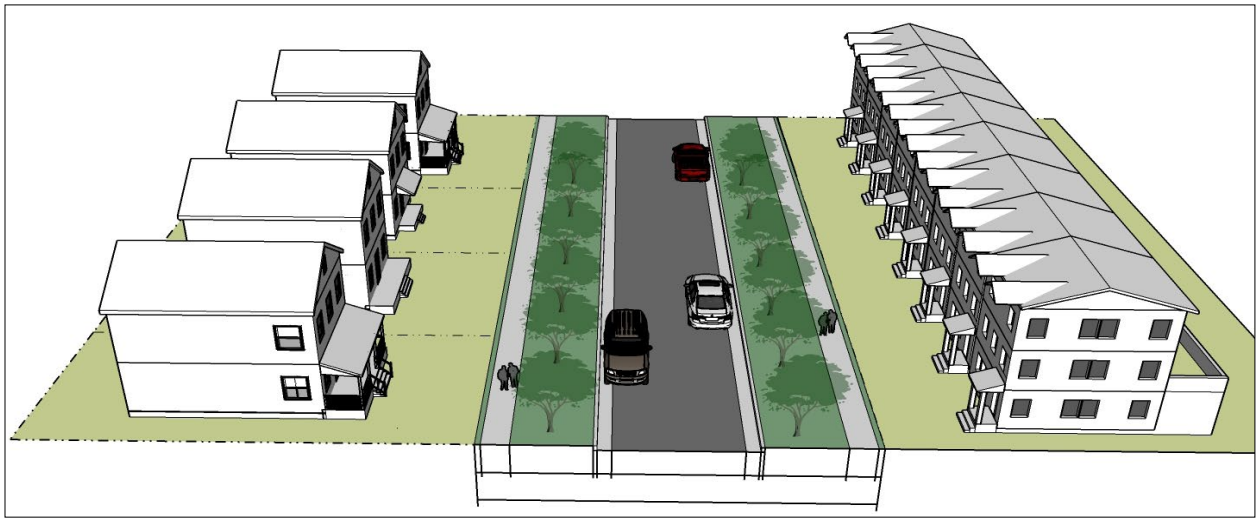
Sign Types Permitted

Residential use	Wall
Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.5 CR Compact Residential



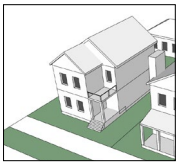
1. General Character

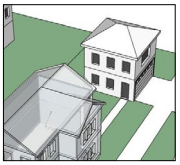
Residential areas, compact in nature, adjacent to the commercial core and mixed use areas. It is expected that there is flexibility in dwelling types and neighborhood layout in these districts.

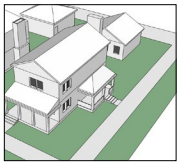
2. Intent

The intent of the Compact Residential district is to foster the development of walkable residential neighborhoods with a mix of detached, townhome, and multiplex dwelling units, with limited commercial and office amenities in close proximity.

3. Building Types

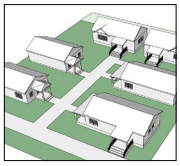

Single-family detached home

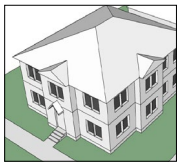

Carriage house


Duplex

Small multiplex

Townhomes


Cottage court


Stacked flats

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.5 CR Compact Residential

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.5.4 LIST OF USES - CR COMPACT RESIDENTIAL		
Use	**P/C/A**	**Use Standard (if any)**
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Duplex dwellings (Two-family dwellings)	P	Section 4-4.8
Townhome dwellings - up to 8 attached or stacked units	P	
Multi-family dwellings - up to 8 attached or stacked units	P	
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Commercial Uses		
Professional offices (excluding medical)	C	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.5 CR Compact Residential

5. Building Placement & Lot Size

Lot Size & Width

Residential use	4,000 sf min. per dwelling	
Other use	4,000 sf min.	
Lot width	45 ft. min.	A
Lot depth	80 ft. min.	B
Average lot width in subdivisions	48 ft.	

Building Coverage

Building coverage	65% max.
Impervious surface coverage	80% max.

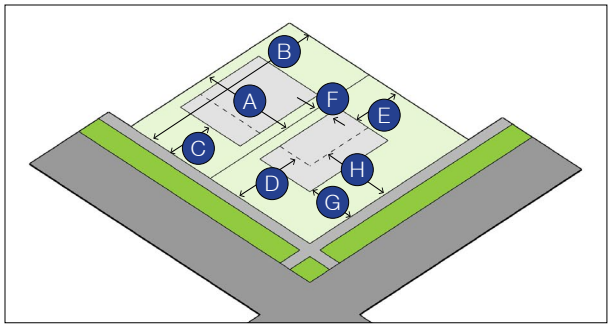
Setbacks - Principal Structures (Residential)

Front setback:	20 ft. min.	C
	30 ft. max.	D
Rear setback:	20 ft. min.	E
Side setbacks:		
Interior side	7 ft. min.	F
Street side (if applicable)	12 ft. min.	G
	30 ft. max.	H

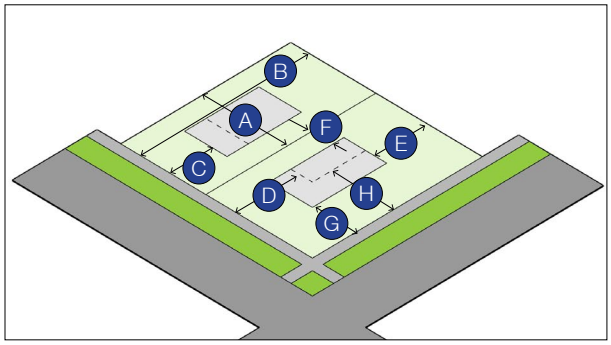
Setbacks - Accessory Structures

Minimum front setback:	Not permitted[1]
Minimum rear setback:	5 ft.
Minimum side setback:	
Interior side	5 ft.
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

[1] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in a front or street side yard.



Residential



Non-Residential

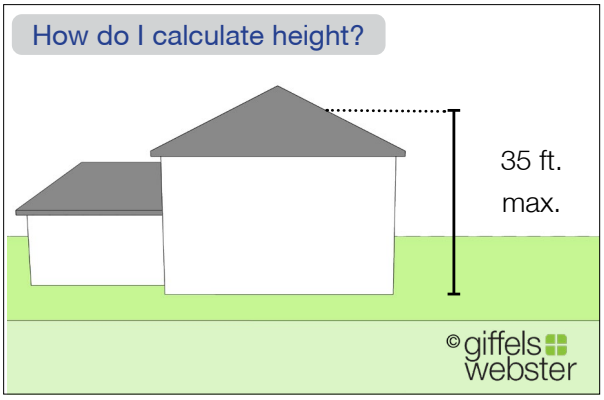
Setbacks - Principal Structures (Non-Residential)

Front setback:	20 ft. min.	C
	30 ft. max.	D
Rear setback:	25 ft. min.	E
Side setbacks:		
Interior side	10 ft. min.[1]	F
Street side (if applicable)	20 ft. min.	G
	30 ft. max.	H

[1] Shall increase to 10 feet minimum when abutting residential use

4-3.1.5 CR Compact Residential

6. Building Form & Components



Building Form

Height - Principal Building	2.5 stories/35 ft.
Height - Accessory Building	16 ft.[1]
Orientation (All building types except carriage houses and cottage court bungalows, which may have alternate orientation)	Primary facade shall be oriented to the front lot line.

Building Facade in Setback Zone[2]

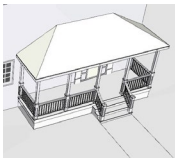
Front yard	50% min.
Side street yard	25% min.

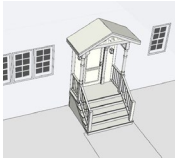
[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

[2] A forecourt is exempt from this requirement by the approving body if the standards of Section 4-5.9 are met.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards/rights-of-way

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three feet.
- Awnings may project into the right-of-way to within two feet of the curb.
- Display windows may project into yards up to two feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

4-3.1.5 CR Compact Residential

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

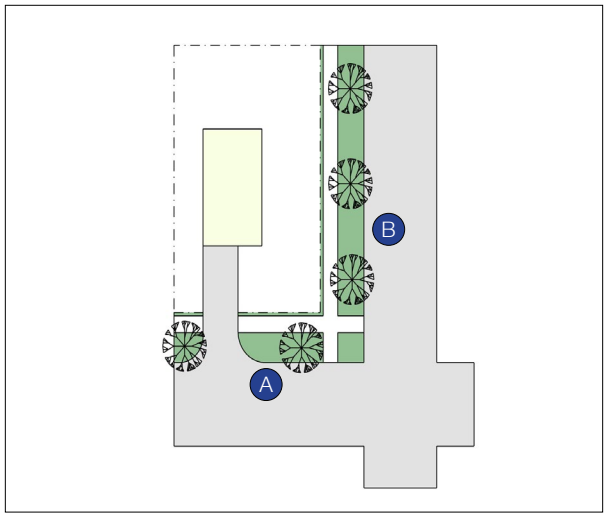
Vehicular Parking Setbacks[1,2]

Front	5 ft. min.
Rear	5 ft. min.[3]
Interior Side	0 ft. min.
Street Side (if applicable)	5 ft. min.

[1] Not applicable to residential uses (excluding multi-family).
[2] Off-street parking not permitted in front or street side yard. Front and street side setback shall be 5 feet behind street-facing building facade.
[3] When abutting alley or laneway, rear yard parking setback is 0 feet minimum.

4-3.1.5 CR Compact Residential

10. Landscaping



Landscape

Street trees	1 tree per 30 ft. of street frontage[1] Example shown: A Front: 2 tree required for 50 ft. of street frontage length B Side: 3 trees required for 80 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10
Landscape screening	Non-residential use: See Section 4-5.3, subsection A

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

Residential use	Wall
Non-residential use	Wall
	Freestanding

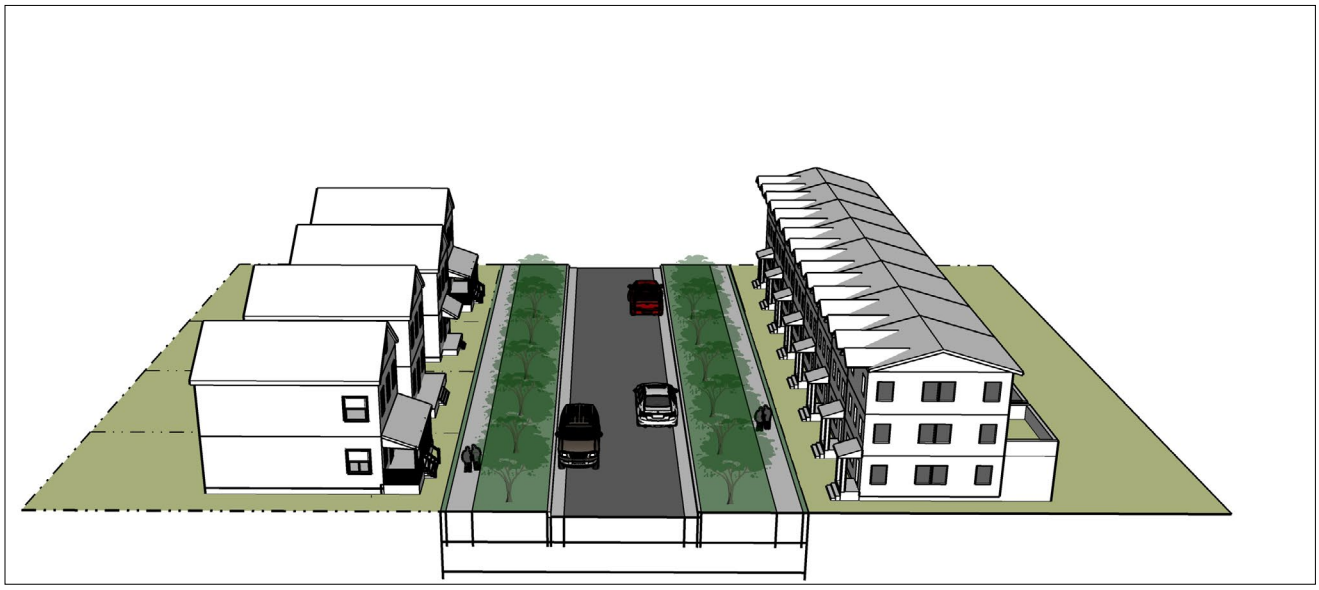
See Section 4-5.6 for complete standards, including temporary signs.

12. Additional District Standards

See Section 4-3.8 Compact Residential District Standards.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.6 UR Urban Residential



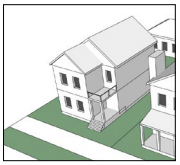
1. General Character.

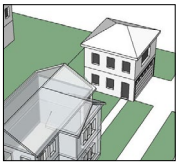
These residential areas will be the densest in nature. It is expected that there is flexibility in dwelling types and neighborhood layout in these districts.

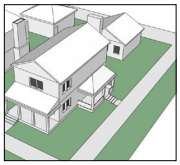
2. Intent

The Urban Residential district is intended to provide for residential units in a variety of styles and types, in a compact, walkable setting. This district may serve as a transition between areas of more intense commercial or mixed development and compact or suburban residential districts. Development in this district should be designed to avoid adverse environmental, economic, and visual effects on adjoining or nearby residences and their neighborhoods. Building materials should be high quality, and building frontages will typically be varied.

3. Building Types

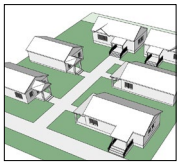

Single-family detached home

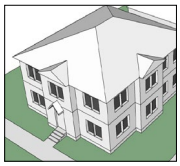

Carriage house


Duplex

Small multiplex

Townhomes


Cottage court


Stacked flats

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.6 UR Urban Residential

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.6.4 LIST OF USES - UR URBAN RESIDENTIAL		
Use	**P/C/A**	**Use Standard (if any)**
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Duplex dwellings (Two-family dwellings)	P	
Townhome dwellings	P	
Multi-family dwellings	P	
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	P	
Licensed family child care homes - up to 9 children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Commercial Uses		
Professional offices and medical clinics	C	
Finance, insurance, and real estate services	C	
Restaurants, carry out	C	
Restaurants, sit-down	C	
Retail sales and service, limited/micro	C	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.6 UR Urban Residential

5. Building Placement & Lot Size

Lot Size & Width

Residential use	1,600 sf min. per dwelling	
Other use	1,600 sf min.	
Lot width	20 ft. min.	A
Lot depth	80 ft. min.	B

Building Coverage

Building coverage	75% max.
Impervious surface coverage	90% max.

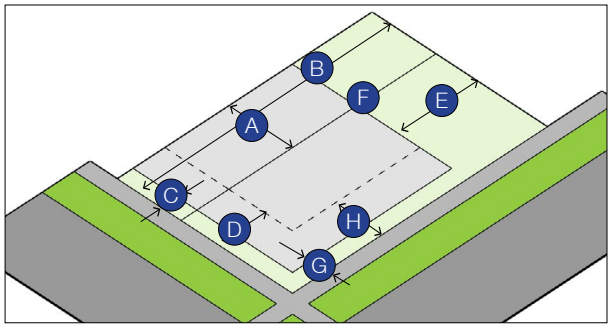
Setbacks - Principal Structures (Residential)

Front setback:	5 ft. min.	C
	15 ft. max.	D
Rear setback:	25 ft. min.	E
Side setbacks:		
Interior side	0 ft. min.	F
Street side (if applicable)	5 ft. min.	G
	15 ft. max.	H

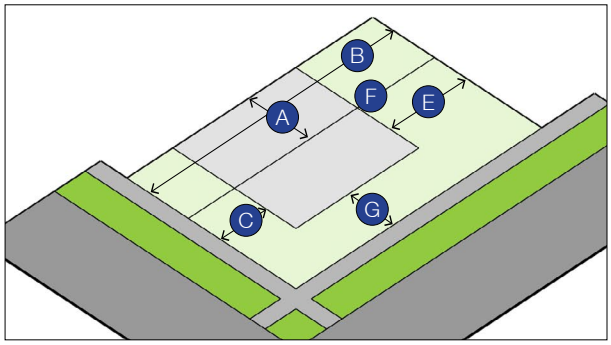
Setbacks - Accessory Structures

Minimum front setback:	Not permitted[1]
Minimum rear setback:	5 ft.
Minimum side setback:	
Interior side	5 ft.
Street side (if applicable)	Not permitted[1]
Maximum square footage	See Section 4-5.1, subsection A.6

[1] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard.



Residential



Non-Residential

Setbacks - Principal Structures (Non-Residential)

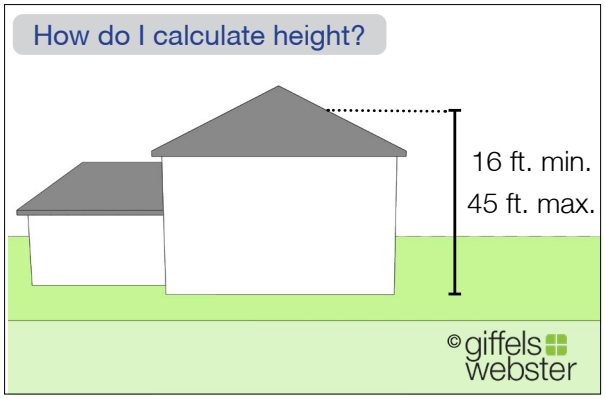
Front setback:	15 ft. min.	C
	15 ft. max.	
Rear setback:	25 ft. min.[1]	E
Side setbacks:		
Interior side	0 ft. min.[2]	F
Street side (if applicable)	15 ft. min.	G
	15 ft. max.	

[1] When adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 30 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.11.

[2] Shall increase to 10 feet minimum when abutting residential use.

4-3.1.6 UR Urban Residential

6. Building Form & Components



Building Form

Height - Principal Building	1 story/16 ft. min. 3 stories/45 ft. max.
Height - Accessory Building	16 ft.[1]
Orientation (All building types except carriage houses and cottage court bungalows, which may have alternate orientation)	Primary facade shall be oriented to the front lot line.

Building Facade in Setback Zone[2]

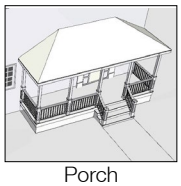
Front yard	50% min.
Side street yard	25% min.

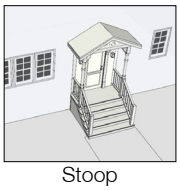
[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

[2] A forecourt is exempt from this requirement by the approving body if the standards of Section 4-5.9 are met.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards. Frontage types are allowed according to building type.

Building Entrances: Main entrances shall be prominently located and visible from the primary street or open space except carriage houses, which may have alternative entrance orientation.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three feet.
- Awnings may project into the right-of-way to within two feet of the curb.
- Display windows may project into yards up to two feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

4-3.1.6 UR Urban Residential

7. Building Standards

Building Materials

Clay brick (full masonry system)

Natural stone (full masonry system)

Integrally colored specialty concrete block such as textured or burnished concrete masonry units

Limestone

See Section 4-5.5 for more information, additional materials and prohibited materials.

Building Transparency

Ground Floor - Front Facade	
Non-Residential	50%[1]
Residential	25%
Ground Floor - Side Street Facade	25%
Upper Floor - Front Facade	15%
Upper Floor - Side Street Facade	15%

See Section 4-5.5 for complete regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

[1] Applies to the area between 3 and 8 feet above grade.

8. Site Development

Fences and Walls - Height[1]

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] For agricultural uses, see Section 4-5.3, subsection B.2

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks[1,2]

Front	5 ft. min.
Rear	5 ft. min.[3]
Interior Side	0 ft. min.
Street Side (if applicable)	5 ft. min.

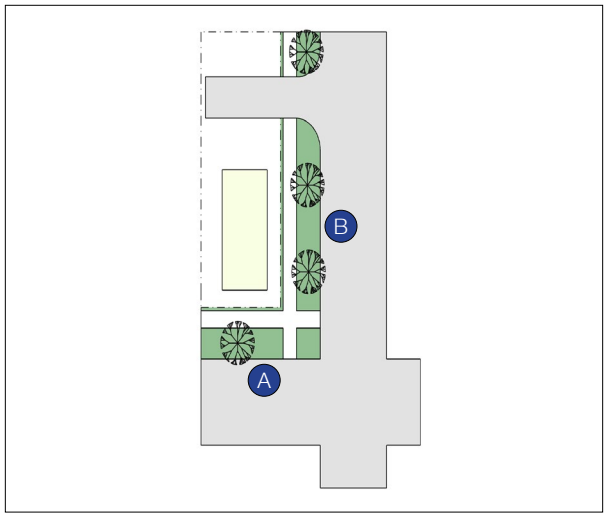
[1] Not applicable to residential uses (excluding multi-family).

[2] Off-street parking not permitted in front or street side yard. Front and street side setback shall be 5' behind street-facing building facade.

[3] When abutting alley or laneway, rear yard parking setback is 0 feet minimum.

4-3.1.6 UR Urban Residential

10. Landscaping



Landscape

Street trees	1 tree per 20 ft. of street frontage[1] Example shown: A Front: 1 tree required for 30 ft. of street frontage length B Side: 3 trees required for 80 ft. of street frontage length
Foundation	Section 4-5.3, subsection A.10
Landscape screening	See Section 4-5.3, subsection A

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

Residential use	Wall
Non-residential use	Wall
	Freestanding

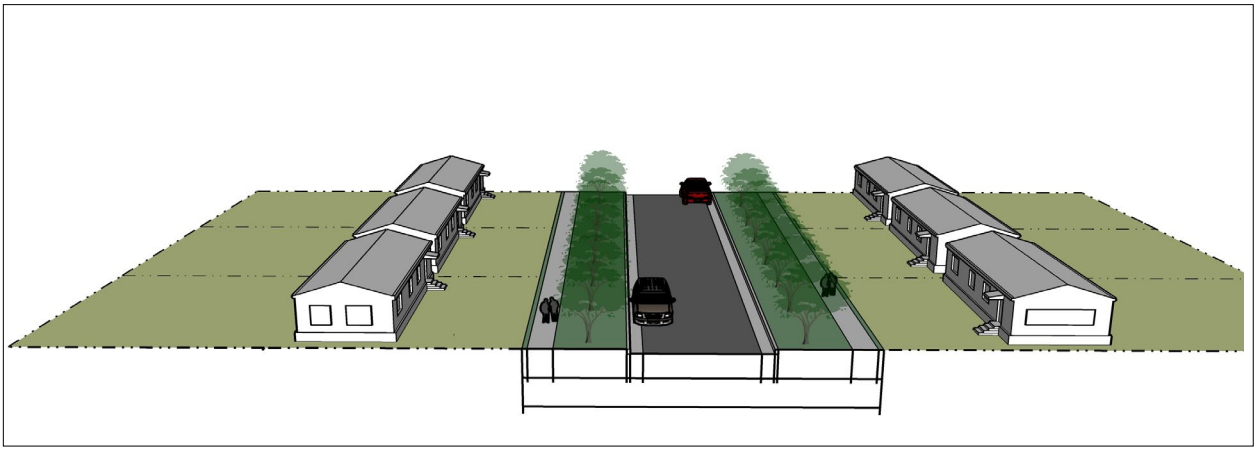
See Section 4-5.6 for complete standards, including temporary signs

12. Additional District Standards

See Section 4-3.9 Urban Residential District Standards.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.7 MH Mobile and Manufactured Home



1. General Character

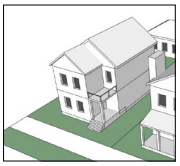
Residential areas with manufactured homes as the predominant land use.

2. Intent

The Mobile and Manufactured Home residential district is primarily established to promote a suitable residential environment to accommodate mobile homes and manufactured homes as single-family dwelling units.

3. Building Types

Residential uses:



Single-family detached home

See Section 4-5.8 Building Type Standards for Building Type regulations.

Buildings for non-residential uses will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.7 MH Mobile and Manufactured Home

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.7.4 LIST OF USES - MH MOBILE AND MANUFACTURED HOME		
Use	**P/C/A**	**Use Standard (if any)**
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Single-family detached dwellings	P	Section 4-4.8
Manufactured housing (mobile home) dwellings	P	
Tiny homes	P	
Institutional Uses		
Places of assembly, neighborhood	C	
Public schools: PreK, Kindergarten, Primary, & Secondary	P	
Civic uses	P	
Essential and public services	P	
Care Uses		
Adult day care (licensed basic care) facilities	C	
Family child care homes - up to 5 children	C	
Licensed family child care homes - up to 9 children	C	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Public parks and recreation	P	
Other Uses		
Home occupations	A	Section 4-4.14
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.7 MH Mobile and Manufactured Home

5. Building Placement & Lot Size

Lot Size & Width

Residential use	6,000 sf[1] min.	
Other use	6,000 sf min.	
Lot width	60 ft. min.	A

Building Coverage

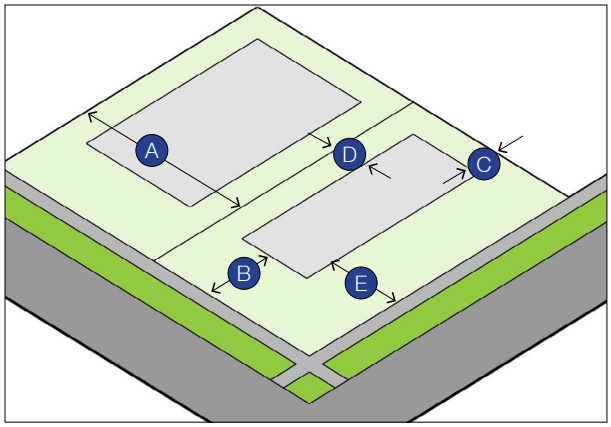
Building coverage	45% max.
Impervious surface coverage	60% max.

Setbacks - Principal Structures

Minimum front setback:	25 ft.	B
Minimum rear setback:	20 ft.	C
Minimum side setback:		
Interior side	10 ft.	D
Street side (if applicable)	25 ft.	E

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[2]
Minimum rear setback:	5 ft.[3]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6



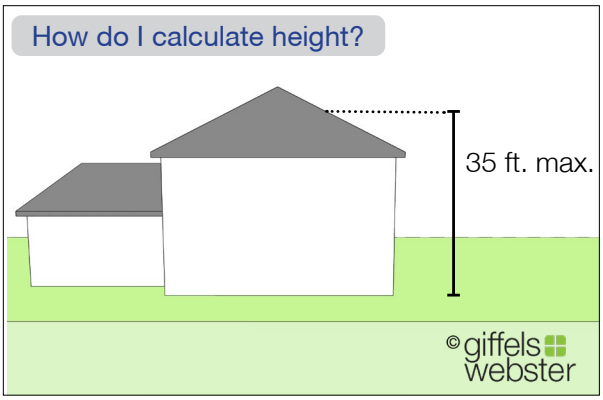
[1] See Contextual Setback in Section 4-2.3.

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard.

[3] For accessory structures 840 sf or less add 1 foot of additional setback for each additional 100 sf in area.

4-3.1.7 MH Mobile and Manufactured Home

6. Building Form & Components

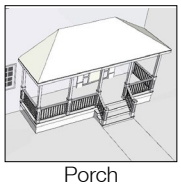


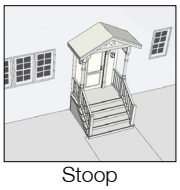
Building Form

Height - Principal Building	2.5 stories/35 ft.
Height - Accessory Building	16 ft.[1]
Orientation	Primary facade shall be oriented to the front lot line.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards. Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.7 MH Mobile and Manufactured Home

7. Building Standards

Building Materials

Regulated by Building Code. All manufactured homes must meet, at a minimum, the Manufactured Home Construction and Safety Standards Act provisions as adopted by the Department of Housing and Urban Development (HUD) in 1974 (24 CRF 3280), which became effective June 15, 1976, and bear a date plate certifying that it was built in compliance with said Act. No additional regulations.

All manufactured homes shall be placed on permanent foundations which are protected from frost and meet HUD, FHA, and manufacturer's foundation specifications, or other foundations which are approved by the Building Administrator. Foundation skirting around the perimeter of the manufactured home shall consist of material made from concrete or masonry products, or an approved material by the Building Administrator that is consistent in appearance and quality with products used in the area and which color and texture will be consistent with surrounding structures.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Fences and Walls - Height[1]

Front	3 ft. max.
Interior side	6 ft. max.
Street side	3 ft. max.
Rear	6 ft. max.

See Section 4-5.3, subsection B for complete fencing regulations.

Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] For agricultural uses, see Section 4-5.3, subsection B

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection A
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

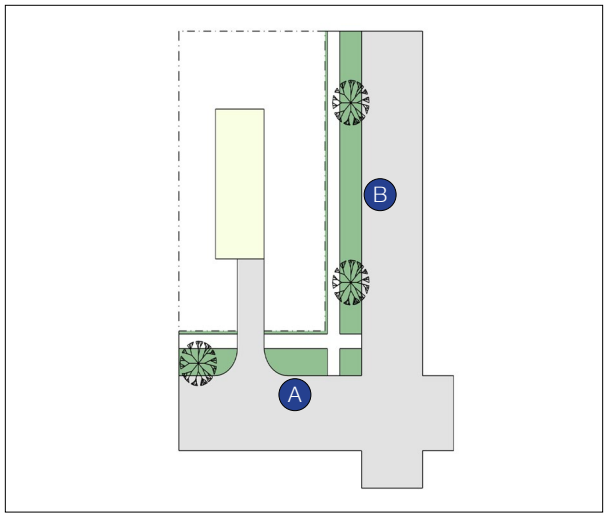
Vehicular Parking Setbacks[1]

Front	25 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.7 MH Mobile and Manufactured Home

10. Landscaping



Landscape

Street trees	1 tree per 60 ft. of street frontage[1] Example shown: A Front: 1 tree required for 60 ft. of street frontage length B Side: 2 trees required for 100 ft. of street frontage length
Foundation	Residential use: None Non-residential use: Section 4-5.3, subsection A.10
Landscape screening	Residential use: None See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

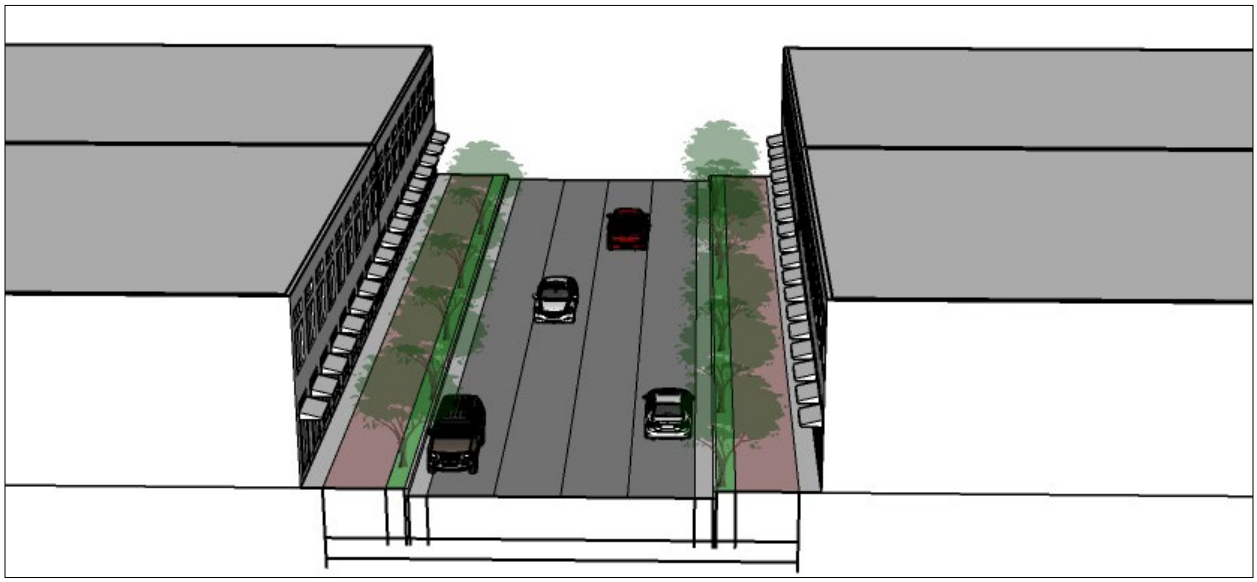
Residential use	Wall
Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs

12. Additional District Standards

See Section 4-3.10 Mobile and Manufactured Home District Standards.

4-3.1.8 17/76



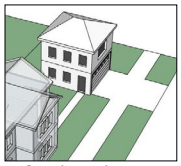
1. General Character/Intent

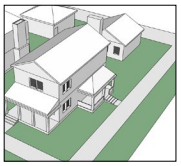
A vibrant, walkable mixed use area that accommodates commercial activity and higher-density residential in a small-town urban environment.

2. Intent

The intent of the 17/76 district is to provide for a vibrant, walkable mixed use area that accommodates commercial activity and higher-density residential in a small-town urban environment. Development will include well-planned public amenities and spaces. The district will provide shopping, dining, employment opportunities for people living in the district as well as in the wider region. See Section 4-3.11 for the remainder of the Intent section.

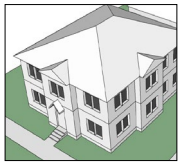
3. Building Types

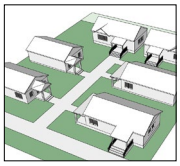

Carriage house

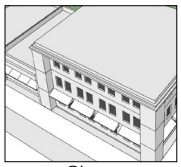

Duplex

Townhomes

Small multiplex


Stacked flats


Cottage court


Shop

See Section 4-5.8 Building Type Standards for Building Type regulations.

Institutional uses and similar uses that do not traditionally meet a shop building type will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.8 17/76

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.8.4 LIST OF USES - 17/76

Use	Primary Street[1]		Secondary Street[2]		Use Standard (if any)
	Ground Floor	Upper Floor	Ground Floor	Upper Floor	
Agricultural Uses					
Community gardens	P	P	P	P	Section 4-4.4
Residential Uses					
Single-family detached dwellings			P	P	Section 4-4.8 & Section 4-4.9
Duplex dwellings			P	P	Section 4-4.8 & Section 4-4.9
Townhome dwellings	P	P	P	P	
Multi-family dwellings	P	P	P	P	
Accessory dwellings	A	A	A	A	Section 4-5.1.A
Institutional Uses					
Places of assembly, neighborhood and general	C	P	P	P	
Public and private schools: PreK, Kindergarten, Primary, and Secondary	C	P	P	P	
Colleges/Universities	C	P	P	P	
Civic uses	C	P	P	P	
Essential and public services		P	P	P	
Passenger/Transit terminal	C	P	P	P	
Hospitals	C	P	P	P	
Care Uses					
Adult day care (licensed basic care) facilities		P	P	P	
Family child care homes - up to 5 children		P	P	P	
Licensed family child care homes - up to 9 children		C	C	C	
Licensed group child care home or facility - up to 30 children		C	C	C	
Licensed child care center - 19+ children		C	C	C	
Recreational and Open Space Uses					
Outdoor recreational uses, private				C	
Indoor recreational uses, private	C	P	P	P	
Parks and open space, private	P	P	P	P	
Public parks and recreation	P	P	P	P	
Commercial Uses					
Artisan manufacturing	P		P		Section 4-4.1 & Section 4-4.2
Restaurants, dine-in, fast food, and carry out	P	P	P	P	Section 4-4.2
Restaurants with drive-through, drive-up, or drive-in service	C		C		Section 4-4.2
Bar, tavern, and liquor store	P	P	P	P	Section 4-4.2
Microbreweries, cideries, and coffee roasters	P	P	P	P	Section 4-4.2
Professional offices	P	P	P	P	Section 4-4.2
Finance, insurance, and real estate services	P	P	P	P	Section 4-4.2

1 Zoning lot fronting on any arterial or collector street.

2 Zoning lot fronting on any local road, based on the classifications in the Comprehensive Plan.

P = Permitted C = Conditional A = Accessory

4-3.1.8 17/76

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.8.4 LIST OF USES - 17/76

Use	Primary Street[1]		Secondary Street[2]		Use Standard (if any)
	Ground Floor	Upper Floor	Ground Floor	Upper Floor	
Banks and financial institutions	C	P	P	P	Section 4-4.2
Banks and financial institutions with drive-through	C		C		Section 4-4.2
Medical offices and clinics	P	P	P	P	Section 4-4.2
Veterinary care and pet day care		P	P	P	Section 4-4.2
Tobacco, hookah, and vaping establishments		P	P	P	Section 4-4.2
Retail sales and service, limited/micro and local	P	P	P	P	Section 4-4.2
Retail sales and service, general	P	P	P	P	Section 4-4.2
Personal services establishments	P	P	P	P	Section 4-4.2
Hotels	C	P	P	P	Section 4-4.2
Bed and breakfast establishments	C	P	P	P	Section 4-4.2
Vehicle sales, indoor	P		P		Section 4-4.2
Fuel establishment	C		C		Section 4-4.2
Parking structures	C		P		Section 4-4.2
Parking lots	C		P		Section 4-4.2
Other Uses					
Home occupations	P	P	P	P	Section 4-4.14
Small-scale wind energy systems	P	P	P	P	Section 4-4.15
Ground-mounted solar arrays, small	P		P		Section 4-4.15
Wireless communication facilities, excluding towers		P		P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

[Intentionally blank]

5. Building Placement & Lot Size

Lot Size & Width

Residential use	1,600 sf min. per dwelling	
Other use	1,600 sf min.	
Lot width	20 ft. min.	A
Lot depth	80 ft. min.	B

Building Coverage

Building coverage	75% max.
Impervious surface coverage	90% max.

Setbacks - Principal Structures - CR-17 Frontage

Front setback:	20 ft. min.	C
	95 ft. max.	D
Rear setback:	25 ft. min.[1]	E
Side setbacks:		
Interior side	0 ft. min.[1]	F
Street side (if applicable)	20 ft. min.	G
	30 ft. max.	H

Setbacks - Principal Structures - Other Frontages

Front setback:	0 ft. min.	C
	10 ft. max.	D
Rear setback:	25 ft. min.[1]	E
Side setbacks:		
Interior side	0 ft. min.[2]	F
Street side (if applicable)	0 ft. min.	G
	10 ft. max.	H

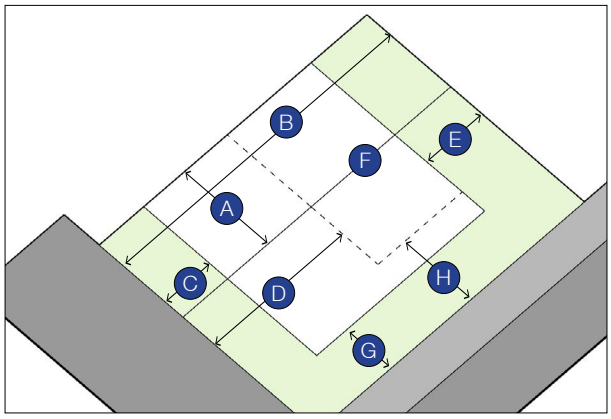
[1] When an accessory structure is located in or adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 10 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.11, and Table 4-5.3.B.1.b.

[2] When abutting residential use, the minimum setback shall increase to 10 feet.

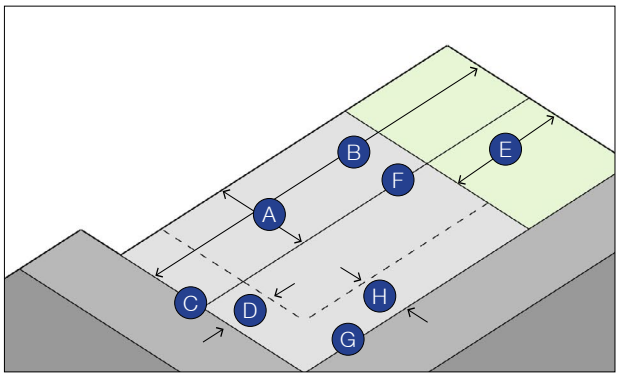
Setbacks - Accessory Structures

Minimum front setback:	Not permitted[3]
Minimum rear setback:	5 ft.[1]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

[3] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B shall be placed in front or street side yard.

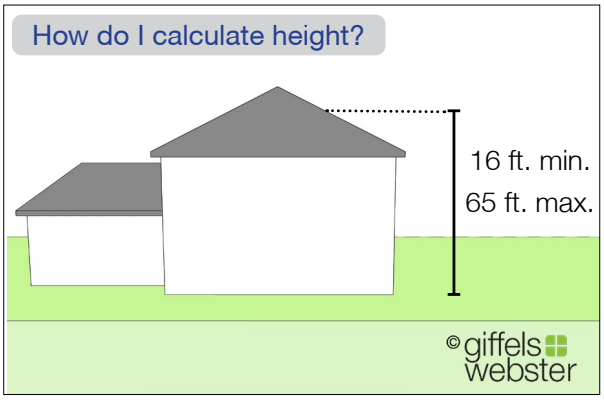


CR-17 Frontage



Other Frontage

6. Building Form & Components



Building Form

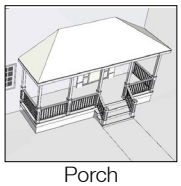
Height - Principal Building	1 story/16 ft. min. 4 stories/65 ft. max.
Height - Accessory Building	16 ft.[1]
Orientation (All building types except carriage houses and cottage court bungalows, which may have alternate orientation)	Primary facade shall be oriented to the front lot line.

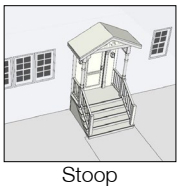
Building Facade in Setback Zone[2]

Front yard	75% min.[3,4]
Side street yard	50% min.

Building Components

Building frontage types


Porch


Stoop

Gallery

Forecourt

Storefront

Terrace

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.
- Awnings may project into the right-of-way to within two (2) feet of the curb.
- Display windows may project into yards up to two (2) feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

[2] A forecourt is exempt from this requirement by the approving body if the standards of Section 4-5.9 are met.

[3] Building entries may be recessed from the facade up to 8 feet in depth

[4] The first 20 feet of ground floor building depth along a primary street must be used for retail and related display, dining, lobby or waiting areas, exercise facilities, open office, or similar use that promotes pedestrian interest.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

7. Building Standards

Building Materials

Clay brick (full masonry system)

Natural stone (full masonry system)

Integrally colored specialty concrete block such as textured or burnished concrete masonry units

Limestone

See Section 4-5.5 for more information, additional materials, and prohibited materials.

Building Transparency

Ground Floor - Front Facade	
Non-Residential	65%[1]
Residential	25%
Ground Floor - Side Street Facade	25%
Upper Floor - Front Facade	15%
Upper Floor - Side Street Facade	15%

See Section 4-5.5 for complete regulations

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements

[1] Between 3-8 ft above grade

8. Site Development

Accessory Structures	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks[1,2]

Front	15 ft. min.
Rear	5 ft. min.[3]
Interior Side	5 ft. min.[4]
Street Side (if applicable)	5 ft. min.

If access is available from an alley or laneway which is open to traffic, there shall be no access allowed from the street.

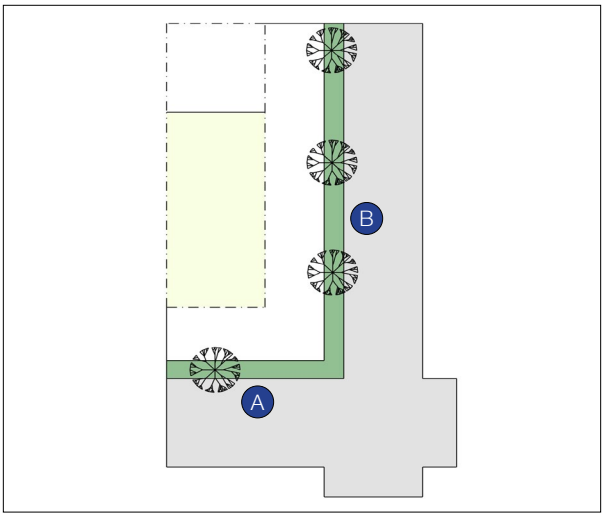
[1] Not applicable to residential uses (excluding multi-family).

[2] Off-street parking not permitted in front or street side yard unless parking is the principal use. Front and street side setback shall be 5 feet behind street-facing building facade.

[3] When adjacent to a single-family residential zoning district, the minimum parking setback shall be 20 feet and shall be subject to the screening requirements in Section 4-5.3, subsection A.11 and Table 4-5.3.B.1.b. When abutting an alley or laneway, rear yard parking setback is 0 feet.

[4] When abutting another permitted or conditional use in a non-residential district and an internal driveway connection and cross-access easement is provided, interior side yard parking minimum shall be 0 feet.

10. Landscaping



Landscape

Street trees	1 tree per 20 ft. of street frontage[1]
	Example shown:
	(A) Front: 1 tree required for 30 ft. of street frontage length
	(B) Side: 3 trees required for 80 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10

Trees shall be spaced as evenly as possible and they shall be strategically placed to not block the main entry to storefronts. Street trees (large deciduous) must be planted within 6 feet of the sidewalk that parallels an arterial road and they shall be planted within 5 feet of the curb along all other streets. Street furniture, where provided, must be located within 6 feet of the curb.

The approving body may adjust spacing requirements as necessary due to site conditions provided the spirit and intent is met.

Landscape screening: See Section 4-5.3, subsection 11 and Table 4-5.3.B.1.b, including parking lot buffering, greenbelts, and other requirements.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

Residential use	Wall
Non-residential use	Wall
	Freestanding

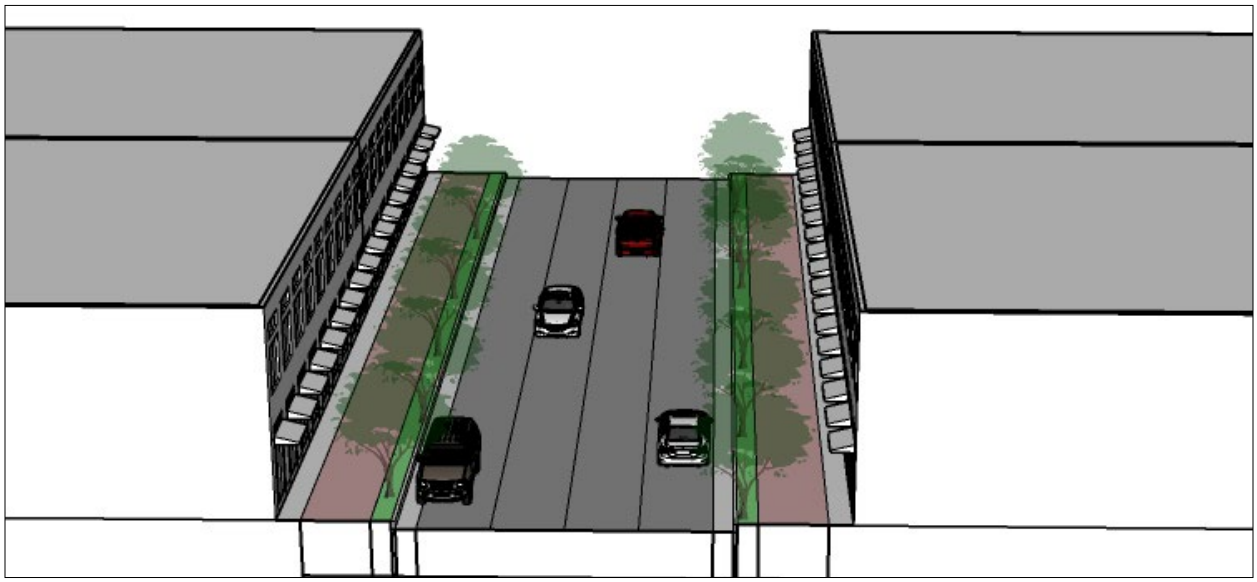
See Section 4-5.6 for complete standards, including temporary signs

12. Additional District Standards

See Section 4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.9 OT Old Town



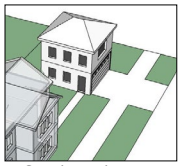
1. General Character/Intent

A vibrant, walkable mixed use area that accommodates commercial activity and higher-density residential in a small-town urban environment.

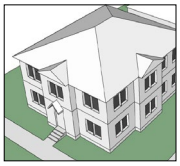
2. Intent

The intent of the Old Town district is to foster a village-like environment that respects the compact nature of development in the City's original settlement area while enabling redevelopment and a mix of uses. The district should be a walkable area that provides local commercial uses in a mix with higher density residential uses. See Section 4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards for the remainder of the Intent section.

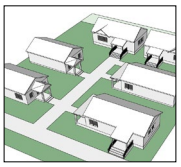
3. Building Types

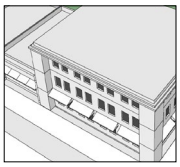

Carriage house

Townhomes


Stacked flats

Small multiplex


Cottage court


Shop

See Section 4-5.8 Building Type Standards for Building Type regulations.

Institutional uses and similar uses that do not traditionally meet a shop building type will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.9 OT Old Town

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.9.4 LIST OF USES - OT OLD TOWN

Use	Primary Street[1]		Secondary Street[2]		Use Standard (if any)
	Ground Floor	Upper Floor	Ground Floor	Upper Floor	
Agricultural Uses					
Community gardens	P	P	P	P	Section 4-4.4
Residential Uses					
Single-family detached dwellings			P	P	Section 4-4.9
Duplex dwellings			P	P	Section 4-4.9
Townhome dwellings	P	P	P	P	
Multi-family dwellings	P	P	P	P	
Accessory dwellings	A	A	A	A	Section 4-5.1.A
Institutional Uses					
Places of assembly, neighborhood and general	C	P	P	P	
Public and private schools: PreK, Kindergarten, Primary, and Secondary	C	P	P	P	
Colleges/Universities	C	P	P	P	
Civic uses	C	P	P	P	
Essential and public services		P	P	P	
Passenger/Transit terminal	C	P	P	P	
Hospitals	C	P	P	P	
Care Uses					
Adult day care (licensed basic care) facilities		P	P	P	
Family child care homes - up to 5 children		P	P	P	
Licensed family child care homes - up to 9 children		C	C	C	
Licensed group child care home or facility - up to 30 children		C	C	C	
Licensed child care center - 19+ children		C	C	C	
Recreational and Open Space Uses					
Outdoor recreational uses, private				C	
Indoor recreational uses, private	C	P	P	P	
Parks and open space, private	P	P	P	P	
Public parks and recreation	P	P	P	P	
Commercial Uses					
Artisan manufacturing	P		P		Section 4-4.1 & Section 4-4.2
Restaurants, dine-in, fast food, and carry out	P	P	P	P	Section 4-4.2
Restaurants with drive-through, drive-up, or drive-in service	C		C		Section 4-4.2
Bar, tavern and liquor store	P	P	P	P	Section 4-4.2
Microbreweries, cideries, and coffee roasters	P	P	P	P	Section 4-4.2
Professional offices	P	P	P	P	Section 4-4.2
Finance, insurance, and real estate services	P	P	P	P	Section 4-4.2
Banks and financial institutions	P	P	P	P	Section 4-4.2
Banks and financial institutions with drive-through	C		C		Section 4-4.2
Medical offices and clinics	P	P	P	P	Section 4-4.2
Veterinary care and pet day care		P	P	P	Section 4-4.2
Tobacco, hookah, and vaping establishments		P	P	P	Section 4-4.2

1 Zoning lot fronting on any arterial or collector street.

2 Zoning lot fronting on any local road, based on the classifications in the Comprehensive Plan.

P = Permitted C = Conditional A = Accessory

4-3.1.9 OT Old Town

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.9.4 LIST OF USES - OT OLD TOWN

Use	Primary Street[1]		Secondary Street[2]		Use Standard (if any)
	Ground Floor	Upper Floor	Ground Floor	Upper Floor	
Retail sales and service, limited/micro and local	P	P	P	P	Section 4-4.2
Retail sales and service, general	P		P		Section 4-4.2
Personal services establishments	P	P	P	P	Section 4-4.2
Hotels	C	P	P	P	Section 4-4.2
Bed and breakfast establishments	C	P	P	P	Section 4-4.2
Vehicle sale, indoor	P		P		Section 4-4.2
Vehicle sale, outdoor	C		C		Section 4-4.2
Vehicle service and repair, minor	C		C		Section 4-4.2
Fuel establishments	C				Section 4-4.2
Parking structures	C		P		Section 4-4.2
Parking lots	C		P		Section 4-4.2
Other Uses					
Home occupations	P	P	P	P	Section 4-4.14
Small-scale wind energy systems	P	P	P	P	Section 4-4.15
Ground-mounted solar arrays, small	P		P		Section 4-4.15
Wireless communication facilities, excluding towers		P		P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.9 OT Old Town

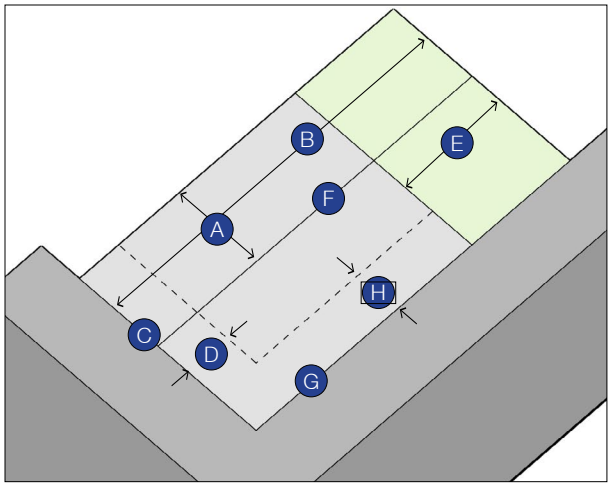
[Intentionally blank]

4-3.1.9 OT Old Town

5. Building Placement & Lot Size

Lot Size & Width

Residential use	1,600 sf min. per dwelling	
Other use	1,600 sf min.	
Lot width	20 ft. min.	A
Lot depth	80 ft. min.	B



Building Coverage

Building coverage	85% max.
Impervious surface coverage	95% max.

Setbacks - Principal Structures

Front setback:	0 ft. min.	C
	10 ft. max.	D
Rear setback:	25 ft. min.[1]	E
Side setbacks:		
Interior side	0 ft. min.[2]	F
Street side	0 ft. min.	G
	10 ft. max.	H

Setbacks - Accessory Structures

Minimum front setback:	Not permitted[3]
Minimum rear setback:	5 ft.[2]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted
Maximum square footage:	See Section 4-5.1, subsection A.6

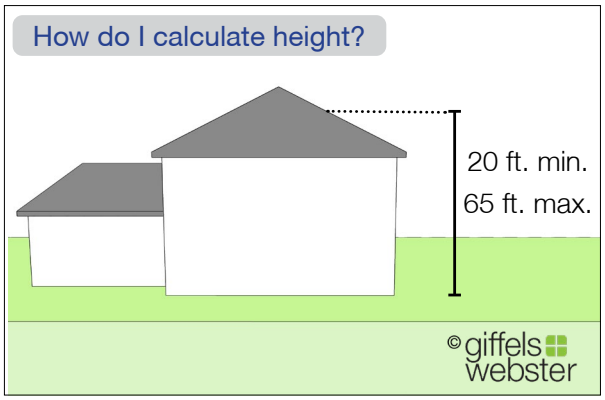
[1] When adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 10 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.11 and Table 4-5.3.B.1.b.

[2] Shall increase to 10 feet minimum when abutting residential use.

[3] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B shall be placed in front or street side yard.

4-3.1.9 OT Old Town

6. Building Form & Components



Building Form

Height - Principal Building	2 stories/20 ft. min. 4 stories/65 ft. max.
Height - Accessory Building	16 ft.[1]
Orientation (All building types except carriage houses and cottage court bungalows, which may have alternate orientation)	Primary facade shall be oriented to the front lot line.

Building Facade in Setback Zone[2]

Front yard	75% min.[3,4]
Side street yard	50% min.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

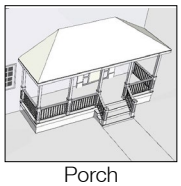
[2] A forecourt is exempt from this requirement by the approving body if the standards of Section 4-5.9 are met.

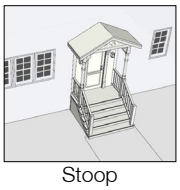
[3] Building entries may be recessed from the facade up to 8 feet in depth.

[4] The first 20 feet of ground floor building depth along a primary street must be used for retail and related display, dining, lobby or waiting areas, exercise facilities, open office, or similar use that promotes pedestrian interest.

Building Components

Building frontage types


Porch


Stoop

Gallery

Forecourt

Storefront

Terrace

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.
- Awnings may project into the right-of-way to within two (2) feet of the curb.
- Display windows may project into yards up to two (2) feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

4-3.1.9 OT Old Town

7. Building Standards

Building Materials

Clay brick (full masonry system)

Natural stone (full masonry system)

Integrally colored specialty concrete block such as textured or burnished concrete masonry units

Limestone

See Section 4-5.5, subsection B, for more information, additional materials, and prohibited materials.

Building Transparency

Ground Floor - Front Facade	
Non-Residential	65%[1]
Residential	25%
Ground Floor - Side Street Facade	25%
Upper Floor - Front Facade	15%
Upper Floor - Side Street Facade	15%

See Section 4-5.5, subsection C, for complete regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

[1] Between 3-8 ft above grade

8. Site Development

Accessory Structures	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks[1,2]

Front	15 ft. min.
Rear	5 ft. min.[3]
Interior Side	5 ft. min.[4]
Street Side (if applicable)	5 ft. min.

If access is available from an alley or laneway which is open to traffic, there shall be no access allowed from the street.

[1] Not applicable to residential uses (excluding multi-family).

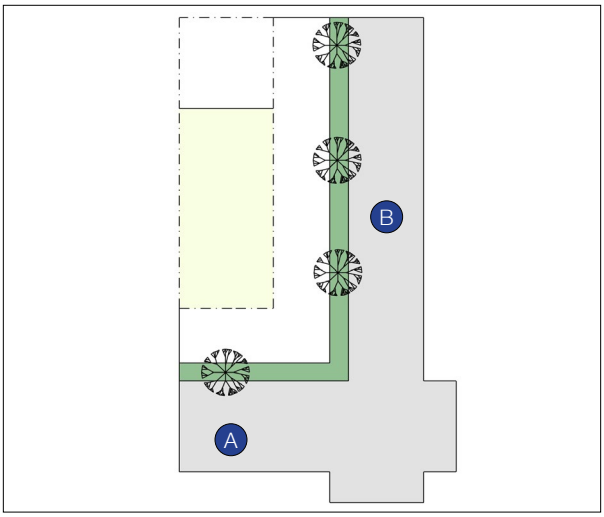
[2] Off-street parking not permitted in front or street side yard unless parking is the principal use. Front and street side setback shall be 5' behind street-facing building facade.

[3] When adjacent to a single-family residential zoning district, the minimum parking setback shall 20 feet and shall be subject to the screening requirements in Section 4-5.3, subsection A.11, and Table 4-5.3.B.1.b. When abutting an alley or laneway, rear yard parking setback is 0 feet minimum.

[4] When abutting another permitted or conditional use in a non-residential district and an internal driveway connection and cross-access easement is provided, interior side yard parking minimum shall be 0'.

4-3.1.9 OT Old Town

10. Landscaping



Landscape

Street trees	1 tree per 30 ft. of street frontage[1] Example shown: A Front: 1 tree required for 20 ft. of street frontage length B Side: 3 trees required for 80 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10

Trees shall be spaced as evenly as possible and they shall be strategically placed to not block the main entry to storefronts. Street trees (large deciduous) must be planted within 6 feet of the sidewalk that parallels an arterial road and they shall be planted within 5 feet of the curb along all other streets. Street furniture, where provided, must be located within 6 feet of the curb.

The approving body may adjust spacing requirements as necessary due to site conditions provided the spirit and intent is met.

Landscape screening: See Section 4-5.3, subsection 11 and Table 4-5.3.B.1.b, including parking lot buffering, greenbelts, and other requirements.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

Residential use	Wall
Non-residential use	Wall
	Freestanding

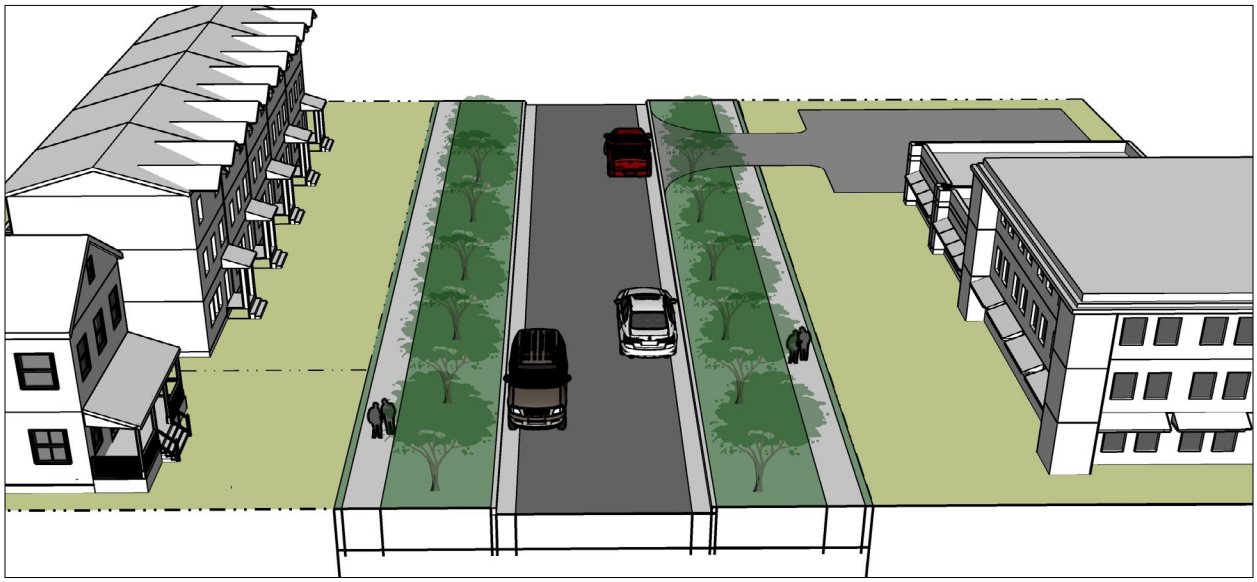
See Section 4-5.6 for complete standards, including temporary signs

12. Additional District Standards

See Section 4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.10 MX Mixed Use



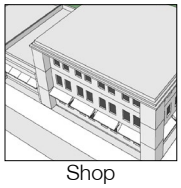
1. General Character/Intent

A walkable, pedestrian-oriented commercial core district that serves as a transition between the pedestrian commercial districts and auto-oriented districts and industrial areas.

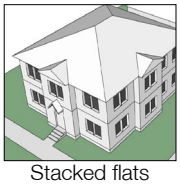
2. Intent

The Mixed Use district is established to promote flexibility and respond to market demand, accommodating a mix of commercial, office, and residential uses. The district emphasizes building form over use in its regulations in order to create a harmonious environment in which many uses can coexist. Very intensive development is allowed, with high building coverage, large buildings, and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape. Where the district abuts single-family development, strong screening should be employed to diminish the impact on less intensive development.

3. Building Types


Shop

Townhomes


Stacked flats

Small multiplex

See Section 4-5.8 Building Type Standards for Building Type regulations.

Institutional uses and similar uses that do not traditionally meet a shop building type will be of a scale, bulk, and size that is compatible with the surrounding neighborhood.

4-3.1.10 MX Mixed Use

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.10.4 LIST OF USES - MX MIXED USE

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Community gardens	P	Section 4-4.4
Residential Uses		
Townhome dwellings	P	
Multi-family dwellings	P	
Cottage court bungalow dwellings	P	
Accessory dwellings	A	Section 4-5.1, subsection A
Institutional Uses		
Places of assembly, neighborhood and general	P	
Public and private schools: PreK, Kindergarten, Primary, and Secondary	P	
Civic uses	P	
Essential and public services	P	
Colleges/Universities	P	
Passenger/Transit terminals	P	
Hospitals	P	
Care Uses		
Adult day care (licensed basic care) facilities	P	
Licensed basic care facilities	P	
Licensed assisted living facilities	P	
Licensed nursing facilities	P	
Licensed child care center - 19+ children	P	
Recreational and Open Space Uses		
Outdoor recreational uses, private	C	
Outdoor parks and open space private	P	
Indoor recreational uses, private	P	
Public parks and recreation	P	
Commercial Uses		
Artisan manufacturing	P	
Restaurants, dine-in, fast food, and carry out	P	
Restaurants with drive-through, drive-up, or drive-in service	C	
Bar, tavern, and liquor store	P	
Microbreweries, cideries, and coffee roasters	P	
Professional offices	P	
Finance, insurance, and real estate services	P	
Banks and financial institutions	P	
Banks and financial institutions with drive-through	C	
Medical offices and clinics	P	
Veterinary care and pet day care	P	
Pet kennels with indoor runs	P	
Pet kennels with outdoor runs	C	
Tobacco, hookah, and vaping establishments	P	
Retail sales and service, limited/micro and local	P	
Retail sales and service, general	C	
Personal service establishments	P	
Hotels	P	

P = Permitted C = Conditional A = Accessory

4-3.1.10 MX Mixed Use

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.10.4 LIST OF USES - MX MIXED USE

Use	P/C/A	Use Standard (if any)
Bed and breakfast establishments	P	
Vehicle sale, indoor	P	
Vehicle sale, outdoor	C	
Vehicle service and repair, minor	P	
Fuel establishments	P	
Parking structures	P	
Parking lots	C	
Self-storage facility and food locker rentals	P	
Other Uses		
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.10 MX Mixed Use

[Intentionally blank]

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.10 MX Mixed Use

5. Building Placement & Lot Size

Lot Size & Width

Residential use	6,000 sf min. per dwelling	
Other use	6,000 sf min.	
Lot width	40 ft. min.	A

Building Coverage

Building coverage	65% max.
Impervious surface coverage	85% max.

Setbacks - Principal Structures - CR-17 Frontage

Front setback:	25 ft. min.	B
	95 ft. max.	C
Rear setback:	25 ft. min.[1]	D
Side setbacks:		
Interior side	0 ft. min.[1]	E
Street side - CR-17	25 ft. min.	F
	95 ft. max.	G
Street side - Other	25 ft. min	F
	30 ft. max.	G

Setbacks - Principal Structures - Other Frontages

Front setback:	20 ft. min.	B
	95 ft. max.	C
Rear setback:	25 ft. min.[1]	D
Side setbacks:		
Interior side	0 ft. min.[2]	E
Street side (if applicable)	20 ft. min.	F
	95 ft. max.	G

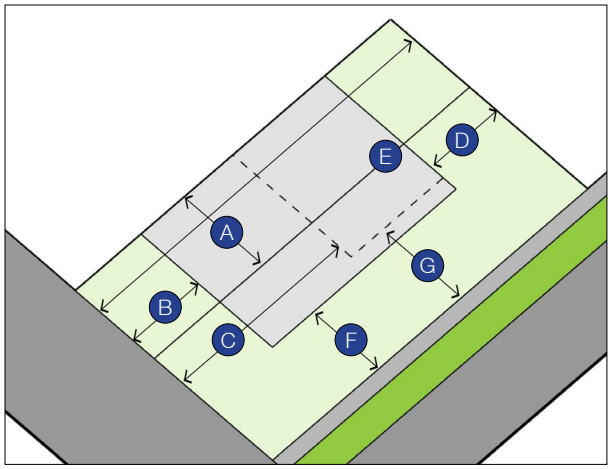
[1] When an accessory structure is located in or adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 10 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.11.

[2] When abutting residential use, the minimum setback shall increase to 10 feet.

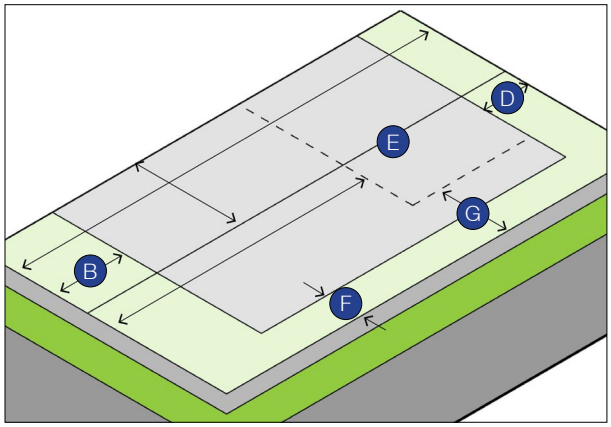
Setbacks - Accessory Structures

Minimum front setback:	Not permitted[3]
Minimum rear setback:	5 ft.[1]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]
Maximum square footage:	See Section 4-5.1, subsection A.6

[3] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B, shall be placed in front or street side yard.



CR-17 Frontage

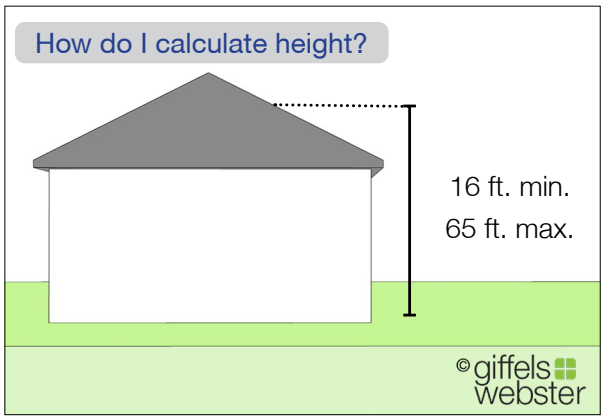


Other frontage

4-3.1.10 MX Mixed Use

6. Building Form & Components

Building Form



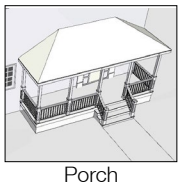
Height - Principal Building	1 story/16 ft. min. 4 stories/65 ft. max.
Height - Accessory Building	16 ft.[1]
Orientation (All building types except carriage houses and cottage court bungalows, which may have alternate orientation)	Primary facade shall be oriented to the front lot line.

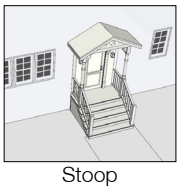
Building Facade in Setback Zone[2]

Front yard	55% min.[3,4]
Side street yard	35% min.

Building Components

Building frontage types


Porch


Stoop

Gallery

Forecourt

Storefront

Terrace

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.
- Awnings may project into the right-of-way to within two (2) feet of the curb.
- Display windows may project into yards up to two (2) feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

[2] A forecourt is exempt from this requirement by the approving body if the standards of Section 4-5.9 are met.

[3] Building entries may be recessed from the facade up to 8 feet in depth.

[4] The first 20 feet of ground floor building depth along a primary street must be used for retail and related display, dining, lobby or waiting areas, exercise facilities, open office, or similar use that promotes pedestrian interest.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.10 MX Mixed Use

7. Building Standards

Building Materials

Clay brick (full masonry system)
Natural stone (full masonry system)
Integrally colored specialty concrete block such as textured or burnished concrete masonry units
Limestone
See Section 4-5.5 for more information, additional materials and prohibited materials.

Building Transparency

Ground Floor - Front Facade	
Non-Residential	50%[1]
Residential	20%
Ground Floor - Side Street Facade	20%
Upper Floor - Front Facade	15%
Upper Floor - Side Street Facade	15%

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

[1] Between 3-8 feet above grade.

8. Site Development

Accessory Structures	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

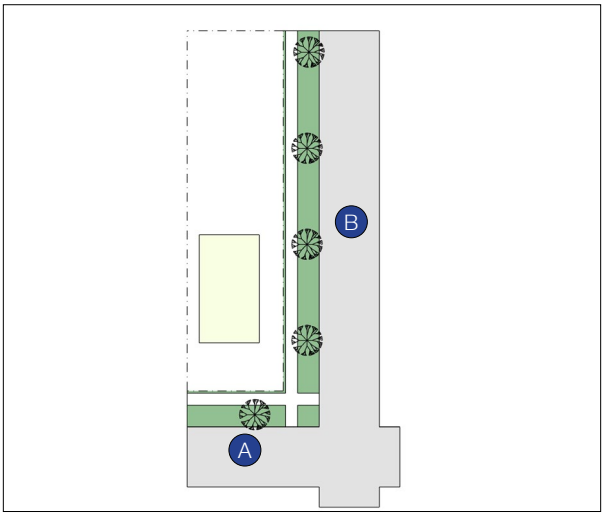
Vehicular Parking Setbacks[1]

Front	15 ft. min.
Rear	5 ft. min.
Interior Side	5 ft. min.
Street Side (if applicable)	5 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.10 MX Mixed Use

10. Landscaping



Landscape

Street trees	1 tree per 40 ft. of street frontage[1] Example shown: A Front: 1 tree required for 40 ft. of street frontage length B Side: 4 trees required for 150 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10
Landscape screening	Non-residential use: See Section 4-5.3, subsection A

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

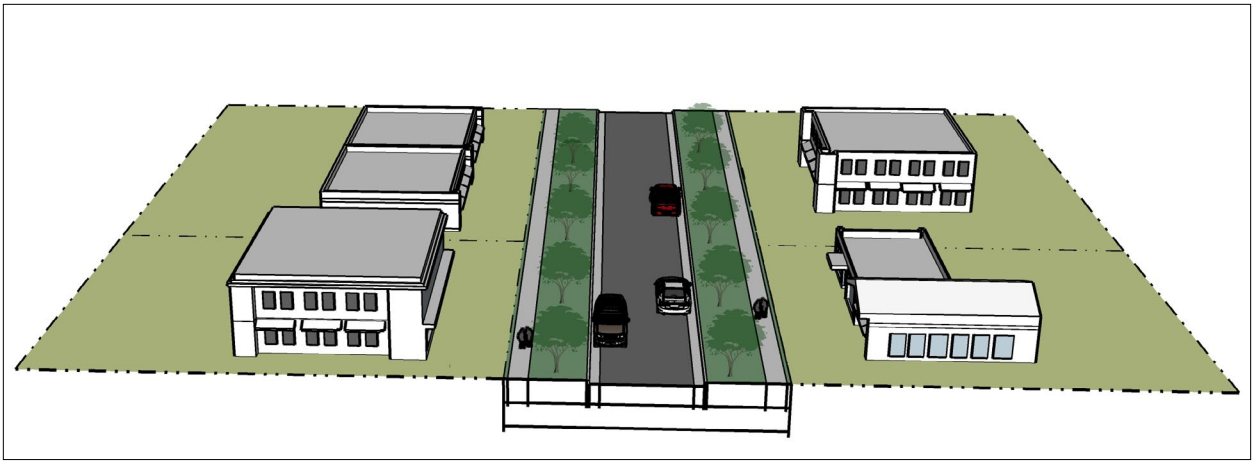
Residential use	Wall
Non-residential use	Wall
	Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

12. Additional District Standards

See Section 4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards.

4-3.1.11 C Commercial



1. General Character/Intent

Commercial areas fronting primarily on major roads that accommodate commercial uses primarily accessed by car.

2. Intent

The C commercial district is primarily established to accommodate those commercial uses which by nature and operational characteristics such as direct access, large number of vehicular turning movements, and large number of parking spaces, require separation from other uses because of the intensity and frequency of consumer travel.

3. Building Types

Reserved for the future.

4-3.1.11 C Commercial

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.11.4 LIST OF USES - C COMMERCIAL		
Use	**P/C/A**	**Use Standard (if any)**
Agricultural Uses		
Community gardens	P	Section 4-4.4
Institutional Uses		
Places of assembly, neighborhood and general	P	
Public and private schools: PreK, Kindergarten, Primary, and Secondary	P	
Colleges/Universities	P	
Civic uses	P	
Essential and public services	P	
Passenger/Transit terminals	P	
Hospitals	P	
Cemeteries	P	
Care Uses		
Adult day care (licensed basic care) facilities	P	
Licensed basic care facilities	P	
Licensed assisted living facilities	P	
Licensed nursing facilities	P	
Licensed child care center - 19+ children	P	
Recreational and Open Space Uses		
Outdoor recreational uses, private	P	
Indoor recreational uses, private	P	
Parks and open space, private	P	
Public parks and recreation	P	
Commercial Uses		
Artisan manufacturing	P	
Restaurants, dine-in, fast food, and carry out	P	
Restaurants with drive-through, drive-up, or drive-in service	P	
Bar, tavern, and liquor stores	P	
Professional offices	P	
Finance, insurance, and real estate services	P	
Banks and financial institutions	P	
Banks and financial institutions with drive-throughs	P	
Medical offices and clinics	P	
Veterinary care and pet day care	P	
Pet kennels with indoor runs	P	
Pet kennels with outdoor runs	C	
Funeral homes	P	
Tobacco, hookah, and vaping establishments	P	
Retail sales and service, limited/micro and local	P	
Retail sales and service, general	P	
Personal service establishments	P	
Hotels	P	
Bed and breakfast establishments	P	
Vehicle sale, indoor	P	
Vehicle sale, outdoor	C	
Vehicle service and repair, minor	P	
Vehicle service and repair, major	C	
Auto wash establishments	P	

P = Permitted C = Conditional A = Accessory

4-3.1.11 C Commercial

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.11.4 LIST OF USES - C COMMERCIAL

Use	P/C/A	Use Standard (if any)
Fuel establishments	P	
Parking lots	A	
Self-storage facility and food locker rentals	C	
Industrial Uses		
Contractor's yards	C	
Packing and crating operations	C	
Other Uses		
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3
Wireless communication facilities, including towers	C	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.11 C Commercial

[Intentionally blank]

4-3.1.11 C Commercial

5. Building Placement & Lot Size

Lot Size & Width

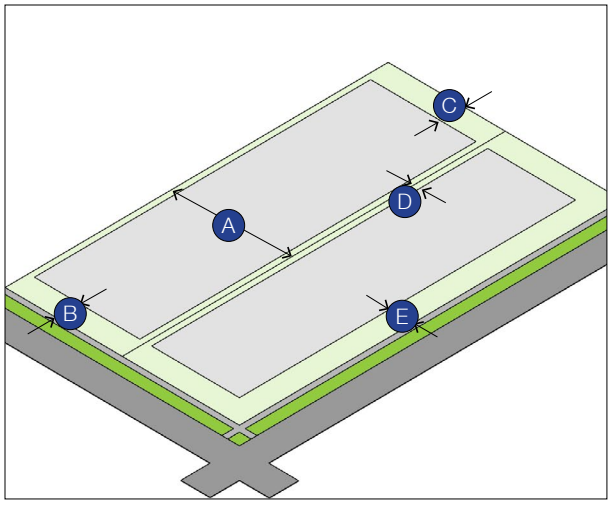
Lot size	None	
Lot width	None	A

Building Coverage

Building coverage	60% max.
Impervious surface coverage	80% max.

Setbacks - Principal Structures

Front setback:	20 ft. min.	B
Rear setback:	20 ft. min.[1]	C
Side setbacks:		
Interior side	5 ft. min.[1]	D
Street side	20 ft. min.	E



Setbacks - Accessory Structures

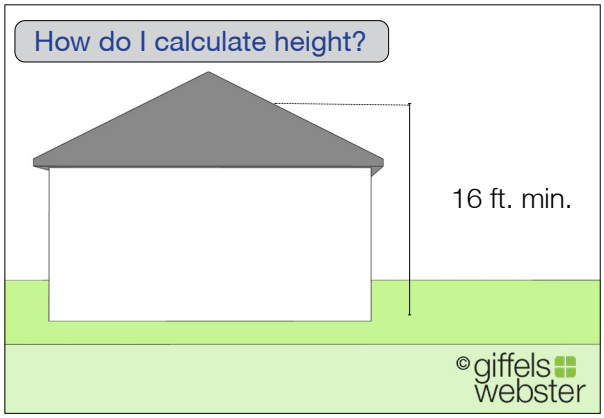
Minimum front setback:	Not permitted[2]
Minimum rear setback:	5 ft.[1]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]

[1] When an accessory structure is located in or adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 20 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B shall be placed in front or street side yard.

4-3.1.11 C Commercial

6. Building Form & Components



Building Form

Height - Principal Building	1 story/18 ft. min. 2 stories/30 ft. max.
Height - Accessory Building	16 ft.[1]
Orientation	Primary facade shall be oriented to the front lot line.
Main entrances	Shall be prominently located and visible from the primary street or dedicated open space.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.11 C Commercial

7. Building Standards

Building Materials

Exterior Insulation Finishing System (E.I.F.S.) facades and facades of similar limited durability shall not be placed on an exterior facade between ground level and 8 feet above ground level. Otherwise, regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Accessory Structures	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks[1]

Front	20 ft. min.
Rear	10 ft. min.[2]
Interior Side	10 ft. min.[3]
Street Side (if applicable)	15 ft. min.

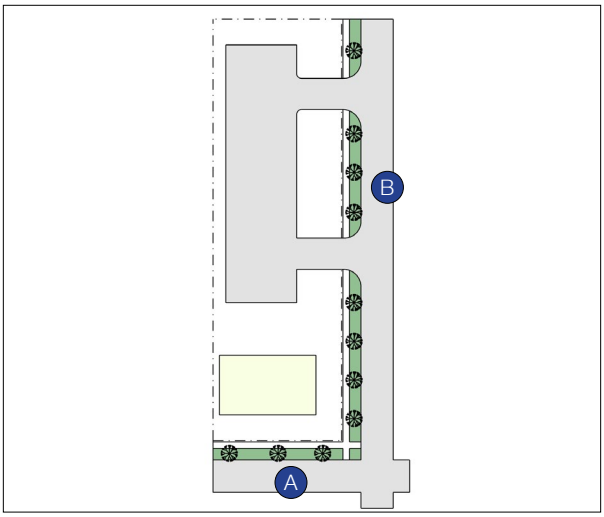
[1] Not applicable to residential uses (excluding multi-family).

[2] When adjacent to a residential zoning district, the minimum parking setback shall 20 feet and shall be subject to the screening requirements in Section 4-5.3, subsection A.11, and Table 4-5.3.B.1.b.

[3] When abutting another permitted or conditional use in a non-residential district and an internal driveway connection and cross-access easement is provided, interior side yard parking minimum shall be 0'.

4-3.1.11 C Commercial

10. Landscaping



Landscape

Street trees	1 tree per 40 ft. of street frontage[1] Example shown: A Front: 2 trees required for 100 ft. of street frontage length B Side: 8 trees required for 327 ft. of street frontage length
Foundation	Within 3 ft. of all street-facing building facades. See Section 4-5.3, subsection A.10.
Landscape screening	Non-residential use: See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Non-residential use	Section 4-5.6

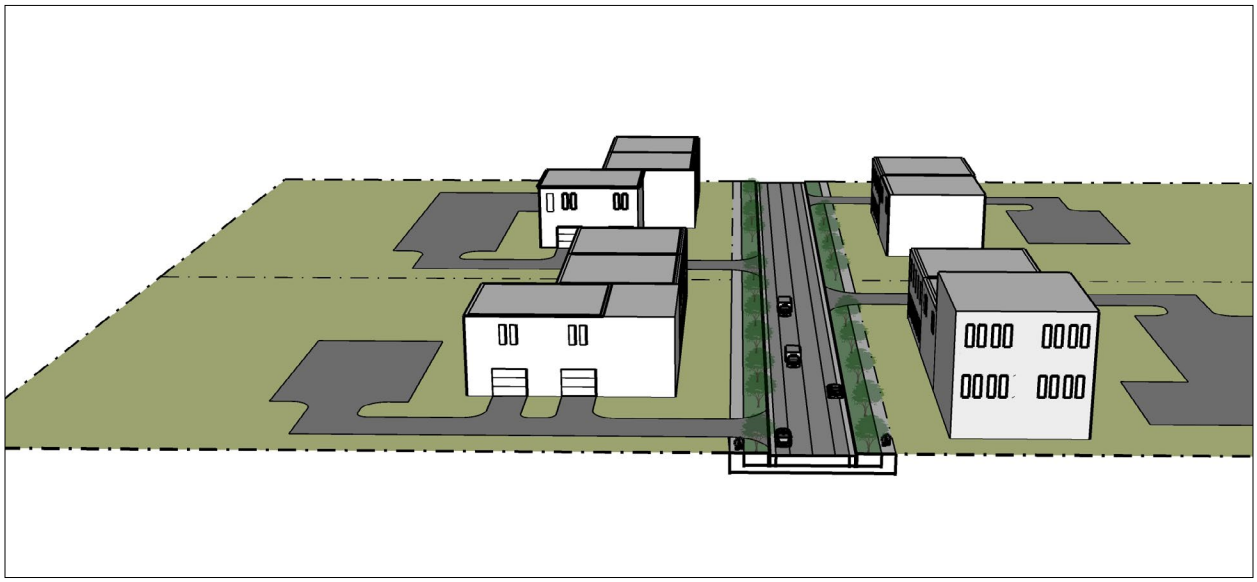
Sign Types Permitted

Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.12 I-1 Light Industrial



1. General Character/Intent

Primarily auto-oriented light industrial area, stand-alone sites, frontage roads along major arterials. Connected to other uses to provide non-motorized access for the local workforce (shared-use pathways, bike lane/route).

2. Intent

The Light Industrial district is established to accommodate light industrial and manufacturing, research and high technology, and office uses in an industrial parking setting. Uses in this district do not directly access major thoroughfares and are served by frontage or internal access roads. Where this district abuts non-industrial districts, dense screening shall be provided to buffer less intensive uses.

3. Building Types

Reserved for the future.

4-3.1.12 I-1 Light Industrial

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.12.4 LIST OF USES - I-1 LIGHT INDUSTRIAL

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Plant agriculture	C	
Indoor food production, local	P	
Indoor food production, general	C	
Community gardens	P	Section 4-4.4
Institutional Uses		
Places of assembly, neighborhood and general	P	
Colleges/Universities	P	
Civic uses	P	
Essential and public services	P	
Passenger/Transit terminals	P	
Hospitals	P	
Cemeteries	P	
Trade schools	P	
Recreational and Open Space Uses		
Outdoor recreational uses, private	P	
Indoor recreational uses, private	P	
Parks and open space, private	P	
Public parks and recreation	P	
Commercial Uses		
Artisan manufacturing	P	
Restaurants, dine-in, fast food, and carry out	P	
Restaurants with drive-through, drive-up, or drive-in service	P	
Professional offices	P	
Finance, insurance, and real estate services	P	
Banks and financial institutions	P	
Banks and financial institutions with drive-throughs	P	
Veterinary care and pet day care	P	
Pet kennels with indoor runs	P	
Pet kennels with outdoor runs	P	
Retail sales and service, limited/micro and local	P	
Personal service establishments	P	
Hotels	P	
Vehicle sale, indoor	P	
Vehicle sale, outdoor	P	
Vehicle service and repair, minor	P	
Vehicle service and repair, major	C	
Fuel establishments	P	
Self-storage facility and food locker rentals	P	Section 4-4.17
Industrial Uses		
Industrial, light	P	
Research/Laboratory	P	
Warehouse/Distribution	P	
Heliport	C	
Tech development	P	
Data processing	P	
Other Uses		
Small-scale wind energy systems	A	Section 4-4.15

P = Permitted C = Conditional A = Accessory

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.12 I-1 Light Industrial

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.12.4 LIST OF USES - I-1 LIGHT INDUSTRIAL

Use	P/C/A	Use Standard (if any)
Ground-mounted solar arrays, small	A	Section 4-4.15
Ground-mounted solar arrays, utility-scale	P	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3
Wireless communication facilities, including towers	C	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.12 I-1 Light Industrial

[Intentionally blank]

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.12 I-1 Light Industrial

5. Building Placement & Lot Size

Lot Size & Width

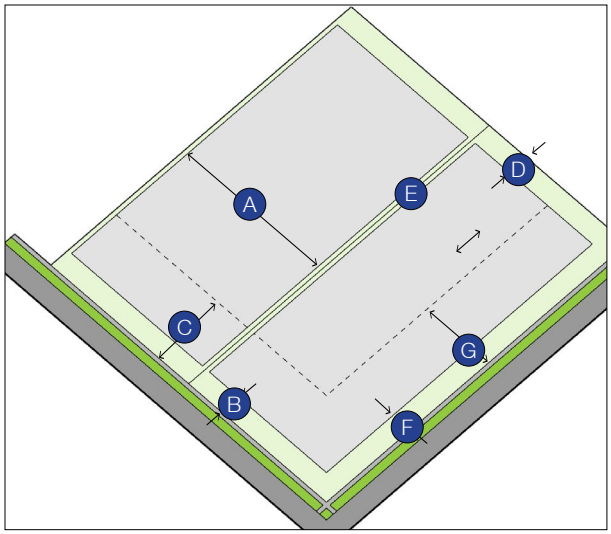
Lot size	None	
Lot width	None	A

Building Coverage

Building coverage	75% max.
Impervious surface coverage	85% max.

Setbacks - Principal Structures

Front setback:	25 ft. min.	B
	90 ft. max.	C
Rear setback:	25 ft. min.[1]	D
Side setbacks:		
Interior side	5 ft. min.[1]	E
Street side	25 ft. min.	F
	90 ft. max.	G



Setbacks - Accessory Structures

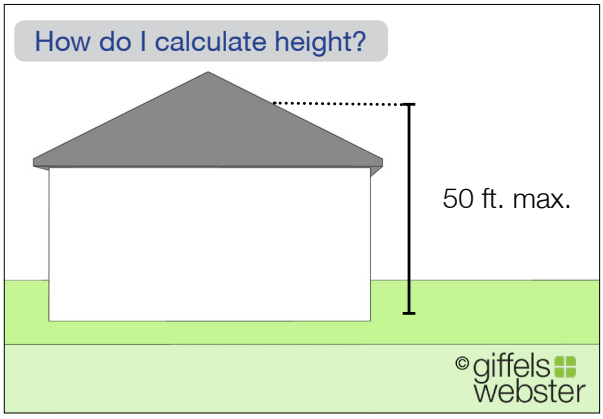
Minimum front setback:	Not permitted[2]
Minimum rear setback:	10 ft.[1]
Minimum side setback:	
Interior side	5 ft.[2]
Street side (if applicable)	Not permitted[1]

[1] When an accessory structure is located in or adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 25 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B shall be placed in front or street side yard.

4-3.1.12 I-1 Light Industrial

6. Building Form & Components



Building Form

Height - Principal Building	50 ft. max.[1]
Height - Accessory Building	18 ft.[2]
Orientation	Primary facade shall be oriented to the front lot line.
Main entrances	Shall be prominently located and visible from the primary street or dedicated open space.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] Within 100 feet of a residential district, maximum height is 35 feet.

[2] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.12 I-1 Light Industrial

7. Building Standards

Building Materials

Exterior Insulation Finishing System (E.I.F.S.) facades and facades of similar limited durability shall not be placed on an exterior facade between ground level and 8 feet above ground level.

Unfinished metal, plywood and similar unfinished material are prohibited.

Facades facing a street shall be of high quality and durable materials, as determined by the approving body. Brick and stone are suggested street-facing facade materials. At a minimum, a wainscot element of brick, stone or similar material in terms of durability and quality of appearance shall be provided from the ground to a height of 3.5 to 4.0 feet facing any street. This may be waived by the approving body for buildings that are set back 100 feet or more from a street.

Building materials used on front and street side facades shall extend a minimum of 16 feet along the side facade.

Building Lighting

See Section 4-5.4 Lighting for exterior lighting requirements.

8. Site Development

Accessory Structures	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

A walkway shall connect the main building entrance to a public sidewalk.

9. Access & Parking

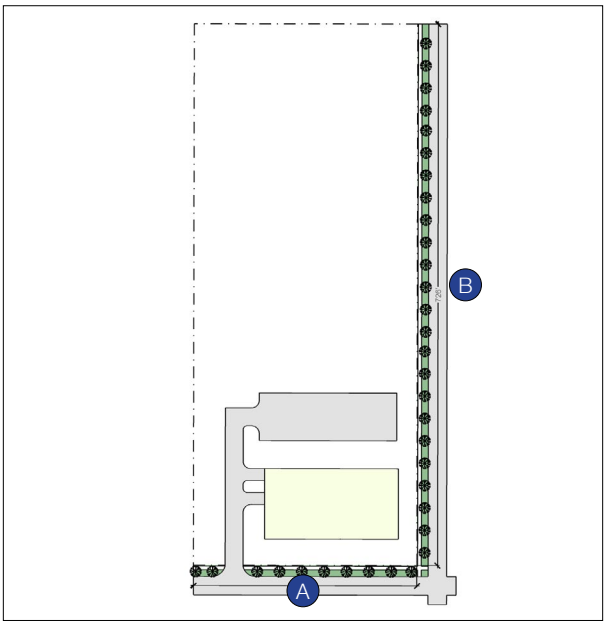
Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks

Front	20 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

4-3.1.12 I-1 Light Industrial

10. Landscaping



Landscape

Street trees	1 tree per 30 ft. of street frontage[1] Example shown: A Front: 10 trees required for 300 ft. of street frontage length B Side: 24 trees required for 726 ft. of street frontage length
Foundation	Within 3 ft. of all street-facing building facades. See Section 4-5.3, subsection A.10.
Landscape screening	Non-residential use: See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Non-residential use	Section 4-5.6

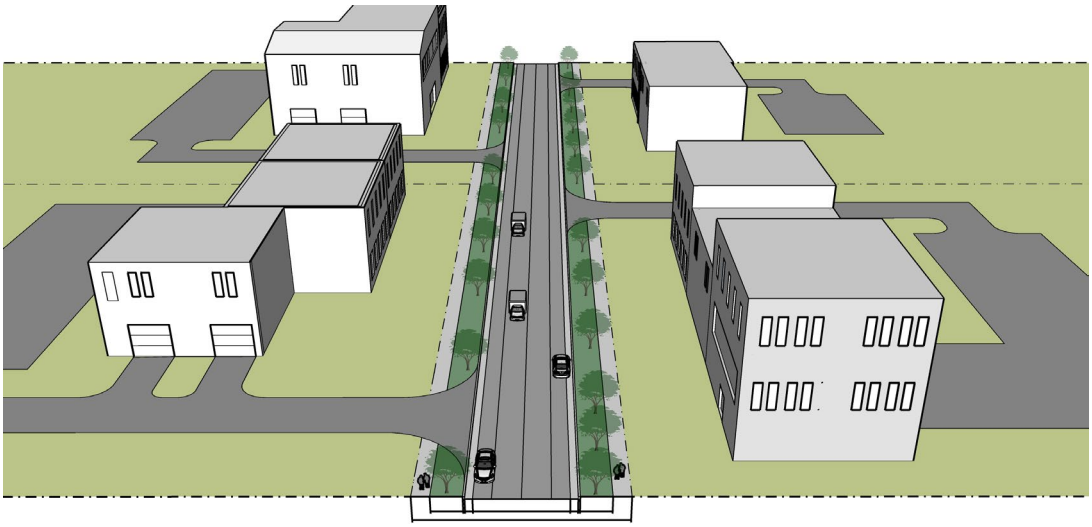
Sign Types Permitted

Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.13 I-2 General Industrial



1. General Character/Intent

An industrial area buffered from residential uses for heavier industrial uses.

2. Intent

The General Industrial district is established to accommodate heavier industrial uses, wholesaling, and warehousing facilities in an industrial park setting. Uses in this district may require outdoor storage or create more external effects on neighboring properties. Setbacks from neighboring uses are large, and extensive screening is required between these uses and non-industrial properties.

3. Building Types

Reserved for the future.

4-3.1.13 I-2 General Industrial

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.13.4 LIST OF USES - I-2 GENERAL INDUSTRIAL

Use	P/C/A	Use Standard (if any)
Agricultural Uses		
Plant agriculture	C	
Indoor food production, general	P	
Indoor food production, local	C	
Community gardens	P	Section 4-4.4
Agricultural research facilities	C	
Institutional Uses		
Places of assembly, neighborhood and general	P	
Civic uses	P	
Essential and public services	P	
Passenger/Transit terminals	P	
Hospitals	P	
Cemeteries	P	
Recreational and Open Space Uses		
Outdoor recreational uses, private	P	
Indoor recreational uses, private	P	
Parks and open space, private	P	
Public parks and recreation	P	
Skeet, trap, and rifle ranges	P	Section 4-4.5
Commercial Uses		
Artisan manufacturing	P	
Professional offices	P	
Banks and financial institutions	P	
Banks and financial institutions with drive-throughs	P	
Veterinary care and pet day care	P	
Pet kennels with indoor runs	P	
Pet kennels with outdoor runs	P	
Vehicle sale, indoor	P	
Vehicle sale, outdoor	P	
Vehicle service and repair, minor	P	
Vehicle service and repair, major	P	
Fuel establishments	P	
Self-storage facility and food locker rentals	P	Section 4-4.17
Adult entertainment establishment	C	Section 4-4.13
Industrial Uses		
Industrial, light	P	
Industrial, heavy	P	
Research/Laboratory	P	
Warehouse/Distribution	P	
Heliports	C	
Airports	C	
Freight terminal/facility	P	
Sanitary landfills, compost sites, and incinerators	C	Section 4-4.11
Contractor's yards	C	
Dry cleaning operations	P	
Packing and crating operations	P	
Waste processing or recycling facilities	C	Section 4-4.11
Junk or salvage yards	P	Section 4-4.7
Sand and gravel operations	C	Section 4-4.10
Tech development	P	

P = Permitted C = Conditional A = Accessory

4-3.1.13 I-2 General Industrial

4. List of Uses (Cont.)

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.13.4 LIST OF USES - I-2 GENERAL INDUSTRIAL

Use	P/C/A	Use Standard (if any)
Data processing	P	
Other Uses		
Compassion centers	C	Section 4-4.12
Utilities	P	
Small-scale wind energy systems	A	Section 4-4.15
Ground-mounted solar arrays, small	A	Section 4-4.15
Wireless communication facilities, excluding towers	P	Section 4-4.3
Wireless communication facilities, including towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.13 I-2 General Industrial

[Intentionally blank]

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.13 I-2 General Industrial

5. Building Placement & Lot Size

Lot Size & Width

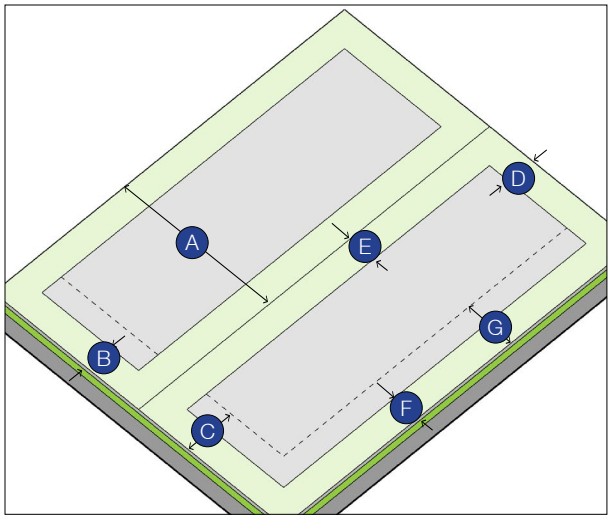
Lot size	None	
Lot size in an industrial park	None	
Lot width	None	A
Lot width in an industrial park	None	A

Building Coverage

Building coverage	75% max.
Impervious surface coverage	85% max.

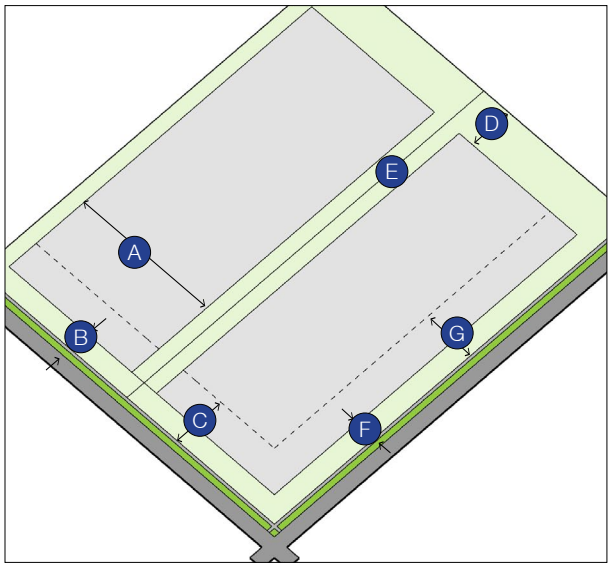
Setbacks - Principal Structures - Outside of Industrial Park

Front setback:	50 ft. min.	B
- On arterial street frontage only	90 ft. max.	C
Rear setback:	50 ft. min.[1]	D
Side setbacks:		
Interior side	50 ft. min.[1]	E
Street side	50 ft. min.	F
	90 ft. max.	G



Setbacks - Principal Structures - Industrial Park

Front setback:	35 ft. min.	B
- On arterial street frontage only	90 ft. max.	C
Rear setback:	50 ft. min.	D
Side setbacks:		
Interior side	25 ft. min.	E
Street side	35 ft. min.	F
	90 ft. max.	G



Setbacks - Accessory Structures

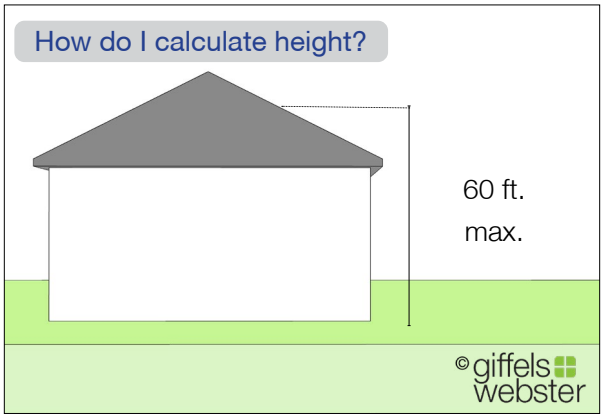
Minimum front setback:	Not permitted[2]
Minimum rear setback:	25 ft.[1]
Minimum side setback:	
Interior side	25 ft.[1]
Street side (if applicable)	Not permitted[1]

[1] When an accessory structure is located adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 30 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.

[2] No accessory structure other than a wall or fence, as permitted in Section 4-5.3, subsection B shall be placed in front or street side yard.

4-3.1.13 I-2 General Industrial

6. Building Form & Components



Building Form

Height - Principal Building	60 ft. max.[1,2]
Height - Accessory Building	18 ft.[3]
Orientation	Primary facade shall be oriented to the front lot line.
Main entrances	Shall be prominently located and visible from the primary street or dedicated open space.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.

See Section 4-3.12 subsection C and Section 4-5.9 subsection D for complete regulations.

[1] The setback for any portion of a building or structure that is over 30 feet in height shall be increased by 1 foot for each foot of height over 30 feet.

[2] Within 200 feet of a residential district, maximum height is 35 feet.

[3] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

4-3.1.13 I-2 General Industrial

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 for exterior lighting requirements.

8. Site Development

Accessory Structures[1]	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] When an accessory structure is located adjacent to a single-family residential zoning district, the minimum setback shall be equal to the height of the building in the non-residential district or 30 feet, whichever is greater, and shall be subject to the screening requirements in Section 4-5.3, subsection A.

9. Access & Parking

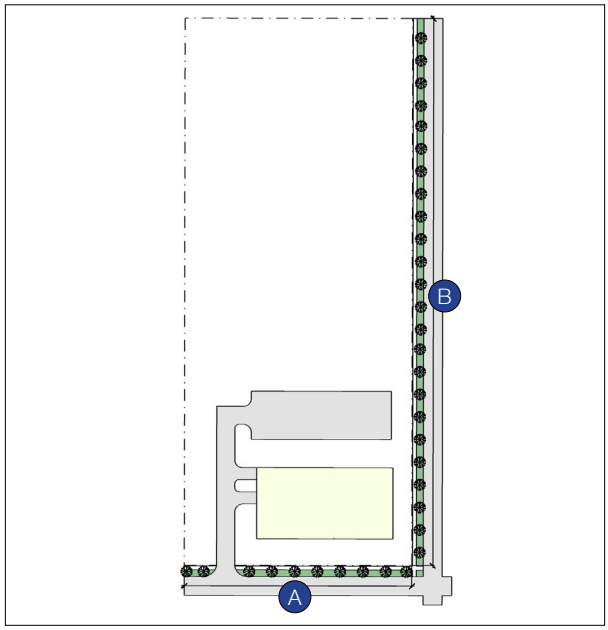
Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

Vehicular Parking Setbacks

Front	15 ft. min.
Rear	5 ft. min.
Interior Side	5 ft. min.
Street Side (if applicable)	5 ft. min.

4-3.1.13 I-2 General Industrial

10. Landscaping



Landscape

Street trees	1 tree per 30 ft. of street frontage[1] Example shown: A Front: 10 trees required for 300 ft. of street frontage length B Side: 24 trees required for 726 ft. of street frontage length
Foundation	Within 3 ft. of all street-facing building facades. See Section 4-5.3, subsection A.10.
Landscape screening	Non-residential use: See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Non-residential use	Section 4-5.6

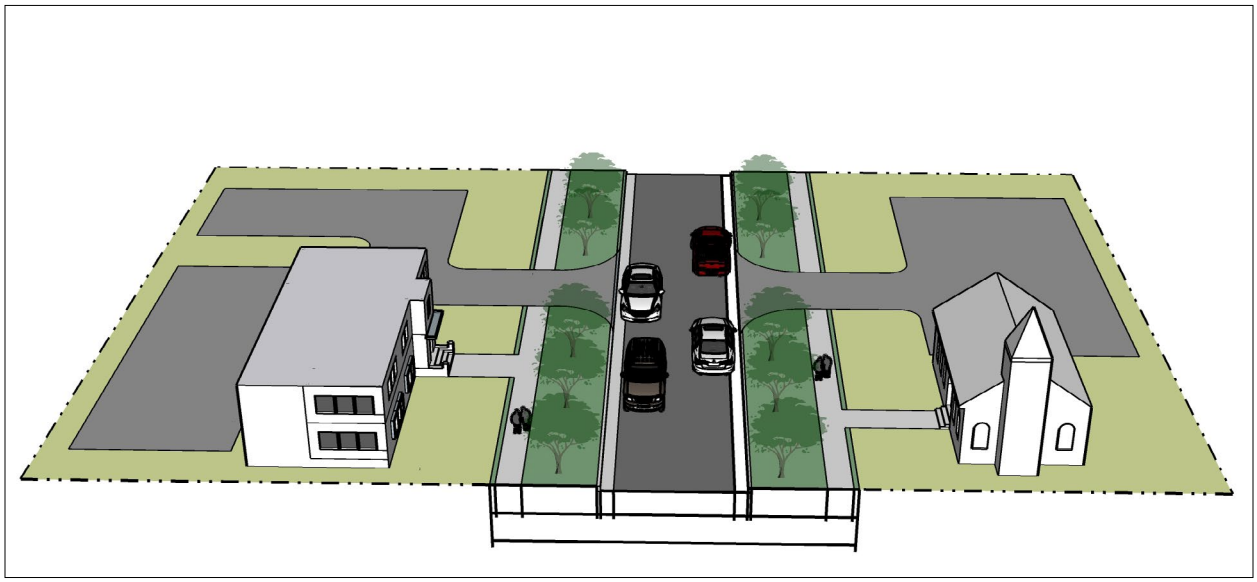
Sign Types Permitted

Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.14 CIV Civic



1. General Character/Intent

Public and quasi-public facilities including buildings, parks, plazas, and open spaces accessible by pedestrians and automobile traffic. These areas are connected to other uses to provide non-motorized access for the community (shared-use pathways, bike lane/route).

2. Intent

The Civic district is established to promote the development, maintenance, and use of land and structures for municipal or public purposes. The district also accommodates certain limited institutional uses.

3. Building Types

Reserved for the future.

4-3.1.14 CIV Civic

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.14.4 LIST OF USES - CIV CIVIC

Use	P/C/A	Use Standard (if any)
Institutional Uses		
Places of assembly, neighborhood and general	P	
Civic uses	P	
Essential and public services	P	
Recreational and Open Space Uses		
Public parks and recreation	P	

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.14 CIV Civic

5. Building Placement & Lot Size

Lot Size & Width

Lot size	None
Lot width	None

Building Coverage

Building coverage	50% max.
Impervious surface coverage	70% max.

Setbacks - Principal Structures

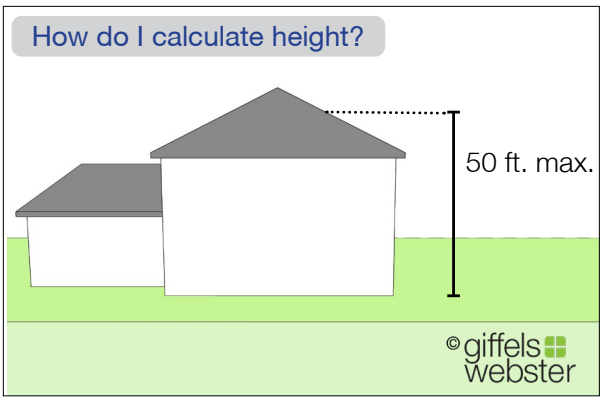
All setbacks equal to the height of the structure up to 50 ft. max.

Setbacks - Accessory Structures

All setbacks equal to the height of the structure up to 20 ft. max.

4-3.1.14 CIV Civic

6. Building Form & Components



Building Form

Height - Principal Building	50 ft. max.
Height - Accessory Building	-
Orientation	Primary facade shall be oriented to the front lot line.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows
- Architectural features may encroach into required yards up to three (3) feet.

See Section 4-3.12, subsection C and Section 4-5.9, subsection D for complete regulations.

4-3.1.14 CIV Civic

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 for exterior lighting requirements.

8. Site Development

Accessory Structures[1]	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] All setbacks equal to the height of the structure up to 20 ft. max. (50' max. for principal structures.)

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

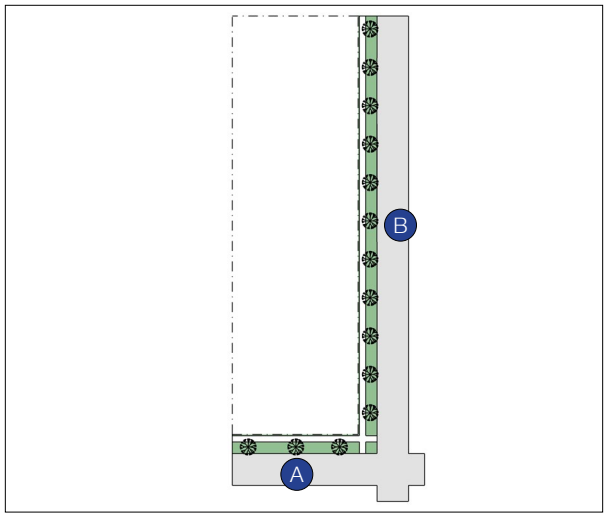
Vehicular Parking Setbacks[1]

Front	20 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.14 CIV Civic

10. Landscaping



Landscape

Street trees	1 tree per 30 ft. of street frontage[1] Example shown: Front: 3 trees required for 100 ft. of street frontage length Side: 11 trees required for 327 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10.
Landscape screening	Non-residential use: See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Non-residential use	Section 4-5.6

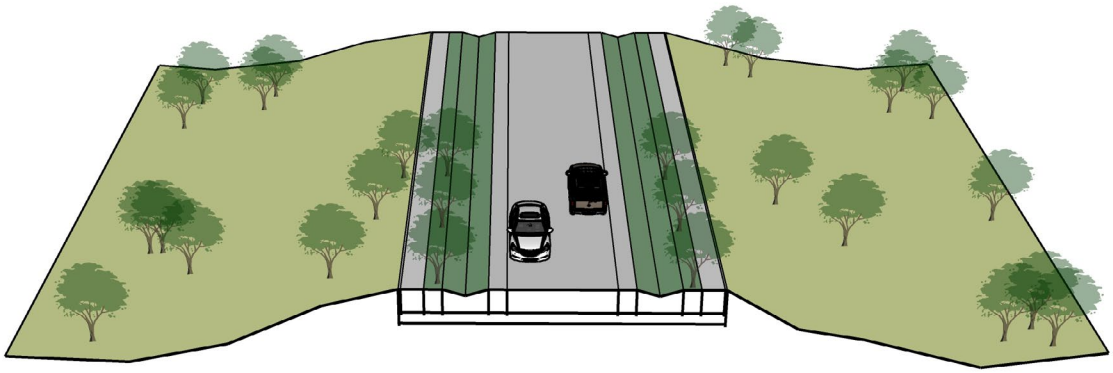
Sign Types Permitted

Non-residential use	Wall Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4-3.1.15 FP Floodplain



1. General Character/Intent

Limited developments areas to minimize impact to the floodplain areas.

2. Intent

The Floodplain district is intended to preserve areas that accommodate run-off water and to prevent flooding and the damage associated with it. Development is prohibited on lands prone to flooding.

3. Building Types

Reserved for the future.

4-3.1.15 FP Floodplain

4. List of Uses

User Note: Click on Blue for use-specific standards or refer to Chapter 4 - Use Standards.

TABLE 4-3.1.15.4 LIST OF USES - FP FLOODPLAIN		
Use	**P/C/A**	**Use Standard (if any)**
Agricultural Uses		
Plant agriculture	P	
Animal agriculture	P	Section 4-4.6
Community gardens	P	Section 4-4.4
Institutional Uses		
Essential and public services	P	
Recreational and Open Space Uses		
Outdoor parks and open space, private	P	
Indoor and outdoor recreation, private	P	
Public parks and recreation	P	
Other Uses		
Regional stormwater detention/retention ponds	P	
Temporary buildings and structures related to flood control and farming	P	Section 4-4.16
Wireless communication facilities, excluding towers	P	Section 4-4.3

See also Section 4-3.3 regarding permitted uses in all districts, Section 4-5.1, subsection A regarding accessory uses, and Section 4-3.4, subsection C regarding similar uses.

P = Permitted C = Conditional A = Accessory

4-3.1.15 FP Floodplain

5. Building Placement & Lot Size

Lot Size & Width

Agriculture use	40 acres min.
Other use	5 acres min.
Lot width	250 ft. min.

Building Coverage

Impervious surface coverage	10% max.

Setbacks - Principal Structures

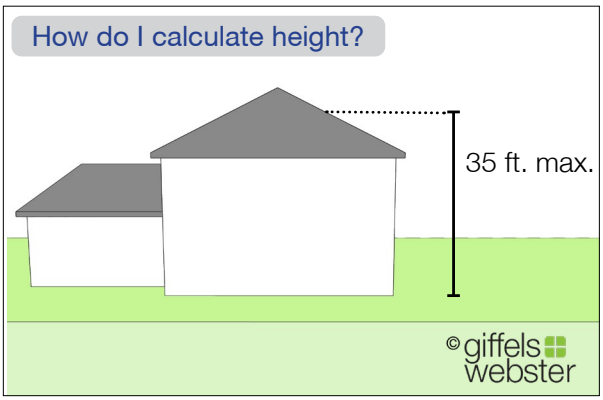
See Section 4-5.3, subsection C.2.

Setbacks - Accessory Structures

See Section 4-5.3, subsection C.2.

4-3.1.15 FP Floodplain

6. Building Form & Components



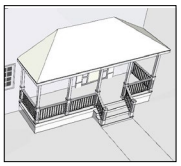
Building Form

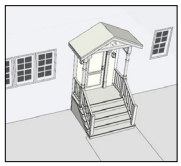
Height - Principal Building	35 ft.
Height - Accessory Building	20 ft.[1]

[1] See Section 4-4.3 for radio, TV, microwave, and wireless tower regulations. For structures related to an agricultural use or manufacturing of agricultural products, the maximum height shall be determined by City Council based on accepted standards in the area.

Building Components

Building frontage types


Porch


Stoop

Gallery

See Section 4-5.9 Building Frontage Standards for complete building frontage standards.

Frontage types are allowed according to building type.

Permitted Encroachments

Allowed encroachments into required yards

- Balconies
- Porches
- Decks
- Chimneys
- Window wells
- Bay windows

See Section 4-3.12, subsection C and Section 4-5.9, subsection D for complete regulations.

4-3.1.15 FP Floodplain

7. Building Standards

Building Materials

Regulated by Building Code; no additional regulations.

Building Lighting

See Section 4-5.4 for exterior lighting requirements.

8. Site Development

Accessory Structures[1]	Section 4-5.1, subsection A
Fences and Walls	Section 4-5.3, subsection B
Mechanical Equipment	Section 4-5.1, subsection C
Alternative Energy Components	Section 4-4.15
Site Lighting	Section 4-5.4

[1] All setbacks equal to the height of the structure up to 20 ft. max.

9. Access & Parking

Pedestrian access	Section 4-5.2, subsection F
Vehicular access	Section 4-5.2, subsection A, subsection C, subsection E

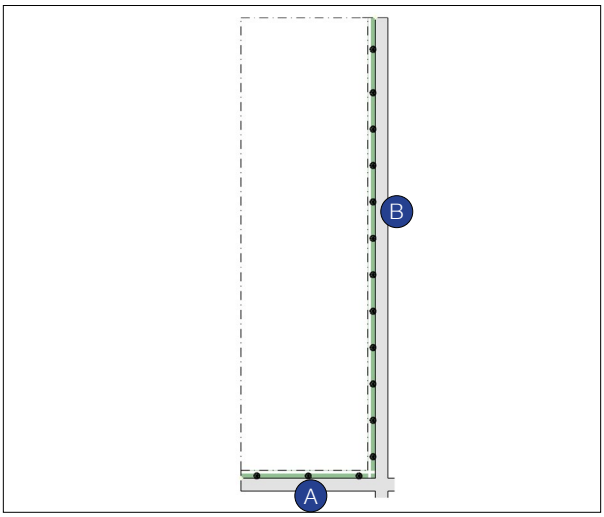
Vehicular Parking Setbacks[1]

Front	20 ft. min.
Rear	20 ft. min.
Interior Side	10 ft. min.
Street Side (if applicable)	20 ft. min.

[1] Not applicable to residential uses (excluding multi-family).

4-3.1.15 FP Floodplain

10. Landscaping



Landscape

Street trees	1 tree per 75 ft. of street frontage[1] Example shown: A Front: 3 trees required for 250 ft. of street frontage length B Side: 12 trees required for 871 ft. of street frontage length
Foundation	See Section 4-5.3, subsection A.10.
Landscape screening	Non-residential use: See Section 4-5.3, subsection A.

[1] Street trees shall be located outside of clear vision and corner clearance areas and a minimum of 15 feet away from fire hydrants and street lights.

11. Signs

Total Signs Allowed

Residential use	Section 4-5.6
Non-residential use	Section 4-5.6

Sign Types Permitted

Residential use	Wall
Non-residential use	Wall
	Freestanding

See Section 4-5.6 for complete standards, including temporary signs.

4-3.1.16 PUD Planned Unit Development

A. **Purpose**.

1. The PUD district, a planned unit development overlay district, is designed to accommodate development projects that bring significant public benefit, achieve more advantageous and efficient use of sites and infrastructure through the location and arrangement of structures, circulation, parking, and open space, and comply with the intent and purpose of this code, other related City ordinances, and the Comprehensive Plan.
2. A PUD district may be overlayed on any of the zoning districts as established by this code. A PUD district is distinguished from the traditional and separate process of zoning and land subdivision and approaches a site holistically. These projects may only be achievable through a number of technical deviations from the standard zoning categories. The density, bulk, height, minimum lot size, use, and buildings of property may be altered by agreement between a developer and the City. To finalize an agreement, the developer must demonstrate that the proposal is unique to the site, the area, and the City, and meets the standards set forth by this code, other City ordinances, and the Comprehensive Plan. The benefits of the PUD district must be significant to warrant any modifications of standards required under any district regulations by the City.
3. A PUD district is not intended as a short cut in the approval process, nor is it to be construed as a means of relaxing or circumventing regulations without ample justification and benefit to the City.

B. **Permitted Uses**. Uses that are permitted by this code within any zoning district are permitted within a PUD district, provided there is distinct compatibility and harmony among the uses of the PUD district and adjoining districts, with no adverse effects on the uses in adjoining districts.

C. **Restrictions**.

1. Special assessments cannot be used to finance the development of a PUD district, including but not limited to, streets, street lights, water, sanitary sewer, storm sewer, sidewalks and pedestrian spaces, any other utilities, landscaping, or the engineering, design, or labor involved in the construction thereof, within the PUD district.
2. A PUD district will not be considered if it provides for intensity, appearance, and arrangement for use of space(s) that:
   a. Adversely affect the economic prosperity of the City or its extraterritorial area;
   b. Are incompatible with the existing physical nature of the site or area;
   c. Are a burden on existing City services and utilities;
   d. Creates traffic or parking demands incompatible with the existing or proposed facilities;
   e. Would be a financial burden or development burden on the City; or
   f. Make no distinct difference if a proposal is carried out through standard rezoning, conditional use permit, or land subdivision process.
3. Uses will not be permitted in the PUD district except in conformity with the Comprehensive Plan and the detailed development plan prepared to meet the requirements of this code.
4. The PUD district proposed plan must include assurances that the PUD district project will be completed in a manner that will not adversely affect the City or the extraterritorial area as a result of termination. The terms of the assurances must address financial and development considerations in sufficient detail as required by the City.

4-3.1.16 PUD Planned Unit Development

D. **Site Requirements**. The minimum land parcel for a PUD district is two (2) acres and the maximum land parcel for a PUD district is forty (40) acres. Areas of less than two (2) acres may qualify as a PUD district if the developer can show that waiving this requirement is in the public interest and that at least one (1) of the following conditions is met:

1. Unusual physical features of the site or the surrounding neighborhood are such that development under a different zoning district does not conserve the unique physical features of the site or allow functional or environmental compatibility with the surrounding neighborhood;
2. The site is adjacent to an area which has been developed under the provisions of a PUD district and will contribute to the amenities and functionality of the neighborhood; or
3. The site is part of an urban redevelopment renewal program, provided it does not conflict with the nature of the surrounding neighborhood.

E. **Application Requirements**. An application for a PUD district shall contain all the following information:

1. All uses in a PUD district must be connected to the public water and sewer system;
2. A statement describing the general character of the intended development and why a PUD district is proposed;
3. Detailed development plan as described in subsection F below;
4. Proof of financial ability of the owner(s)/developer(s) to carry out the project;
5. Analysis of economic impacts for a 10-year period which details anticipated sales tax revenue, property tax revenue, and the marginal social benefit to the public;
6. An outline of the anticipated schedule and sequence of development if the development will be completed in phases for the total PUD district;
7. A description of all anticipated municipal services and utilities together with a description of easement or access rights necessary to provide municipal services and utilities;
8. Where applicable, a subdivision plat meeting the requirements of this code for traditional platted subdivisions; and
9. Any agreements, by-laws, provisions, and covenants that insure the timely and satisfactory completion of the project without posing a burden on the City or adjoining properties.

F. **Development Plan**. The detailed development plan shall contain all information required for a site plan as set forth in Section 4-7.2 Site Plan Review, subsection D, as well as the following:

1. Detailed layout of proposed streets and location of blocks for designated uses, including the right-of-way widths and street names;
2. Location of open spaces and facilities for public uses;
3. Existing drainage pattern based on the current topographic information and the location of land to be dedicated for parks, playgrounds, and/or open spaces. A detailed drainage plan drawn on contour maps of no less than one (1) foot contour interval and delineates water retention area(s);
4. The detailed development plan must be drawn at a scale of one (1) inch equaling two hundred (200) feet or less;
5. Three-dimensional drawings showing location, height, and bulk of buildings based on the buildings' footprints and elevations;
6. Other engineering or financial information required by the City;
7. For proposed mixed use, commercial, or industrial PUD districts, the location, number, and configuration of parking spaces;

4-3.1.16 PUD Planned Unit Development

8. The location, type, and size of signs; and
9. Concrete or asphalt driveways and parking areas constructed in accordance with City of Horace standards.

G. **Coordination with Platting Regulations**.
It is the intent of this code that platting review be carried out simultaneously with the review of the PUD district and that the development plans submitted under this code be submitted in a form that will satisfy the requirements of the subdivision control regulations for plats.

H. **Review and Approval Procedure**. The review and approval of a PUD district is as follows:

1. The developer must participate in a pre-application consultation meeting with the Community Development Department to discuss ideas and alternatives for a PUD district, discuss the financial ability of the developer, and determine if the proposed plan meets the requirements of the City.
2. The developer must file an application for a PUD district with the City, including all information required by this code, and pay a filing fee as set forth in a fee schedule established by resolution of the City Council.
3. Upon receipt of the filing fee and completed application for a PUD district, the application will be reviewed by the City's Community Development Department to determine if the application contains all prerequisites necessary for an application for a PUD district. If acceptable, the application will be referred to the Planning Commission and its staff for review. After the Planning Commission's review of the application, the Planning Commission may give preliminary agreement to the concept of a PUD district for the total area of the proposed PUD district or such lesser area as is deemed appropriate. The Planning Commission may require additional information from the developer and may propose modifications within the scope of this code to the proposed plan for the PUD district before holding a public hearing.
4. After the Planning Commission gives preliminary agreement to the concept of the PUD district, the developer will work with City staff to develop a PUD district agreement. The PUD district agreement contains terms, provisions, and conditions that apply specifically to the PUD district. The PUD district agreement is considered an ordinance of the City, and, as such, the PUD district agreement will follow the standard procedure to adopt an ordinance.
5. Upon completion of the initial PUD district agreement, the Planning Commission will hold a public hearing on the PUD district agreement and the application. After the public hearing, the Planning Commission may act on the PUD district agreement and application for the PUD district setting forth all areas of agreement with the developer's proposed plan, as modified during the process of investigation and inquiry, and identifying the position(s) of the Planning Commission on those areas of disagreement with the developer's proposed plan for the PUD district. The Planning Commission may then request additional information or recommend approval, conditional approval, or denial of the PUD district agreement and application to the City Council.
6. The City Council will then hold a public hearing and may act upon the PUD district agreement and application or hold additional deliberation or public hearings, after which the City Council may request additional information, approve, conditionally approve, or deny the PUD district agreement and application. The developer is responsible for all costs associated with advertising the public hearings and technical advice incurred by the City Council and Planning Commission during consideration of the PUD district agreement and application.

4-3.1.16 PUD Planned Unit Development

7. If the City Council denies the application, the developer may appeal the decision to the Cass County District Court, as permitted by law.
8. Upon approval or conditional approval by the City Council and delivery of all signed documents deemed necessary to meet the terms of the PUD district agreement, the plat will be recorded with the Cass County Recorder's Office. Thereafter, building permits will be issued only if the application for building permit complies with the terms and conditions allowable for the PUD district. A separate building permit fee is required according to the fee schedule established by resolution of the City Council.
9. If the developer fails to develop the PUD district as planned, the PUD district automatically terminates two (2) years after the approval of the PUD district by the City Council, unless (a) renewed for another two (2) years by affirmative vote of the City Council, and (b) the developer's payment of an additional administrative fee as set forth in a fee schedule established by resolution of the City Council. Building permits may not be granted after termination of the PUD district.

I. **Amendments**. Any change in the PUD district agreement will first be submitted for recommendation to the Planning Commission, and if, in the opinion of the Planning Commission, such change constitutes substantial alteration of the original plan, especially with regard to a change in land use or an increase in development density or intensity, the Planning Commission may recommend approval, conditional approval, or denial of the PUD district amendment to the City Council. The City Council may then request additional information, hold a public hearing, approve, conditionally approve, or deny the PUD district amendment.

J. **Penalty**. Failure of the developer to comply with the PUD district agreement may result in termination of the PUD district. If the PUD district is terminated, the land and structures will be rezoned to the City zoning district that most closely resembles the PUD district. The City may also prohibit the developer from initiating another PUD district for a five (5) year period following termination.

4-3.2 District Boundaries

A. The boundaries of the zoning districts are hereby established as shown on the official zoning district maps maintained by the Community Development Director, or their designated representative, which shall be open to examination at any time during regular office hours. Such maps with all notations, references, and other information shown thereon shall be as much a part of this chapter as if fully described herein.

B. Unless shown otherwise, the boundaries of the districts are lot lines, the centerlines of streets, alleys, roads, rivers, and streams, and the corporate limits of the City.

C. Where, due to the scale, lack of detail, or illegibility of the zoning map accompanying this chapter, or the electronic maps maintained by the City, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to, or upon its own motion by, the City Council.

4-3.3 Uses Permitted in All Districts

The following uses are permitted in all districts:

A. Uses similar in character, impact, and other use characteristics to other principal uses in the district as determined by the City Council upon recommendation of the Planning Commission. Where applicable, the appropriate location and floor level to be determined by the City Council upon recommendation of the Planning Commission.

B. Uses similar in character, impact, and other use characteristics to other conditional uses in the district as determined by the Planning Commission. Where applicable, the appropriate location and floor level to be determined by Planning Commission.

4-3.4 Permissive Zoning and Uses Not Expressly Permitted

Land uses are permitted specifically in the various zoning districts of this chapter. Where not specifically permitted, uses are thereby prohibited in that district, except as set forth below.

A. **Uses Permitted By Right**. Permitted uses, as identified in sections of this chapter covering each district, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, sign regulations, district intent, permit, certificate, and site plan requirements found elsewhere in this code, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated.

B. **Conditional Uses**. The uses identified as conditional uses in the sections of this chapter covering each district are recognized as possessing characteristics of a unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) necessitating individual standards and conditions in order to safeguard the general health, safety, and welfare of the community. Approval for these uses shall follow the procedures and standards of review set forth in Section 4-7.3 Design Review.

C. **Uses Not Expressly Permitted**.

1. Uses not specifically listed in a given zoning district may be permitted in that district provided that City Council approves their location in that district, based upon a finding that the use is similar in character and intensity to those uses specifically permitted in the district. Such approvals shall follow the procedures for conditional uses set forth in Section 4-7.3 Design Review. If a finding is made that a use is not similar to other uses permitted in the district requested by an applicant, the City Council may find that the use is similar to uses permitted in another district, which would then require conditional use approval in the City Council-designated district.
2. If a land use is not listed in any district as a permitted uses or as a conditional uses, and the use is not found to be similar to a permitted or conditional use in another district, the City Council may determine that the use is allowed in the I-2 General Industrial district as a conditional use if the use is determined to be a reasonable land use and will not be detrimental to the public health, safety, and welfare of the City. In doing so, the City Council will direct the Planning Commission to hold a public hearing as a conditional land use and make a recommendation to City Council. The City Council shall, if necessary, attach reasonable conditions of approval to ensure that the spirit and intent of this code is met.

4-3.5 Average Lot Widths

Lots included in average lot width calculations shall be dispersed throughout a development, rather than clustered together to provide greater variety in the overall feel of the development.

4-3.6 Vacated Areas

Whenever any street, alley, or public way is vacated by official action of the City Council or other road agency, the zoning districts adjoining each side of such street, alley, or public way will be automatically extended to the center of such vacation and all area included in the vacation will be subject to all regulations of the extended district.

4-3.7 Certification

The Official Zoning Map shall bear a certificate with the signatures of the Mayor, the Planning Commission Chairperson, the City Auditor and the date of adoption of the zoning map as an integral part of this code.

4-3.8 Compact Residential District Standards

A. **Generally**. Site plans shall use the street concept plans in the Comprehensive Plan as a guide in developing the grid layout system in the district. The approving body may allow modifications and adjustments if done in keeping with the spirit and intent of this code and the Comprehensive Plan.

B. **Key Elements of Development in the Compact Residential District**.

1. **Uses**. This district will include high-quality walkable residential neighborhoods with a mix of detached units, townhomes, and multiplex dwelling units. Limited office uses constructed at a residential scale are also anticipated. An example would be live/work units, where a professional office use operated by the occupant of the dwelling unit is conducted on a scale compatible with a compact residential neighborhood.
2. **Transportation**. This district will include an internal street network that supports motorized and nonmotorized travel within the area, with connections to surrounding areas. Accommodations for electric vehicles, autonomous vehicles, bicycles, and linkages to mass transit should be considered.
3. **Parking**. On-street parking will be provided within Compact Residential district, as well as off-street parking in tuck-under garages, detached and attached garages, and shared parking facilities. Generally, off-street parking will be provided behind buildings that front on the internal street network.
4. **Placemaking**. The Compact Residential neighborhoods will have residential lots with small front yards that front on local streets that are safe, comfortable, and attractive to pedestrians, as well as civic spaces such as pocket parks and plazas that support a variety of social interactions at a residential neighborhood scale.
5. **Technology and Sustainability**. Mitigation of stormwater runoff should be accomplished through a mix of traditional methods and bioretention systems, such as rain gardens and bioswales. Landscaping with native plants, green roofs, living walls, and the incorporation of alternative energy systems, such as solar collectors or geothermal heat pumps into building and site designs is encouraged.

C. **Compact Residential Blocks and Development**.

1. Development sites shall be designed with a grid pattern of streets and parking areas. See Section 4-6.16 Block Design for block length regulations in Compact Residential districts.
2. Laneways (alley lanes) shall be provided behind principal buildings fronting on collector and arterial roadways. This requirement may be waived or modified by the approving body when a suitable alternative is approved that reduces the number of driveways and maintains the spirit and intent of this code.

4-3.9 Urban Residential District Standards

A. **Generally**. Site plans shall use the street concept plans in the Comprehensive Plan as a guide in developing the grid layout system in the district. The approving body may allow modifications and adjustments if done in keeping with the spirit and intent of this code and the Comprehensive Plan.

B. **Key Elements of Development in the Urban Residential District**.

1. **Uses**. The Urban Residential district is intended to provide for residential units in a variety of styles and types, in a compact, walkable setting. This district may serve as a transition between areas of more intense commercial or mixed development and compact or suburban residential districts. It will include a mix of detached units, townhomes, and multiplex dwelling units. Limited office, retail, and restaurant uses constructed at a residential scale are also anticipated. One example would be live/work units, where a professional office use operated by the occupant of the dwelling unit is conducted on a scale compatible with the neighborhood. Another would be a small corner store that provides convenience goods or small corner pizza restaurant. Retail and restaurant uses and single use office uses are limited to corner sites.
2. **Transportation**. This district will include an internal street network that supports motorized and nonmotorized travel within the area, with connections to surrounding areas. Accommodations for electric vehicles, autonomous vehicles, bicycles, and linkages to mass transit will be considered.
3. **Parking**. On-street parking will be provided within Urban Residential district, as well as off-street parking in tuck-under garages, detached and attached garages, and shared parking facilities. Generally, off-street parking will be provided behind buildings that front on the internal street network.
4. **Placemaking**. The Urban Residential neighborhoods will have residential lots with limited front yards. Streets are safe, comfortable, and attractive to pedestrians, and civic spaces, such as pocket parks and plazas that support a variety of social interactions at a residential neighborhood scale are provided.
5. **Technology and Sustainability**. Mitigation of stormwater runoff will be accomplished through a mix of traditional methods and bioretention systems, such as rain gardens and bioswales. Landscaping with native plants, green roofs, living walls, and the incorporation of alternative energy systems, such as solar collectors or geothermal heat pumps into building and site designs is encouraged.

C. **Urban Residential Blocks and Development**.

1. Development sites shall be designed with a grid pattern of streets and parking areas. See Section 4-6.16 Block Design for block length regulations in Urban Residential districts.
2. Laneways (alley lanes) shall be provided behind principal buildings fronting on collector and arterial roadways. This requirement may be waived or modified by the approving body when a suitable alternative is approved that reduces the number of driveways and maintains the spirit and intent of this code.

4-3.10 Mobile and Manufactured Home District Standards

A. **Elements of the Mobile and Manufactured Residential Districts**.

1. New manufactured homes and modular homes shall be placed on a permanent foundation or basement. In addition, all units shall meet the standards of 4-4.8 Detached Single-Family and Two-Family Dwelling Standards.
2. Each unit shall have space for at least a two (2) stall attached garage.
3. Modular homes and site built homes shall meet the requirements of the Uniform Building Code. Manufactured homes shall meet the latest HUD standards.
4. Each unit shall have at least nine hundred (900) square feet of living space.

B. **Other District Standards**.

1. Manufactured homes must meet, at a minimum, the Manufactured Home Construction and Safety Standards Act provisions as adopted by the Department of Housing and Urban Development (HUD) in 1974 (24 CRF 3280), which became effective June 15, 1976, and bear a date plate certifying that it was built in compliance with said Act.
2. A manufactured home may not be built, constructed, or otherwise assembled or placed without the owner thereof having obtained a building permit from the office of the Building Administrator for which a fee shall be calculated in the same manner for which other fees are calculated within the City.
3. Manufactured homes shall be placed on permanent foundations which are protected from frost and meet HUD, FHA, and manufacturer's foundation specifications, or other foundations which are approved by the Building Administrator. Foundation skirting around the perimeter of the manufactured home shall consist of material made from concrete or masonry products, or an approved material by the Building Administrator that is consistent in appearance and quality with products used in the area and which color and texture will be consistent with surrounding structures.

4-3.11 Special Districts: 17/76, Old Town, and Mixed Use District Standards

A. Elements of the special districts include:

1. **17/76**.

a. **Commercial, restaurant, and entertainment uses**. This district will include high-quality working, dining, shopping, and entertainment opportunities in a traditional town center development pattern, focused along an internal street network. Commercial uses in this area could include general and specialty retail and personal services that serve district and nearby residents as well as destination uses that draw visitors from the region. Restaurants and entertainment uses with outdoor patios and open spaces will contribute to a vibrant, dynamic atmosphere.

b. **Housing**. This district will contain high-quality, unique housing. Residential uses may be located above commercial uses, and stand-alone residential uses may include a mix of townhomes, apartments, and multiplexes. A variety of housing sizes to accommodate residents of all ages and abilities is desired, from one (1) bedroom units to larger two to three (2-3) bedroom units.

c. **Transportation**. This district will include an internal street network that supports motorized and nonmotorized travel within the area, with connections to surrounding areas. Accommodations for electric vehicles, autonomous vehicles, bicycles, and mass transit will be considered.

d. **Parking**. On-street parking will be provided within the 17/76 district. Compact development where off-street parking is shared between uses is envisioned, minimizing the amount of land devoted to surface parking. Generally, off-street parking will be provided behind buildings that front on the internal street network. Bicycle parking should also be accommodated in safe, convenient, and accessible areas. Electric vehicle charging stations are encouraged.

e. **Placemaking**. The public realm will be framed by buildings, streets, and sidewalks that are safe, comfortable, and attractive to pedestrians, as well as civic spaces such as pocket parks and plazas that support a variety of social interactions, from impromptu gatherings to community events.

f. **Sustainability**. Mitigation of stormwater runoff should be accomplished through a mix of traditional methods and bioretention systems such as rain gardens and bioswales. Landscaping with native plants, green roofs, living walls, and the incorporation of alternative energy systems, such as solar collectors or geothermal heat pumps into building and site designs are encouraged.

2. **Old Town**.
   a. **Commercial and Restaurant Uses**. This district will include high-quality dining and shopping opportunities close to highly walkable residential areas. Commercial uses in this area will include general and specialty retail and personal services that serve district and nearby residents. Restaurants with outdoor patios and open spaces will contribute to a sense of liveliness and place.
   b. **Housing**. Residential uses may be located above commercial uses, and stand-alone residential uses may include a mix of townhomes, apartments, multiplexes, and small-lot detached single-family development. A variety of housing sizes to accommodate residents of all ages and abilities is desired, from one (1) bedroom units to larger two to three (2-3) bedroom units.
   c. **Transportation**. This district will include an internal street network that supports motorized and nonmotorized travel within the area, with connections to surrounding areas. Accommodations for electric vehicles, autonomous vehicles, bicycles, and mass transit should be considered.
   d. **Parking**. Some on-street parking will be provided within the Old Town district. Shared parking facilities are encouraged. Generally, off-street parking will be provided in the rear and side yards of buildings that front on the internal street network. Bicycle parking should also be accommodated in safe, convenient, and accessible areas. Electric vehicle charging stations are encouraged.
   e. **Placemaking**. The public realm will be framed by buildings, streets, and sidewalks that are safe, comfortable, and attractive to pedestrians. Small spaces such as pocket parks and plazas are encouraged to be built as the district develops.
   f. **Sustainability**. Mitigation of stormwater runoff should be accomplished through a mix of traditional methods and bioretention systems, such as rain gardens and bioswales. Landscaping with native plants, green roofs, living walls, and the incorporation of alternative energy systems, such as solar collectors or geothermal heat pumps into building and site designs are encouraged.

B. **Blocks and Development**. In the 17/76, Old Town, and Mixed Use districts, the following standards apply:
   1. Development sites shall be designed with a grid pattern of streets and parking areas. See Section 4-6.16 Block Design for block length regulations in 17/76 and Old Town districts.
   2. Laneways (alley lanes) shall be provided behind principal buildings fronting on collector and arterial roadways. This requirement may be waived or modified by the approving body for sites fronting on an arterial road when a suitable alternative is approved.
   3. Site plan shall use the street concept plans in the Comprehensive Plan as a guide in developing the grid layout system in the district. The approving body may allow modifications and adjustments if done in keeping with the spirit and intent of this code and the Comprehensive Plan.

4-3.12 Exceptions to Zoning District Standards

A. **Essential Services**. Essential services shall be permitted as authorized and regulated by law and other ordinances of the City. It is the intention of this section to exempt such essential services from the application of this chapter, except that all buildings shall be subject to site plan review in accordance with this chapter.

B. **Voting Place**. The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

C. **Height Limits**. The height limits of this chapter shall not apply to chimneys, flagpoles, spires, steeples, belfries, cupolas, domes, water towers, observation towers, power transmission towers, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, radio towers, masts, aerials, or radio transmitting and receiving antennae, provided that these structures comply with an applicable regulations of the Federal Aviation Administration. The height limits of this chapter shall not apply to necessary mechanical appurtenances placed upon a building, provided that they do not exceed the maximum permitted height of the building by more than ten feet.

D. **Lots Adjoining Alleys**. In calculating the area of a lot that adjoins a dedicated alley or lane, for the purpose of applying lot area requirements of this chapter, one-half (½) the width of such alley abutting the lot shall be considered as part of such lot.

E. **Residential Driveway Aprons**. The driveway aprons of detached single-family homes shall not be subject to the parking setbacks set forth in Chapter 3 - Zoning Districts of this code.

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Title IV | Chapter 4
Use Standards

Chapter 4 - Use Standards

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4-4.1 Artisan Manufacturing Uses in the 17/76 and Old Town Districts

A. The primary sales and display activity should be in the shopfront space, adjacent to the street. Accessory activities may occupy a larger square foot area, but should not be located in the retail shopfront.

B. Storage of non-retail materials and the making, assembling, remodeling, repairing, altering, finishing, or refinishing of its products or merchandise is permitted provided:
   1. These activities are completely enclosed within the premises occupied by the establishment.
   2. These activities are clearly accessory to sales and display activities.
   3. Levels of traffic, noise, smoke, vibrations, odor, fumes, and glare must not exceed those levels which are customary for retail uses within the district.

4-4.2 Commercial Uses in the 17/76 and Old Town Districts

A. Ground floor building footprint shall not exceed 35,000 square feet. Larger building footprints may be permitted by conditional use permit. As part of an application for a conditional use permit, the applicant shall demonstrate that the:
   1. Conditional land use standards in Section 4-7.4 Conditional Uses are met;
   2. Building and site design standards of Section 4-3.1.8 17/76 and Section 4-3.1.9 OT Old Town are met; and
   3. Design, appearance, and function of the building are compatible with a pedestrian-scale vision of these districts, as described in this code and the Comprehensive Plan.

B. Drive-throughs and associated queuing areas are not permitted in any street-facing yard. Drive-through windows shall only be permitted in rear yards along collector roads. Drive-through windows shall only be permitted in rear and interior side yards along arterial roads.

C. Restaurants may have up to one (1) walk-up window for take-out service.

D. Storage of non-retail materials used to make retail products and the making, assembling, remodeling, repairing, altering, finishing, or refinishing of these products or merchandise is permitted provided:
   1. These activities are completely enclosed within the premises occupied by the establishment.
   2. These activities are clearly accessory to sales and display activities.
   3. The finished products for retail sales are primarily sold by the principal retail use.

4-4.3 Communication Structures and Facilities

A. **Purpose.** The intent of this section is to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems, while protecting the public health, safety, and welfare by regulating the placement and development of wireless communication facilities. The regulations in the section are intended to accomplish the following:

1. Protect residential areas and land uses from the potential adverse impact of towers and antennas, and ensure that commercial communication towers are located in areas with the least environmental impact on adjoining uses.
2. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures, and buildings, and limit inappropriate physical and aesthetic overcrowding of land use activities and adverse impact upon existing population, transportation systems, and other public services and facility needs by regulating and limiting the establishment, placement, and manner of wireless communication facilities.
3. Minimize the total number of towers or antennas throughout the community.
4. Promote the public health, safety, and general welfare.
5. Provide for adequate public information about plans for wireless communication facilities and allow the City to efficiently plan for the location of such facilities.
6. Minimize the adverse impacts of technological obsolescence of such facilities, including timely removal of facilities.
7. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
8. Avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting of tower structures.
9. In furtherance of these goals, the City of Horace shall give due consideration to the Comprehensive Plan, this code, existing land uses, and environmentally sensitive areas in considering sites for the location of towers and antennas.

B. **General Requirements**.

1. Amateur radio and ham radio towers are permitted in all zoning districts as a conditional use subject to the provisions of Section 4-7.4 Conditional Uses. An amateur radio or ham radio tower's height shall not exceed two times the maximum height of the structure on which it is to be placed but not to exceed forty (40) feet, whichever is smaller.
2. Commercial telecommunication towers may be permitted as a conditional use in the A Agricultural district and I-1 and I-2 Industrial districts.
3. Telecommunication antennae may be attached to buildings. Where antennae are appurtenant to a building, efforts shall be made to conceal the antennae to the extent possible.
4. Co-location on an existing tower is preferred to the construction of a new tower.

C. **New Towers.** New towers shall be subject to the following requirements:

1. In addition to the requirements of Section 4-7.2 Site Plan Review and Section 4-7.3 Design Review, applications for new towers shall include the following information:
   a. Signed and sealed written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice, and other naturally occurring hazards which shall be submitted by a State of North Dakota Licensed Professional Engineer. This information shall also address the potential for the tower or other mounting structure and/or antennae to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided.
   b. A map showing existing and known proposed wireless communication facilities and other structures which are suitable for co-location within the City and its environs, demonstrating the need for the new tower and the infeasibility of co-location on an existing tower.
   c. Evidence of ownership of property or option for the land with sufficient space for the main tower and supporting cables/guy wires and related structures.
   d. Letter of intent to lease any excess space on a tower facility and commitment to:
      i. Promptly respond to any requests for information from a potential co-user of their tower/antenna;
      ii. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
      iii. Make no more than a reasonable charge for a shared use lease.
   e. A letter agreeing that, should any tower/antenna facility approved under this section cease to be used for its approved use for more than ninety (90) continuous days, or more than ninety (90) days of any one hundred twenty (120) day period, it shall be removed from the site within one hundred eighty (180) days of such cessation at the sole expense of the owner. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3) feet of the caisson upon which the tower is located and covering the remaining portion with top soil. The letter of agreement may include a financial guarantee, if deemed appropriate by the City Council, to ensure removal of any or all of the facilities approved under the conditional use permit. Any such agreement, including any financial guarantee, shall be in a form acceptable to the City Attorney. The financial guarantee may also include a provision for periodic adjustments to reflect changes in the Consumers Price Index or other similarly established and accepted price indexes.
2. New towers shall be designed to support the co-location of antennae by a minimum of three (3) users.
3. Towers shall not exceed two hundred (200) feet in height, measured from the base of the tower to its highest point, or to the highest point of any appurtenance, whichever is higher.
4. The tower base, accessory buildings, and protective fencing shall be surrounded by a fence not less than eight (8) feet in height, and shall be screened from the view of any public right-of-way and/or adjacent properties by an obscuring greenbelt. Landscaping shall also be incorporated along access drives servicing the tower site.

5. New towers shall be set back from all neighboring properties with non-residential zoning a minimum of fifty percent (50%) of the tower height provided that the applicant provides documentation, certified by a licensed engineer in the State of North Dakota, that the fall zone for the tower does not exceed this distance. If it does exceed fifty percent (50%), the setback shall be equal to the fall zone distance. New towers shall be set back from all neighboring properties with residential zoning a minimum of one hundred ten percent (110%) of the height of the tower.
6. **Procedures for New Towers.** Procedures for new towers shall be as follows:
   a. New towers shall be reviewed and acted upon within ninety (90) days of application. The review timeframe begins when the application is received. Within fourteen (14) days of receipt of the application, the Community Development Department shall respond to the applicant regarding the completeness of the application. If the application is deemed incomplete, the timeframe for review shall be paused when the applicant is notified and shall only resume running when the applicant makes a supplemental submission. Following a supplemental submission, the Community Development Department will notify the applicant within five (5) days that the supplemental submission did not provide the information identified in the original notice delineating missing information, if necessary. The timeframe will again pause until the applicant submits supplemental information.
   b. Once a complete application is received, the application shall be placed on the next available Planning Commission agenda; a public hearing notice shall be published in accordance with Section 4-7.1 Public Hearings. After a public hearing has been held, the Planning Commission shall make its recommendation to the City Council stating findings of fact to support a recommendation for approval or denial. Any conditions of approval which may be pertinent shall also be submitted to the City Council. The City Council shall render its decision after reviewing all relevant information to the case.

D. **Co-location.** Applications for co-location on existing, approved structures shall be reviewed administratively. The application shall be reviewed by the Community Development Department to ensure that all applicable code requirements have been met, and by the City Engineer to ensure that the host structure is structurally capable of housing the proposed antennae. Co-location of new wireless communication antennae and equipment is eligible for approval by the Community Development Department within fourteen (14) days of receipt of a complete application package and applicable fees, if all of the following standards are satisfied:
1. The wireless communication equipment will be co-located on an existing wireless communication support structure or in an existing equipment compound.
2. The existing wireless communication support structure or existing equipment compound is in compliance with the Land Use Code or was approved by the City Council.

3. The proposed co-location will not constitute a substantial change to the previous approval. A substantial change is a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
   a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. See the June 9, 2020 FCC Declaratory Ruling for additional information on measurements related to this provision;
   b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
   c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
   d. It entails any excavation or deployment outside the current site;
   e. It would defeat the concealment elements of the eligible support structure. See the June 9, 2020 FCC Declaratory Ruling for additional information on measurements related to this provision; or
   f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.
4. The proposed co-location complies with the terms and conditions of any previous final approval of the wireless communication support structure or equipment compound by the City Council, except where deviations or modifications are permitted by federal law.
5. Where the standards above are not met, the application shall proceed to the conditional use approval process, which shall be acted upon within sixty (60) days.

E. **Small Cell Equipment**. Small cell facilities are wireless, low-powered antennas used to provide wireless telecommunications services. Small cells are often installed on existing structures (e.g., utility poles, traffic signal infrastructure, street light poles, etc.) within the public right-of-way, as mandated by the Federal Communications Commission and federal regulation.

4-4.4 Community Gardens

Land for community gardens shall be served by a water supply sufficient to support the cultivation practices used on the site.

A. Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

B. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance, and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Community Development Department.

C. The site is designed and maintained so that water and fertilizer will not unreasonably drain onto adjacent property.

D. A building or structure shall not be permitted on the site; however, sheds for storage of tools limited in size to 400 square feet; greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated; benches; bike racks; raised/accessible planting beds; compost or waste bins; picnic tables; fences; garden art; rain barrel systems; barbecue grills; and outdoor ovens shall be permitted.

E. Small scale poultry production shall be allowed and is subject to Animal Control Regulations.

F. There shall be no permanent retail sales on site; however, temporary outdoor retail sales shall be allowed in accordance with Section 4-4.16 Temporary Uses.

4-4.5 Skeet, Trap, and Rifle Ranges

Where permitted, skeet, trap, and rifle ranges shall be located a minimum of 1,000 feet from residential uses.

4-4.6 Feed Lots

A. **Purpose**. These regulations are designed to allow feed lots for feeding of livestock, fur bearers, and poultry at the same time protect the adjoining uses against odor, run off, and other incompatible characteristics that may be associated with feed lots. All proposed feed lots shall be subject to the provisions of Section 4-5.7 Performance Standards and the applicable standards of the NDCC.

B. **General Requirements**.
   1. Feed lots, as defined by this code, are permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Department of Health.
   2. Feed lots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.
   3. Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.
   4. Feed lots shall not be placed in a floodplain.
   5. The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.

C. **Proximity to Existing Uses**. Feed lots shall not be located nearer than one thousand (1,000) feet from a residential development in the extra territorial area or corporate limits of the City.

4-4.7 Junk or Salvage Yards

A. **Purpose**. The purpose of these requirements is to preserve and protect the visual and other environmental qualities of the rural areas while allowing the salvage or junk yards as business places.

B. **Site Approval Requirements**. Sites for salvage and junk yard applications shall be subject to conditional use approval and Section 4-5.7 Performance Standards.

C. **Location Standards**.
   1. Salvage or junk yards shall not be located within five hundred (500) feet of a residential district or two hundred (200) feet of commercial buildings and structures.
   2. Salvage or junk yards shall not be located in areas, which, due to high water table, flooding, and soil conditions may affect the quality of surface and ground water.
   3. Salvage or junk yards shall be located within one hundred (100) feet from any public right-of-way.
   4. Salvage and junk yards shall be screened from the public view with screening landscaping meeting the standards of Section 4-5.3 Landscape and Natural Features, and shall be secured with a masonry wall or obscuring fence not less than six (6) feet in height.

4-4.8 Detached Single-Family and Two-Family Dwelling Standards

A. Construction shall meet the minimum lot size, lot width, yard spaces, setbacks, parking, and all other minimum site requirements applicable to residential dwellings within the underlying zoning district. See Section 4-8.4 Nonconforming Uses, Lots, and Buildings regarding construction on a non-conforming lot.

B. Single-family dwelling units shall have a minimum width across any front, side, or rear elevation of twenty-four (24) feet.

C. Dwelling units shall be constructed with a pitched roof of not less than a 3 rise to 12 run (3:12) pitch. The approving body may permit some elements of the roof to relax the minimum pitch to further an architectural design concept, provided that at least fifty percent (50%) of the roof meets the minimum pitch.

D. Dwelling units shall be attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions as the dwelling and additions thereto and be constructed of such materials and type as required in the Building Code. In the event that the dwelling is a mobile or pre-manufactured home, the dwelling shall also be secured to the premises by an anchoring system or device complying with the rules and regulations of the Building Permits and Inspections Department and the applicable Building Code and shall have a continuous perimeter wall.

E. Dwelling units shall have either a roof overhang of not less than one (1) foot on all sides, or alternatively, with roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.

F. Dwelling units shall contain not less than two (2) exterior doors per unit, with the second being in either the rear or side of the dwelling and containing steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

G. The applicant shall submit floor and elevation plans to the Community Development Department to receive a determination regarding compliance with these dwelling standards, including a PDF copy. The City may add the drawings to a database (e.g., GIS system) for tracking and administration of this section.

H. Detached single-family and two-family dwellings constructed prior to the adoption of this section are exempt from the requirements of the single-family dwelling standards and may be regarded as a legally non-conforming structure.

I. These regulations may be waived for residential planned unit developments in which similarity of architectural form and style among dwellings is integral to the success of a unified plan, in which the high quality of building materials, building plans, and site plan details overcome the presumed deficiencies of similarity. In such cases, the developer may request, and the City Council may grant, an exception from this section as a condition of a planned unit development.

4-4.9 Residential Uses in the 17/76 District and Old Town District

A. Residential uses located on the ground floor shall not front on a primary street and shall be located at least twenty (20) feet behind a non-residential use (liner retail, restaurant, or other permitted indoor use); provided, however, that the ground floor entrance to a residential use may be permitted on a primary street.

B. Single-family and duplex dwellings are permitted on the ground floor fronting a secondary street when constructed as a cottage court building type. For carriage houses constructed as a principal use, they shall not front on a street and shall only front on a laneway that is behind a principal use.

4-4.10 Sand and Gravel Operations

A. **Purpose.** The purpose of these provisions is to provide for mining, stock piling, and extraction of sand and gravel for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume, and vibration impact on the adjoining uses and the City.

B. **Site Approval Requirements.** Sand and gravel mining, stockpiling, or excavation sites require conditional use approval and shall be subject to Section 4-5.7 Performance Standards.

C. **Data Submission Requirements.** In addition to the requirements of Section 4-7.2 Site Plan Review and Section 4-7.3 Design Review, the following information shall be submitted:

1. Maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.
2. A guarantee that the reclamation of the site be completed within one (1) year of the closure of the operation of the site.
3. Proof of compatibility with the existing land form including the vegetation, surface and ground water resources.
4. The City maintains the authority to terminate the operation of the site if it determines violation of the City Ordinances or lack of compliance by the operator(s) of the conditional use permit.

D. **Proximity to Existing Uses.** The operation of sand and gravel sites shall not be nearer than five hundred (500) feet from any residential uses or three hundred (300) feet from non-residential uses.

E. **Permit Requirements.** A person who operates a sand and gravel business shall obtain a permit from the Community Development Department and pay a filing fee, as set forth in a fee schedule established by the City Council, before starting any mining, excavation, stock piling, or sale on a sand or gravel site, and after approval by the City Council. The approval of the site plan for operation shall be null and void if the applicant does not proceed with extraction and compliance with this code within one (1) year of permit issuance.

4-4.11 Sanitary Landfills and Solid Waste Sites

A. **Compliance with State Laws and Rules.** A person who operates sanitary landfills, inert landfills, or similar solid waste sites shall comply with all North Dakota laws and administrative rules set forth by the North Dakota State Health Department.

B. **City Ordinances and Procedures.** The City hereby adopts solid waste provisions, subject to NDCC Chapter 11-33-20, to assure it meets the purposes of this code and the Comprehensive Plan.

C. **Purpose.** The purpose of these provisions is to protect public health, ground and surface water resources, conflict with present land uses, and preservation and protection of natural resources in the City and its extraterritorial planning area.

D. **Site Approval Requirements.** Solid waste sites require approval by the City Council and shall be subject to the provisions of Section 4-5.7 Performance Standards.

E. **Locational Standards.**

1. Landfills or incinerators shall not be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of commercial buildings and structures or public facilities. These facilities shall meet standard setbacks from industrial buildings.
2. Landfills shall not be located in areas, which, due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.
3. Landfills shall not be located nearer than two hundred (200) feet of all road and highway rights-of-way.

F. **Data Submission Requirements.** In addition to the requirements of Section 4-7.2 Site Plan Review and Section 4-7.3 Design Review, all applications for conditional approval shall include the following information:

1. Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage ways, soils, topography, depth of water table, wetlands, sloughs, existing uses, buildings, and structures including the existing utility lines.
2. A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man-made environment.
3. Records of data and information submitted to the appropriate agencies of the State of North Dakota and Cass County as a part of the application of state and county permits.
4. The City Council may require additional information, if necessary.

G. **Statement of Findings.** Upon the public notification and a public hearing before the Planning Commission, the City Council shall determine whether the proposed site meets the requirements of this code and public health, safety, and welfare.

4-4.12 Compassion Centers

Compassion Centers shall be permitted as a conditional use only in the I-1 Light Industrial district and I-2 General Industrial district, and then only if the compassion center meets the following conditions:

A. The compassion center is located no closer than one thousand two hundred fifty feet (1,250') from any pre-existing school, daycare facility, or any property zoned residential.

B. The business premises of the compassion center which are generally open to its patrons are open equally at the same time to members of the county sheriff's department and the City Community Development Department who desire to enter thereon provided the entry is in the course of the discharge of police duties and code administration duties.

4-4.13 Adult Entertainment Establishments

A. **Intent and Purpose.**

1. The City recognizes that there are some uses which, because of their adult-oriented nature, have serious objectionable operational characteristics and can have a deleterious effect upon adjacent uses, particularly when several of them are concentrated under certain circumstances or when one (1) or more of them are located in close proximity to a residential district or other sensitive land uses. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood or other sensitive land uses. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one (1) area, and to prevent deterioration or blighting of a nearby residential neighborhoods and other sensitive land uses.
2. The provisions of this section are not intended to offend the guarantees of the First Amendment to the United States Constitution, or to deny adults access to these types of businesses and their products, or to deny such businesses access to their intended market. Neither is it the intent of this section to legitimize activities that are prohibited by City ordinance or state or federal law. If any portion of this section relating to the regulation of adult businesses is found to be invalid or unconstitutional by a court of competent jurisdiction, the City intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The City further states that it would have passed and adopted what remains of any portion of this section relating to regulation of adult businesses following the removal, reduction, or revision of any portion found to be invalid or unconstitutional.

B. **Findings and Rationale.** Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of California, et al v LaRue, et al (1972) (U.S. Supreme Court); City of Renton v Playtime Theatres, Inc. (1986) (U.S. Supreme Court); Coleman Young (Detroit) v American Mini Theatres, Inc. (1976) (U.S. Supreme Court); Michael Barnes, Prosecuting Attorney of St. Joseph County, Indiana, et al v Glen Theatre, Inc., et al (1991) (U.S. Supreme Court); City of Erie, et al v Pap's A.M., TDBA "Kandyland" (2000) (U.S. Supreme Court); Caren Cronk Thomas and Windy City Hemp Development Board v Chicago Park District (2002) (U.S. Supreme Court); Dennis O'Connor and United Theaters Incorporated v The City and County of Denver, et al (1990) (10th Circuit); Z.J. Gifts D-2, L.L.C. v City of Aurora (1998) (10th Circuit); Sundance Associates, Inc. v Janet Reno; United States Department of Justice (1998) (10th Circuit); American Target Advertising, Inc. v Francine A. Giani, et al (2000) (10th Circuit); ILQ Investments, Inc.; Excalibur Group, Inc. v City of Rochester (1994) (8th Circuit); Bamon Corporation v City of Dayton, et al (1991) (6th Circuit); East Brooks Books, Inc., et al v City of Memphis, et al (1995) (6th Circuit); DLS, Inc. d/b/a Diamonds and Lace Showbar, et al v City of Chattanooga, et al (1997) (6th Circuit); Triplett Grille, Inc., d/b/a The Back Door v City of Akron (1994) (6th Circuit); Richland Bookmart, Inc. d/b/a Town and Country v Randall E. Nichols (1998) (6th Circuit); Connection Distributing Co. v The Honorable Janet Reno (1998) (6th Circuit); In Re: State of Tennessee Public Indecency Statute. Déjà Vu, et al v Metro Government (1999) (6th Circuit); Déjà Vu of Nashville, Inc., et al v The Metropolitan Government of Nashville and Davidson County, Tennessee, et al (2001)

(6th Circuit); Greyson Currence v City of Cincinnati (2002) (6th Circuit); Bronco's Entertainment, Ltd v Charter Township of Van Buren (2005) (6th Circuit); Sensations, Inc., et al v City of Grand Rapids, et al (2008) (6th Circuit); Richland Bookmart, Inc., v Knox County, Tennessee (2009) (6th Circuit); Grand Brittain, Inc., et al v The City of Amarillo, Texas (1994) (5th Circuit); Mom n Pops, Inc. v City of Charlotte, North Carolina (1998) (4th Circuit); American Library Association, et al v Janet Reno, et al (1994) (District of Columbia Circuit); Bright Lights, Inc., et al v City of Newport, et al (1993) (U.S. District Court, Eastern District Kentucky); Bigg Wolf Discount Video Movie Sales, Inc. v Montgomery County, Maryland (2002) (U.S. District Court, District of Maryland); Threesome Entertainment, et al v Jack Strittmather, et al (1998) USDC, Northern District of Ohio, Eastern Division); J. L. Spoons, Inc. v City of Brunswick (1999) (USDC Northern District of Ohio, Eastern Division); Broadway Books, Inc., et al v Gene Roberts, as Mayor for the City of Chattanooga, et al (1986) (USDC Eastern District of Tennessee, Southern Division); Truckor v Erie Township (2009) (MI Court of Appeals); Charter Township of Van Buren v Garter Belt, Inc. (2003) (MI Court of Appeals); City of Los Angeles v Alameda Books, Inc. (2002); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Adult Business Study - Town and Village of Ellicottville, Cattaraugus County, New York (1998); Why and How our City Organized a Joint County-Wide Sexually Oriented Businesses Task Force - Cleburne, Texas (1997); The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard - Garden Grove, California (1991); Traverse City Ad Hoc Committee Report on SOBs (1996); Minnesota Attorney General's Report on SOBs (1989); Crime-Related Secondary Effects of Sexually-Oriented Businesses, Report to the County Attorney, Palm Beach County, Florida (2007); Report on Adult Oriented Businesses in Austin (1986); Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles (1977); Houston City Council, Sexually Oriented Business Ordinance Revision Committee Legislative Report (1997); City of Phoenix Planning Department Adult Business Study (1979); City of Amarillo, Texas, Planning Department -- A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo (1977); Whittier City Planning Commission Staff Report - Amendment to Zoning Regulations - Adult Businesses in C-2 Zone with Conditional Use Permit (1978); Seattle, Washington, Department of Construction and Land Use Director's Report and Recommendation - Proposed Land Use Code Amendment - Adult Cabarets (1989); Cleveland, Ohio, Police Department, "The Impact of Obscenity Upon the Total Community" (1977); St. Croix County Planning Department Regulation of Adult Entertainment Establishments in St. Croix County (1993); Newport News Department of Planning and Development Adult Use Study (1996); Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area (1994); An Analysis of the Effects of SOBs on the Surrounding Neighborhoods in Dallas, Texas (1997); City of Bellevue Memorandum - Location of Adult Entertainment Uses - Background Material (1988); Quality of Life: A Look at Successful Abatement of Adult Oriented Business Nuisances in Oklahoma City, Oklahoma (1984--1989); and the National Law Center Summaries of "SOB Land Use Studies" in 43 U.S. Cities (2005), as well as the following articles on adult regulated uses: "Local Regulation of Sexually Oriented Businesses" (2006); "Protecting Communities from Sexually Oriented Businesses" (Chapter 6, Appendices C and D) (2002); "Zoning and Free Speech: A Review of Adult Entertainment Case Law" (1991); "Local Regulation of Lawful Sex Businesses" (1999); "Zoning Ordinances and Free Speech"

(2000); "Regulating Sexually Oriented Businesses" (1997); "Everything You Wanted to Know About Regulating Sex Businesses" (Chapters 2, 4 and 6); "Regulating Sex Businesses" (1996); "Sexually Oriented Businesses An Insider's View" (2002); and "Stripclubs According to Strippers: Exposing Workplace Sexual Violence" (1998), the Horace City Council finds:

1. Sexually oriented businesses and other adult business uses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter, and sexual assault and exploitation.
2. Sexually oriented businesses and other adult business uses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other such uses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of such uses in one (1) area.
3. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this code, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses and other adult business uses extends to preventing future secondary effects of either current or future adult business uses that may locate in the City. The City finds that the cases and documentation relied on in this section are reasonably believed to be relevant to said secondary effects.
4. This section has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the purpose or intent of this section to restrict or deny lawful access by adults to sexually-oriented materials, nor to deny access by the distributors and exhibitors of sexually-oriented materials to their intended markets. It is not the purpose or intent of this section to impose judgment on the content or merits of any constitutionally protected form of speech or expression.

C. **Other Standards.** Where permitted, adult entertainment establishments shall meet the following conditions:
   1. The establishment is located no closer than one thousand (1,000) feet from any pre-existing place of worship, school, or property zoned for residential uses in any jurisdiction.
   2. An adult entertainment establishment shall not be located within one thousand (1,000) feet of any other adult entertainment establishment.
   3. The establishment excludes from its premises those persons less than 18 years of age.
   4. Materials depicting specified sexual activities or specified anatomical areas shall not be visible from the exterior of the establishment.
   5. The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency who desire to enter thereon provided the entry is related to the discharge of the law enforcement officer's duties.
   6. The hours of operation of any adult establishment shall be limited to 8:00 a.m. to 2:00 a.m.
   7. No alcoholic beverages of any type are permitted within the premises.
   8. Adult entertainment establishments shall be contained in a free-standing, single-use building. Enclosed malls, shopping centers, common wall buildings, and multi-uses within the same building do not constitute a free-standing building.
   9. When considering an application for a conditional use permit, the approving body shall impose such other conditions and limitations as may be deemed necessary to carry out the purpose and intent of the City ordinances and to preserve and protect the general public health, safety, and welfare.

4-4.14 Home Occupations

Home occupations are permitted where all residential uses are permitted, subject to the following:

A. The home occupation is carried on in a dwelling unit by residents of the dwelling unit.
B. The use is clearly secondary to the use of the building as a residence.
C. Activities are consistent with typical activities in the surrounding neighborhood and do not create excessive noise, traffic, or conflict with adjoining uses.
D. The home occupation shall not occupy more than twenty-five percent (25%) of the total dwelling unit.
E. Outdoor storage, display, and sales are not permitted. Such occupation shall not require internal or external alterations or involve construction not customary in a dwelling unit.
F. Home occupations shall not generate traffic greater than that typically expected in a residential neighborhood.

4-4.15 Alternative and Emerging Energy Facilities

A. **Purpose and Objective**. The purpose of this section of the Land Use Code is to establish provisions for the design, permitting, construction, and operation of alternative and emerging energy facilities within the City, subject to reasonable conditions that will protect the public health, safety, and/or general welfare of the community.

B. **Applicability and Permitted Uses**.

1. **Existing facilities.** Alternative and/or emerging energy facilities constructed prior to the effective date of this section shall not be required to meet the requirements specified under this section. Physical modification to an existing alternative or emerging energy facility that alters the size, type, and generating capacities of the facilities shall require a permit and shall comply with the applicable provisions specified under this section.
2. **Permitted districts.** Alternative and/or emerging energy facilities shall be permitted as an accessory use within all zoning districts.
3. **Codes and specifications.** Alternative and emerging energy facilities shall be located, designed, operated, and installed as per the manufacturer's specifications as well as pursuant to all zoning, Building Code, utility requirements, and state laws.
4. **Performance standards.** Sound from any alternative and/or emerging energy facility shall not exceed the noise levels set forth in the City's Noise Ordinance (Title XII - Public Conduct - Offenses; 12-08 Noise Violations). In addition, all systems shall meet the performance standards of this code.
5. Above-ground alternative and emerging energy facilities shall be designed with a non-obtrusive color such as dark blue, white, off-white, dark brown, gray, or black. Such facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
6. Above-ground alternative and emerging facilities shall not display signage, except for reasonable identification of the manufacturer and required safety postings.
7. On-site transmission and power lines between an alternative or emerging energy facility and any use or element of the facility shall be placed underground.
8. Clearly visible warning signs concerning voltage must be placed at the base of all above-ground transformers and substations.
9. The use of guy wires to support a facility shall only be permitted as a conditional use after the approving body finds that a monopole, lattice tower, or similar structure not requiring guy wires is not feasible for the use intended and that the use of guy wires is in keeping with the general character of the area. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
10. Structures associated with the alternative or emerging energy facility shall not be climbable up to fifteen (15) feet above ground surface. Access doors to electrical equipment and hazardous components shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
11. A non-participating landowner shall not intentionally block, interfere, or disrupt an alternative or emerging energy facility's access to natural resources.

C. **Land Use and Dimensional Requirements for Wind Energy Systems.** The following provisions shall specifically apply to wind turbines or wind energy facilities:

1. Wind turbines or wind energy facilities shall be setback from each property line at least a distance equal to the maximum turbine height. The required setback distance shall be measured from the center of the wind turbine base to the nearest point of each property line.
2. Wind energy facilities shall not be permitted in the front yard of the lot on which they are located.
3. The minimum height of a wind energy facility shall be fifteen (15) feet, as measured from the ground surface to the tip of the blade at its lowest turning movement.
4. The maximum height of a wind energy facility shall be determined by the measurement from the ground surface to the tip of the blade at its highest turning movement. Ground-mounted systems shall not exceed fifty (50) feet in height from the ground surface. Attached and roof-mounted systems shall not exceed twenty (20) feet above the highest point of the roof. For both ground- and roof-mounted systems, the approving body may permit additional height, up to a maximum of one hundred (100) feet above adjacent ground level (average grade), as a conditional use.
5. The applicant shall make reasonable efforts to minimize shadow flicker at the property line.
6. Wind turbines and wind energy facilities shall be equipped with a redundant braking system, which shall include both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
7. **Conditional land use requirements.** When additional height is requested by the applicant, the application shall include a wind analysis by an established wind energy professional demonstrating that additional height is necessary to achieve reasonable wind energy production in comparison with a system meeting standard height requirements. The City shall consider neighborhood compatibility when reviewing the applications.

D. **Land Use and Dimensional Requirements for Solar Energy Systems.** The following provisions shall specifically apply to solar energy systems:

1. Attached solar energy systems shall not exceed the maximum permitted building height of the zoning district. Where panels are mounted on a sloped roof, the highest point of a panel shall not exceed the height of the tallest roof peak.
2. Freestanding solar energy systems shall not exceed fifteen (15) feet in height and shall be located at least fifteen (15) feet from a property line.
3. Solar energy systems shall be located behind the front facade of the building occupying the permitted use. Solar energy systems shall not be permitted in the front yard of the lot on which they are located.
4. Solar energy panels shall be designed and located in order to minimize glare towards an occupied residential use.

E. **Land Use and Dimensional Requirements for Other Alternative and Emerging Energy Systems.** The following provisions shall apply to alternative and emerging energy systems other than wind or solar:

1. Such systems shall be permitted by right provided that such facilities are located on a lot with a permitted use in accordance with the applicable provisions of the Land Use Code, and that structural components comply with the building setback requirements and building coverage requirements of the underlying zoning district .

2. Such systems shall be located behind the front facade of the building occupying the permitted use. Structural components of the system shall not be permitted in the front yard of the lot on which it is located, except that such a system installed on a farm where no building is present on the lot shall meet the minimum setback standards of the district.
3. Such systems shall be located, designed, and installed considering the health, safety, and general welfare of the adjacent property owners.
4. Such energy systems may be located on or attached to an occupied building provided that the structural components of the emerging energy facilities do not exceed the permitted building height requirements of the underlying zoning district.
5. **Wood-fired boilers.**
   a. Wood-fired boilers shall be located on a conforming lot with a minimum lot area of two (2) acres.
   b. Freestanding wood-fired boilers shall not exceed twenty (20) feet in height and shall be located at least fifty (50) feet from a property line.
   c. Wood-fired boilers shall be designed and located in order to minimize smoke and odor that is emitted and directed towards an occupied residential use.

F. **Permits.**
1. An alternative or emerging energy facility shall not be located, modified, or constructed within the City unless a permit has been issued to the landowner in accordance with the provisions of this section.
2. The permit application shall demonstrate that the alternative or emerging energy facility will comply with the provisions contained under this section. The following specific items shall be provided by the applicant:
   a. A narrative describing the proposed alternative or emerging energy facility, which shall include: a project overview; the project location; the number of the alternative or emerging energy facilities; the area and height of the alternative or emerging energy facilities; the initial and potential generating capacities; the facility dimensions; and the manufacturer's specifications.
   b. For systems not mounted on a building, a site plan showing the boundary lines of the subject property that identifies the planned location of the alternative or emerging energy facilities; the building setback lines; public rights-of-way; building and structures; and all public utilities.
   c. Documents related to the potential abandonment and/or decommissioning of the alternative or emerging energy facilities. The alternative or emerging energy system will presume to be at the end of its useful life if no energy is generated for a continuous period of twelve (12) months.
   d. The removal of the above-ground alternative or emerging energy facility components shall be completed within twelve (12) months of decommissioning of the alternative or emerging energy system. Disturbed earth shall be re-stored, graded, and re-seeded.
   e. Other relevant studies, reports, certifications, and approvals, as may be reasonably requested by the City to ensure compliance with this section.

4-4.16 Temporary Uses

A. **Purpose**. Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of this Land Use Code and when compatible with other nearby uses.

B. **Exemptions**. The following shall be permitted as a temporary use without complying with the permit requirements of this section:
   1. Garage or estate sales conducted in residential areas by the owner of the premises for no more than three (3) days total in any one hundred eighty (180) day period.
   2. Non-profit fundraising events conducted within an existing building.

C. **Authority to Approve**. Temporary uses are prohibited unless they are permitted by the Community Development Department, who shall have the authority and responsibility to grant permits for certain temporary uses as provided in this section.

D. **Time Limit**. Temporary uses shall be permitted as follows:
   1. The applicant shall submit a written explanation of the length of time needed for the temporary use. Generally, temporary uses shall be permitted for a maximum of fifteen (15) days.
   2. The Community Development Department may permit a temporary use to occupy a site for a period not to exceed eight (8) months unless located in an AG, SR-1, SR-2, SR-3, CR, or UR district, in which case Planning Commission approval shall be required to extend the time period beyond thirty (30) days.
   3. Upon expiration of a temporary use permit, another permit for the same premises may not be obtained for at least thirty (30) days.
   4. Temporary use exceeding thirty (30) days or occurring on the same zoning lot more than twice in a calendar year shall require an approved plan of operation, which describes staffing, hours of operation, duration, and number of times operating per year, and all other information required for temporary uses.

E. **Examples**. Examples of uses that require temporary use permits include, but are not limited to, the following:
   1. Greenhouses.
   2. Fireworks sales (permitted outside City limits only).
   3. Christmas tree and pumpkin sales.
   4. Outdoor seating and serving area at a restaurant that was not approved as part of site plan approval (must include an alternative parking plan if on-site parking area is affected).
   5. On-site storage tents, trailers, or other shelters to house inventory during construction or other unusual business interruptions.
   6. Other uses that are of similar nature in terms of impact on the site and surrounding area.
   7. Uses that are more intense than the above uses, as determined by the Community Development Department, require review and approval by the approving body as a conditional use per Section 4-7.4 Conditional Uses.

F. **Permit Required**. A permit must be obtained from the Community Development Department before establishing a temporary use.

G. **Procedure**. A complete application for Temporary Use Permit must be submitted to the City in a form established by the Community Development Department along with a non-refundable fee that has been established by the City Council. Applications will not be processed until the application is complete and the required fee has been paid. The application shall be reviewed by the Community Development Department for the likely effects on surrounding properties and its compliance with the purpose of this section.

H. **Findings**. The Community Development Department shall approve, or approve with conditions, an application for a temporary use permit after finding all of the following. If the Community Development Director does not make all of these findings, the temporary use permit shall be denied:

1. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.
2. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
3. Approved measures for the removal of the use and site restoration have been required to ensure that changes to the site would not limit the range of possible future land uses otherwise allowed by this code.

I. **Conditions**. The Community Development Department shall impose such conditions of approval as are necessary to ensure compliance with the purposes of this Land Use Code. Such conditions may include, but shall not be limited to, the following:

1. Measure to minimize impact on adjacent uses, such as buffers, hours of operation, lighting requirements, and/or parking measures.
2. Property maintenance requirements to ensure that each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use.
3. Appropriate performance guarantees/security may be required before initiation of the use to ensure proper cleanup after the use is finished.
4. Other conditions of approval deemed reasonable and necessary to ensure that the approval would be in compliance with the findings above.

J. **Revocation**. A temporary use permit may be revoked or modified by the Community Development Department based on any of the following grounds:

1. The permit was obtained by misrepresentation or fraud.
2. The conditions of approval for the permit have not been met, or the permit is not being exercised.
3. The use for which the permit was granted is being or is permitted to be or operates in violation of any statute, ordinance, law, or regulation.
4. The permit is being exercised in a way that is detrimental to the public health, safety, or welfare or constitutes a nuisance.

4-4.17 Self-Storage Facilities

No unit or units in a self-storage facility shall be used to run a business or for vehicle/equipment repair, the operation of machinery or power tools, or for the conduct of sales of any kind.

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Title IV | Chapter 5
Site Standards

Chapter 5 - Site Standards

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4-5.1 Functional Site Elements

A. **Accessory Buildings & Uses.**

1. **Use**. The use of an accessory building shall be in accordance with the uses permitted in the underlying district, and any standards that may apply to those uses. A use that is customary and subordinate to the principal use, as determined by the approving body, and located on the same lot with the principal use may be permitted as an accessory use.
2. **Time of construction**. Accessory structures shall be constructed in conjunction with or after the principal building.
3. **Easements**. Accessory structures shall not be located within any recorded public or utility easement, except that at risk of owner accessory structures up to 100 square feet are permitted within easements, and may be located no less than 3 feet from any property line; such structures are prohibited in a front yard.
4. **Maximum height**. Accessory structures in any residential zoning district shall not be taller than twenty (20) feet. Accessory structures shall not be taller than the principal structure for all other districts except those in the SR-1 district. Height is measured the same as for the principal structure.
5. **Plate height**. The plate height of the accessory structure shall not be higher than sixteen (16) feet in all residential districts. Plate height is measured from the lowest grade to the top framing member of the wall (wall plate).
6. **Maximum size and quantity**. The maximum size of all accessory buildings on a single-family residential lot shall be as follows:

TABLE 4-5.1.A.6 ACCESSORY BUILDING SIZE	
Lot Size	Maximum Total Accessory Building Size
Less than 8,400 square feet (sf)	500 sf
8,401 sf to 32,670 sf	840 sf
32,671 sf to 1 acre	2,000 sf
1.01 acres to 2 acres	3,500 sf
2.01 acres to 3 acres	4,500 sf
3.01 acres to 4 acres	5,000 sf
4.01 acres to 5 acres	5,500 sf
5.01 acres to 10 acres	6,000 sf

7. **Setbacks**. Accessory structures shall be set back as follows:
   a. Accessory structures other than a fence or wall shall not be located in the front or street side setback. See Section 4-5.3 Landscape and Natural Features, subsection B, Fences, Hedges and Walls for full regulations of those structures
   b. Right-of-way setbacks. Accessory structures shall have a minimum setback of ten (10) feet from all public and private streets.
   c. See individual districts within Section 4-3.1 Established Districts for setback standards.

8. **Sheds and other small structures.** Accessory structures under one hundred twenty (120) square feet do not require a building permit.
9. **Compatibility.** Accessory buildings shall be in visual harmony with the principal building in terms of building materials, design, and color.
10. **Accessory structure as sole structure.** Accessory structures are permitted only when a primary structure exists on a lot. When a lot split, subdivision, and/or property line adjustment creates a lot where the only building is an accessory structure, the accessory structure must be demolished at the cost of the property owner if a primary structure is not built within two (2) years. The two (2) year timeline commences on the date that the plat and/or property line adjustment is recorded with the Cass County Recorder's Office.
11. **Accessory dwelling units.** In addition to the above, accessory dwelling units shall meet the following standards:
    a. Accessory units attached to a single-family home shall have the appearance of a single-family dwelling unit from any street.
    b. Detached accessory units shall meet the following:
        i. The detached accessory dwelling unit (ADU) shall be architecturally compatible with the primary dwelling.
        ii. An ADU can be part of an existing garage, carriage house, or other legal, conforming detached accessory structure that is four hundred (400) square feet or greater.
    c. The following applies to all accessory dwelling units:
        i. The owner of the lot must occupy either the ADU or the single-family dwelling on the lot, except for temporary absences not to exceed a combined total of six (6) months in a calendar year.
        ii. The ADU shall not be sold separately from the single-family dwelling.
        iii. An ADU is only permitted to be accessory to a single-family dwelling, and only if ADUs are permitted in the zoning district. ADUs may also be permitted as accessory to a non-residential use if allowed in the zoning district.
12. Accessory buildings used solely for agricultural operations are exempt from the requirements noted above, with the exception of setbacks.

B. **Dumpster Enclosures.** Outdoor trash and recycling receptacles shall not be visible from public rights-of-way for detached single-family homes, two-family homes, and small multiplexes up to four (4) attached units. Outdoor trash receptacles and areas used for the storage of waste products shall be enclosed and screened from the view of public rights-of-way and adjacent residential properties for all other uses as follows:

1. The receptacle or storage area shall be enclosed within a fully obscuring fence or wall not less than five (5) feet in height and not more than eight (8) feet in height.
2. The fence or wall shall be constructed of durable, non-combustible materials and designed to complement the exterior finish of the principal building on the site.
3. The enclosure shall be accessed by a gate. The gate shall be obscuring and shall remain closed when the enclosure is not being accessed.
4. The enclosure shall be set back no less than fifteen (15) feet from any residential property line.
5. Trash enclosures shall not be located in a front yard or street side yard.
6. The applicant is encouraged to incorporate the dumpster enclosure into the building and provide gates, roll-up doors, or similar means of access for trash removal personnel where possible.
7. Trash enclosures shall be mounted on a base of concrete, graded so as to ensure proper drainage of the enclosure. Runoff shall be directed to the storm sewer system where sewer service is available.

C. **Mechanical Equipment.** For all uses requiring a site plan, mechanical equipment shall be located and screened as follows:

1. Ground-mounted mechanical equipment shall be located in a rear yard, a minimum of twenty (20) feet from any residential property line. Where the location of such equipment in a rear yard is impractical, such equipment may be located in an interior side yard, provided that the equipment is screened by a wall or fence that is architecturally compatible with the building, or by a dense evergreen hedge with a minimum height of one (1) foot above the height of the equipment. Such equipment may project no greater than five (5) feet into a required side yard.
2. Roof-mounted mechanical equipment shall be screened with a parapet wall, penthouse, or other similar screening device not less than the height of the highest appurtenance. The design of the screening device shall be compatible with the architectural design of the building upon which it is located. The approving body may permit a reduction in the height of the screening element when the applicant demonstrates that the proposed screening height will obscure the equipment from adjacent streets and properties.

D. **Cart Corrals.** Shopping cart drop-off sites shall be provided at regular intervals throughout parking lots of retail developments exceeding 50,000 square feet. Such drop-off sites shall be maintained such that they do not occupy more parking spaces than indicated on the approved site plan.

E. **Outdoor Storage and Yards.** Outdoor storage shall be located such that it is not visible from a public street frontage, by placing the outdoor storage on the opposite side of the building from the public street frontage, or by placing outdoor storage in an enclosed area that has the appearance of being integral to the building. Outdoor storage shall be fully screened from view by an opaque decorative fencing or architectural screen walls. Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.

F. **Outdoor Display of Large Consumer Goods.** Where large consumer goods sales are permitted, the display of large consumer goods such as automobiles, boats, pools, motorcycles, and the like are permitted as an accessory use, subject to the following standards:

1. Goods visible by the public shall be kept in good repair and shall be presented in an orderly manner.
2. The surface upon which the goods are stored or displayed must be dust-free and maintained in good repair.
3. Goods shall not encroach on any required parking for the site and shall not be permitted within ten (10) feet of any street-facing yard.

G. **Encroachments Into Yards and Exceptions to Building Height**. Specific building elements are permitted to encroach into required yards.

1. **Encroachments Into Yards**.
   a. For all districts, the following may project into a required yard for a distance not to exceed three feet:
      i. Chimneys.
      ii. Cornices.
      iii. Unenclosed balconies open on three sides.
      iv. Porches and decks open on three sides.
      v. Roof overhangs.
      vi. Window and wall air conditioning units.
      vii. Bay windows, with a maximum width of six (6) feet, which do not extend the floor space.
      viii. Ornamental and customary architectural features that do not extend interior living space.
      ix. Awnings.
      x. Canopies.
      xi. Window wells for basements.
   b. For all non-residential districts, the following may project into a required yard:
      i. Awnings may project into the right-of-way to within two (2) feet of the curb.
      ii. Display windows may project into yards up to two (2) feet.
2. **Exceptions to Building Height**. Height limitations in each district shall not apply to barns and silos, grain elevators, or other accessory agricultural buildings; nor to church spires, belfries, cupolas, or domes; nor to radio or television aerials, transmission or radio towers; nor to flagpoles, flagstaffs, or chimneys; nor to parapet walls that extend not more than four (4) feet above the limiting height; nor to elevator shafts or penthouses, provided that any such structures shall not have a horizontal area greater than twenty-five percent (25%) of the roof area of the building.

4-5.2 Parking, Loading, and Circulation

A. **Parking Requirements.**

1. **Intent.** In order to ensure the safe, orderly, and efficient flow of vehicles and people on developed properties, the City sets forth the following regulations for parking, loading, and circulation.
2. **Off-Street Parking Required for All Uses.** At the time of the construction or enlargement of any principal building or structure, automobile parking spaces shall be provided in all districts, prior to the issuance of a certificate of occupancy, as set forth in this section.
3. **Single-Family Parking Spaces.** Off-street parking spaces for single-family residential uses, whether attached or detached, shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve and subject to the requirements of the Schedule of Parking Regulations (subsection 10).
4. **Change of Use.** When there is a change of use within a previously approved site plan, or a modification to a previously approved parking area, the Community Development Department may review and administratively approve the alterations, provided that the resulting changes meet code requirements. Changes of tenant or use may be approved administratively if the change satisfies all requirements of the Land Use Code, and the change of use does not otherwise warrant additional review or an increase in on-site parking.
5. **Storage of Vehicles.** The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles in required parking spaces is prohibited.
6. **Uses Not Included in Schedule of Parking Requirements.** For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with the requirement for the most similar use or uses, as determined by the approving body.
7. **Fractional Requirements.** When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, the fractional space shall be disregarded.
8. **Basis for Calculations**. Where a parking requirement is based on building floor area, the definition "Floor Area, Usable" in Section 4-2.3 Measurements shall control. Where true usable floor area, based on a floor plan, cannot be established at the time of approval (such as with a shopping center where tenants are not yet determined or a speculative building), usable floor area shall be determined as follows:
   a. Commercial: 80% of gross floor area
   b. Office: 80% of gross floor area
   c. Industrial: 70% of gross floor area
9. **Parking Setbacks.** Off-street parking lots shall be set back as specified in the district standards of Chapter 3 - Zoning Districts.

10. **Reduction of Off-Street Parking Requirements.** For all uses except single-family dwellings and mobile home sites, the number of required off-street parking spaces may be reduced by the approving body based on any of the following criteria:
    a. The applicant has demonstrated through a parking study by a parking expert with demonstrated experience in parking studies or other means deemed sufficient by the approving body that the required off-street parking is excessive.
    b. The most recently published Institute of Transportation Engineers' Parking Generation Manual or Urban Land Institute Shared Parking Guide recommends a lower quantity of parking than that required in this code.
    c. The applicant proposes to share parking with an adjacent site. Shared parking shall be governed by an agreement in writing, approved by the City Attorney and kept on file at the City. Shared parking requirements shall be computed as follows:
        i. Multiply the minimum parking required for each individual use, as set forth in the specific off-street parking provisions by the appropriate percentage indicated in Table 4-5.2.A.c.i Shared Parking Calculations (below) for each of the six (6) designated time periods.
        ii. Add the resulting sums for each of the six (6) columns.
        iii. The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.
        iv. Select the time period with the highest total parking requirement and use that total as the shared parking requirement.

TABLE 4-5.2.A.C.I SHARED PARKING CALCULATIONS

General Land Use Classification	Weekdays			Weekends		
	2:00 a.m. - 7:00 a.m.	7:00 a.m. - 6:00 p.m.	6:00 p.m. - 2:00 a.m.	2:00 a.m. - 7:00 a.m.	7:00 a.m. - 6:00 p.m.	6:00 p.m. - 2:00 a.m.
Office	5%	100%	5%	0%	10%	0%
Retail sales and services	0%	90%	80%	0%	100%	60%
Restaurant	10%	70%	100%	20%	70%	100%
Residential	100%	60%	100%	100%	75%	90%
Theater	0%	40%	90%	0%	80%	100%
Hotel						
Guest rooms	100%	55%	100%	100%	55%	100%
Restaurant/lounge	40%	60%	100%	50%	45%	100%
Conference rooms	0%	100%	100%	0%	100%	100%
Religious institution	0%	25%	50%	0%	100%	50%
Reception or meeting hall	0%	70%	90%	0%	70%	100%
Museum	0%	100%	80%	0%	100%	80%
School, grades K—12	0%	100%	25%	0%	30%	10%

d. The applicant proposes to landbank (a.k.a. landbanking) a portion of the required parking spaces. Landbanked parking shall meet the following requirements:
   i. The number of off-street parking spaces required for the use or uses shall be more than ten (10).
   ii. Area of sufficient size to meet the parking space requirements of this section shall be retained as open space. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
   iii. The applicant shall provide a written legal agreement, approved by the City Attorney, to construct the deferred parking at the direction of the approving body, based on observed usage, within six (6) months of being informed of such request in writing by the Community Development Department.

11. In the 17/76 and Old Town districts, where on-street or public parking is available within 500 feet of a site, the approving body may reduce or waive the required off-street parking for non-residential uses in accordance with the amount of parking available within 500 feet of the site.
12. **Schedule of Parking Requirements**. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule and the following standards:
   a. Where this table refers to square footage, the standard applied is usable floor area, unless otherwise stated.
   b. When a use includes accessory uses, such as a hotel with a restaurant open to the public, requirements for the accessory uses shall be calculated independently.
   c. When a use is required by statute to provide barrier-free parking spaces, the total number of off-street parking spaces required by this section shall be increased by one (1) for non-single-family uses requiring ten (10) parking spaces or less.
   d. **Maximum Permitted Parking.** Parking shall not be provided in a quantity greater than one hundred twenty-five percent (125%) of the minimum requirement of this section, except that the approving body may approve a greater increase where an applicant can demonstrate that a greater number of spaces is required via a parking study or other means deemed sufficient by the approving body.

e. **Minimum Required Off-Street Parking Spaces.**

TABLE 4-5.2.A.12.E MINIMUM REQUIRED OFF-STREET PARKING SPACES	
i. Residential & Agricultural	
1) Agricultural support uses	3 spaces per 200 square feet of area devoted to support uses
2) Single-family dwellings and duplexes/two-family dwellings	2 spaces per unit
3) Multi-family dwellings	1 space per efficiency and 1 bedroom units;
	1.5 spaces per 2 bedroom unit;
	2 spaces per unit exceeding 2 bedrooms.
	Plus 0.5 visitor spaces per dwelling unit; spaces within garages, carports, or on driveways shall not be counted towards the visitor space requirement
4) Manufactured housing community (a.k.a. mobile home park)	2 spaces per mobile home site, plus 1 visitor space per each 4 manufactured homes
ii. Institutional & Gathering Spaces	
1) Banquet / catering halls	1 space per each 2 persons allowed within maximum occupancy, as determined by the Building Permits and Inspections Department.
2) Camps (day or youth)	1 space per employee on the largest shift, plus 1 space per camp vehicle normally stored on the premises
3) Community or recreation center	1 space per 100 square feet
4) Day or nursery school/child care center	1 space per teacher/employee on the largest shift, plus 1 space per 10 pupils at maximum occupancy
5) Exhibition halls	1 space per 45 square feet
6) Fraternal organizations, private clubs, and lodges	1 space per 85 square feet
7) Group dwellings, fraternity or sorority, boarding or lodging houses	1 space per each 2 beds, or one space per each 5 permitted active members, whichever is greater
8) Libraries and museums	1 space per 350 square feet
9) Nursing/assisted living/ convalescent homes	1 space per 4 beds
10) Places of worship	1 space per 4 seats or 8 feet of bench, and one space per 45 square feet of assembly area without fixed seating, including all areas in use at any one time
11) Schools, primary	1 space per teacher, employee, or administrator

TABLE 4-5.2.A.12.E MINIMUM REQUIRED OFF-STREET PARKING SPACES	
12) Schools, secondary	1 space per 3 students or the requirements of the auditorium, whichever is greater
13) Schools (college, trade, and vocational)	1 space per instructor, plus 5 spaces per classroom; plus any requirements for office space on the premises
14) Sports arenas	1 space per 4 seats or 8 feet of bench
15) Theaters and auditoriums	1 space per 4 seats
iii. Recreational	
1) Bowling alleys	3 per bowling lane,
2) Driving range	2 spaces per three tees
3) Golf course	4 spaces per hole
4) Golf course, miniature	2.5 spaces per hole
5) Skating rinks (ice or roller)	1 space per 175 square feet
6) Swimming facilities	1 space per 3 persons permitted at maximum occupancy
7) Tennis/racquetball/handball courts	4 spaces per court
8) Other outdoor commercial recreational uses	1 space per each 500 square feet of use area
9) Other indoor commercial recreational uses	1 space per 3 persons permitted at maximum occupancy
iv. Commercial	
1) Artisan manufacturing/studios	1 space per 1,000 square feet
2) Automotive repair	3 spaces per service stall
3) Automotive sales	1 space per 100 square feet of sales room, up to 2,000 square feet; outdoor sales areas calculated separately
4) Banks	1 space per 200 square feet
5) Fitness establishments and instructional studios	1 space per 3 persons permitted at maximum occupancy
6) Funeral homes	1 space per 45 square feet in each assembly room
7) Furniture stores and other low-volume retail establishments.	1 space per 750 square feet
8) Game of chance operations	1 space per 3 persons permitted at maximum occupancy
9) Gas stations	1 space plus 1 space for each employee on the largest working shift; additional parking shall be provided for any accessory retail use as required for such use; up to fifty percent (50%) of fueling positions may be considered toward fulfilling the parking requirement for the gas station, except that fueling positions shall not be counted as spaces required for service bays

TABLE 4-5.2.A.12.E MINIMUM REQUIRED OFF-STREET PARKING SPACES	
10) Grocery stores/supermarkets	1 space per 300 square feet
11) Hospitals	1 space per 4 beds, plus 1 space per 600 square feet of gross floor area
12) Hotels/motels	1 space per occupancy unit, plus 1 additional space per 20 occupancy units; other uses, such as restaurants open to the general public shall be calculated separately
13) Laundromats, self-service	1 space for each 3 washing machines
14) Outdoor sales & display	1 space per 800 square feet of lot area used for sales and display
15) Personal service establishments	1 space per 300 square feet
16) Pet boarding facilities	1 space per 700 square feet
17) Restaurants and lounges, including fast food with seating	1 space per 85 square feet
18) Restaurants, fast food (no seating)	1 space per 55 square feet
19) Retail establishments	1 space per 300 square feet
20) Retail, convenience and discount (free standing)	1 space per 300 square feet
21) Salons & barber shops	3 spaces for each of the first 2 beauty or barber chairs, and 1.5 spaces for each additional chair
22) Shopping centers	One space per 300 square feet of floor area; any single use over 5,000 square feet (combined total of all space for each use) other than a retail store shall have its parking requirement calculated independently using standards in this code
23) Taverns, dance halls, night clubs	1 space per 3 persons permitted at maximum occupancy.
v. Office	
1) Medical offices and clinics	1 space per 240 square feet
2) Professional offices	1 space per 300 square feet
3) Veterinary offices	1 space per 300 square feet
4) Call centers/telemarketing	1 space per 100 square feet

TABLE 4-5.2.A.12.E MINIMUM REQUIRED OFF-STREET PARKING SPACES	
vi. Industrial	
1) Industrial uses	3 spaces, plus 1 space per 750 square feet
2) Research / technology uses	1 space per 500 square feet
3) Mini storage, indoor	1 space per 750 square feet of sales floor area, plus 1 space per 100 storage units
4) Mini storage, outdoor	1 space per 750 square feet of sales floor area; customer parking may be provided parallel in front of storage units, provided that drive aisles are a minimum of 24 feet wide
5) Warehouses & wholesale operations	3 spaces, plus 1 space per 1,300 square feet

13. **Drive-Through Stacking.** Wherever a drive-through is provided, drive-through stacking spaces shall be provided in addition to required parking spaces in accordance with Section 4-5.2, subsection B (Drive-Through Design and Stacking), below, at the following rates:

TABLE 4-5.2.A.13 DRIVE-THROUGH STACKING		
Activity Type	Minimum Spaces	Measured From (does not include space being served)
Bank teller lane	4	Teller or window
Automated teller machine	3	Teller machine
Restaurant drive-through	10	6 before order box, 4 between order box and window
Car wash stall, automatic	10	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	1	Fueling station
Pharmacy	3	Window
Other	Determined by City Engineer based on Traffic Study	

B. **Drive-Through Design and Stacking.** A lane, aisle, drive, or path in which vehicles are directed expressly for the purposes of receiving or dispensing persons, goods, or services without the driver leaving the vehicle (referred to as a drive-through lane) shall comply with the following requirements:

1. Drive-through lanes shall be separate from the circulation roads and lanes necessary for ingress to and egress from the property.
2. Drive-through lanes shall not use any space that is necessary for adequate access to parking spaces.
3. Drive-through lanes where vehicle stacking and waiting occur shall not be permitted in the front yard.
4. Drive-through lanes and associated by-pass lanes shall be setback at least five (5) feet from the side and rear lot lines.
5. Drive-through lanes located adjacent to a street shall be buffered by a minimum ten (10) foot wide landscaped planting adjacent to the right-of-way as specified in Section 4-5.3 Landscape and Natural Features, subsection A.9.
6. When the direction of traffic in an adjacent lane or aisle is opposite the direction of the drive-through lane or when the adjacent aisle is used to access parking spaces, drive-through lanes shall be separated from other aisles and lanes using a landscaped island, sidewalk, or any other similar raised barrier, as approved by the approving body. In no case shall this barrier be less than five (5) feet.
7. Drive-through lanes shall provide one (1) ten (10) foot wide by-pass lane to allow unobstructed travel for vehicles to pass those waiting to be served.
8. Designated pedestrian areas which pass through a stacking space/by-pass lane area shall be clearly marked through pavement striping, alternative paving material, or a stamped pattern or texture in the pavement.
9. Drive-through lanes shall meet the following requirements:
   a. Have a minimum width of nine (9) feet.
   b. Have a minimum length of twenty (20) feet per vehicle.
   c. Have a minimum centerline turning radius of twenty-five (25) feet.
   d. Be striped, marked, or otherwise distinctly delineated.

C. **Parking Lot Design.** Wherever the off-street parking requirements in Section 4-5.2, subsection A require the construction of an off-street parking facility, such off-street parking lot shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

1. Parking lots shall not be constructed unless and until a permit for such parking lot is issued by the Building Permits and Inspections Department. Applications for a permit shall be submitted as per the requirements of Chapter 7 - Development Review.
2. Plans for the layout of an off-street parking lot shall have dimensions consistent with the following standards:

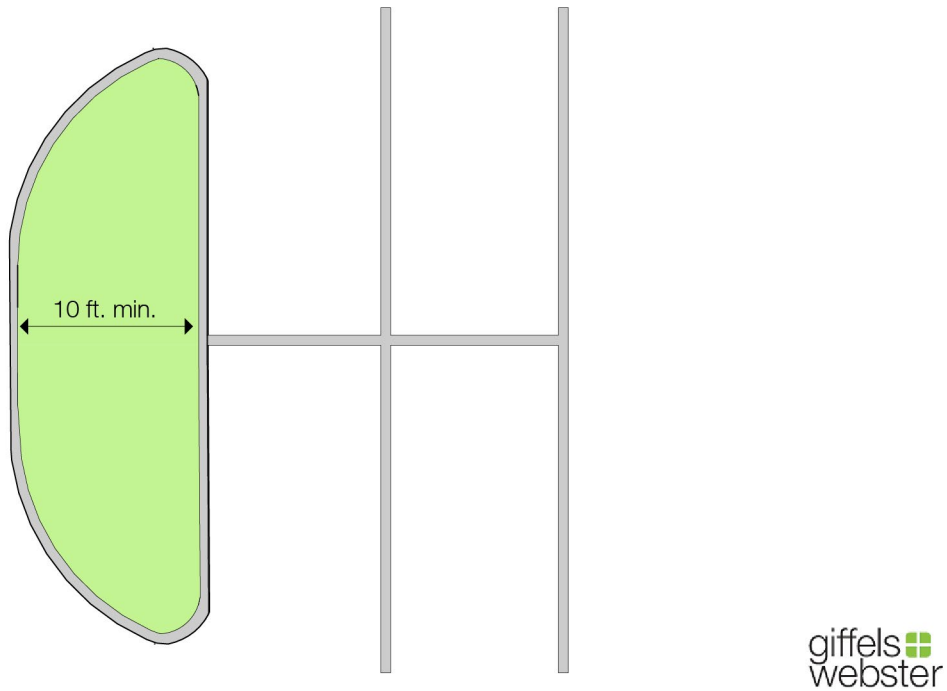
TABLE 4-5.2.C.2 SPACE AND MANEUVERING ALTERNATIVES

Angle of Spaces	Space Width	Space Length	Maneuvering Width	Two Tiers of Parking and One Maneuvering Lane
90 degrees	9 ft.	20 ft.	24 ft. (two-way)	64 ft.
60 degrees	9 ft.	20 ft.	16 ft. (one-way)	56 ft.
45 degrees	9 ft.	20 ft.	14 ft. (one-way)	52 ft.
Parallel	8 ft.	24 ft.	12 ft. (one-way)	20 ft.

3. The space length of ninety-degree (90°) parking stalls may be reduced by two (2) feet, to eighteen (18) feet, when an acceptable unobstructed overhang is provided. Examples include a four (4) inch high sidewalk that is at least seven (7) feet wide and a landscaped area with no vertical obstructions where the curb height is 4 inches.
4. Other drives or maneuvering lanes. Other drives or maneuvering lanes not indicated above shall have a minimum width of twenty-four (24) feet. This may be reduced by the approving body to twenty-two (22) feet where there are no adjacent parking spaces.
5. Parking spaces to accommodate vehicles with trailers (boats and recreational vehicles) shall be at least ten (10) feet by forty (40) feet.
6. Parking lot stalls shall be striped and maintained.
7. Barrier-free parking spaces shall be furnished as required by statute.
8. Lighting used to illuminate off-street parking areas shall be installed in accordance with Section 4-5.4 Lighting.

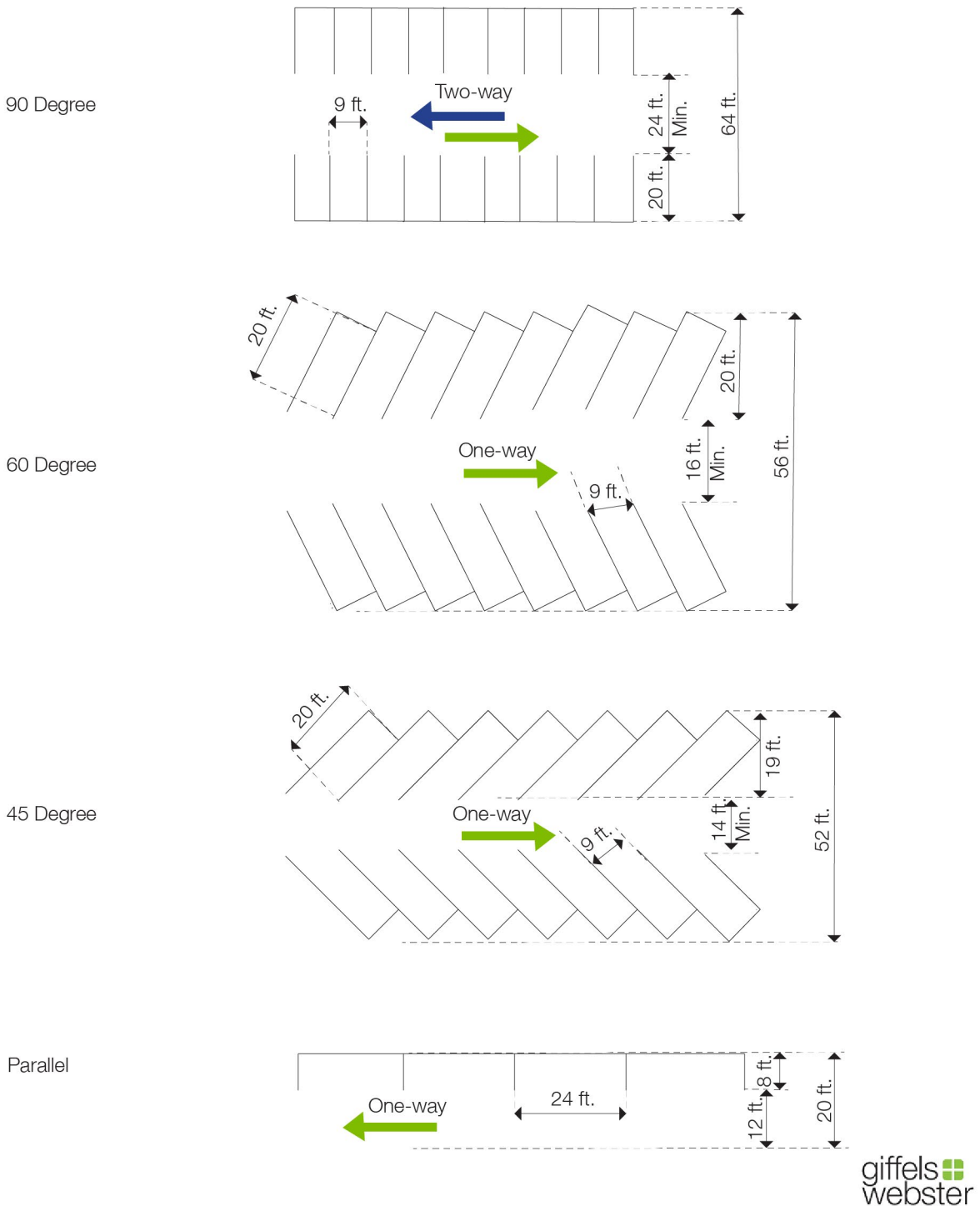
9. In order to delineate on-site circulation, improve sight distance and safety at the intersection of parking aisles, protect the vehicle(s) at the end of a parking bay, and define the geometry of internal intersections, end islands (landscaped with raised concrete curb) shall be required at the end of all parking bays that abut traffic circulation aisles in off-street parking lots. End islands with raised curbs and landscaping shall not be required in parking structures. The approving body may waive the requirement for raised end islands and may allow for painted islands only or no islands for surface lots, in locations where internal traffic circulation is forecast to be low (e.g., remote parking spaces away from building entries) or where the raised islands would not be appropriate. The end islands, whether raised or painted, shall generally be at least ten (10) feet wide, have an outside radius of fifteen (15) feet, and be constructed two (2) feet shorter than the adjacent parking stall. ✍

FIGURE 4-5.2.C.9 END ISLANDS IN PARKING AREAS



10. Parking lots shall be landscaped in accordance with the standards of Section 4-5.3 Landscape and Natural Features. ✍

FIGURE 4-5.2.C.10 PARKING LAYOUTS



D. **Parking Space Construction and Maintenance.**

1. Parking lots shall not be constructed or reconstructed unless and until a permit therefor is issued by the Building Permits and Inspections Department. Applications for such a permit shall be submitted to the Community Development Department in such form as may be determined by the department.
2. Plans must be submitted in accordance with the procedures set forth in the engineering site plan design standards.
3. Spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
4. Adequate ingress and egress to the parking lot and to all parking spaces shall be provided by means of clearly limited and defined drives.
5. Ingress or egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
6. Maneuvering lanes serving angle parking shall permit one-way traffic movement only; lanes serving right angle parking may permit two-way traffic movement. The mixing of one- and two-way movements within a lot shall be permitted only in exceptional circumstances and with the approval of the approving body.
7. When a front yard setback is required, land between such wall and the front property line or street right-of-way shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, ground cover, and ornamental trees. Ground cover shall include one (1) or more of the following: grass (planted as seed or sod), mulch, or ground cover plantings approved by the City. Cobblestone, pavers, or rocks may also cover up to twenty-five percent (25%) of ground cover area. In the 17/76 and OT districts, the entire ground cover area may be a plaza with decorative pavers and deciduous trees planted in tree grates, and other contextual landscaping and hardscape materials. Such landscaping and planting shall be maintained in a healthy, growing condition, neat, and orderly in appearance.
8. In all use districts, except single-family residential dwellings, the entire off-street parking lot, including parking spaces and maneuvering lanes required under this section, shall be surfaced with asphaltic or concrete paving and shall be striped to delineate parking spaces and lanes in accordance with specifications approved by the City Council prior to the issuance of an occupancy permit; if weather conditions preclude paving, a temporary occupancy permit may be issued for a period not to exceed six (6) months.
9. Off-street parking lots shall be drained so as to dispose of all accumulated surface water in such a way as to preclude drainage onto adjacent property or toward buildings.
10. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking lot, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking lot.
11. Dead-end off-street parking aisles are discouraged, especially in connection with business uses. Such aisles should be no more than eight (8) spaces deep and should, in any case, be used only when there is no reasonable alternative. If more than eight (8) spaces deep, the layout shall provide a means for vehicles to turn around if all spaces are occupied.

E. **Access Management and Frontage Roads.** Refer to Title II of the City Code of Ordinances, "Sidewalks and Streets."

F. **Pedestrian Accommodations**. Development sites shall provide for the safe and comfortable circulation of pedestrians as follows:

1. Pedestrian walkways shall be provided between building entrances/exits and parking areas, and within parking areas to provide a designated walking area, especially where there is a need to connect dispersed buildings with parking areas.
2. Pedestrian walkways shall be provided between buildings and sidewalks or multi-use paths along adjacent streets, including marked crosswalks across parking maneuvering lanes, as necessary.
3. On multi-building sites and mixed use sites, the site design shall provide functional pedestrian spaces, plazas, and seating areas between or in front of buildings. Designs shall include some areas with weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.
4. Canopy shade trees, landscape features, and seating, or other pedestrian amenities near colonnades, storefronts, and pedestrian routes shall be incorporated into the site.

G. **Loading Requirements**. A use involving the receipt or distribution of goods shall provide for off-street loading and unloading on the premises, and such loading space shall be shown and labeled on a site plan. Loading spaces shall meet the following requirements:

1. Loading spaces shall be located as follows:
   a. In the 17/76, OT, MX, and C districts, loading spaces shall be located in a rear yard.
   b. In the I-1 and I-2 districts, loading spaces shall be located in a rear or side yard.
   c. Outdoor loading spaces shall not be required where an applicant can demonstrate with a floor plan that loading requirements will be met inside a building.
   d. Loading spaces shall be a minimum of twenty-five (25) feet from any residential property line.
2. Loading spaces shall be a minimum of ten (10) feet by fifty (50) feet, with a minimum fourteen (14) feet of clearance overhead.
3. Loading spaces shall be provided at the following ratios:

TABLE 4-5.2.I.3 MINIMUM OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS

Gross Floor Area (in Square Feet)	Number of Loading Spaces Required
For Commercial and Industrial Uses	
0 - 10,000	None
10,001 - 100,000	One (1) space
100,001 and over	Two (2) spaces, plus one (1) space for each additional 50,000 square feet
For Office and Research Uses	
0 - 20,000	None
20,001+	One (1) space

4. In the 17/76 and OT districts, where common loading space is available within three hundred (300) feet of a site, including an alleyway with adequate space for the purpose, the reviewing body may reduce or waive the required off-street loading requirement.
5. The reviewing body may reduce the required length of the loading space from fifty (50) feet to a length not less than twenty-five (25) feet where the applicant can produce documentation that loading and unloading on the site will not involve full-sized semi-trucks.
6. Vehicles using loading spaces between 10:00 p.m. and 6:00 a.m., where the site abuts property with residential zoning, shall not remain at idle for greater than twenty (20) minutes.

4-5.3 Landscape and Natural Features

A. **Landscaping, Greenbelts, and Plant Materials.**

1. **Intent.** The overall intent of the Land Use Code is to preserve the health, safety, and welfare of the people who live and work in the City. Landscaping is a critical element of meeting this intent, contributing to the aesthetics, development quality, stability of property values, and overall character of the City. The intent of this section is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of a site, within parking lots, and adjacent to buildings. The standards of this section are intended to:
   a. Minimize negative impacts of stormwater runoff;
   b. Further the sustainability and resiliency goals of the City;
   c. Ensure that species selection is appropriate for the location of all plantings with regard to salt tolerances, obscuring effect, durability, and other important considerations;
   d. Prevent the spread of invasive species;
   e. Provide incentives to preserve quality mature trees;
   f. Screen headlights from rights-of-way and residences to reduce glare and driver distraction;
   g. Unify the elements of a site;
   h. Ensure compatibility between land uses;
   i. Break up large expanses of pavement, provide a substantial tree canopy and mitigate the urban heat island effect;
   j. Improve the overall aesthetic quality of the community; and
   k. Encourage an increase in landscaping during redevelopment of site.
2. **Scope.** The standards of this section are considered the minimum necessary to achieve the intent above. Applicants are encouraged to provide additional landscaping to improve the function, appearance, value, and sustainability of their property. The standards of this section shall apply to all sites, uses, and projects requiring site plan approval.
3. **Existing sites.** Special provision shall be made for applying these standards to developed sites that existed prior to the City adopting landscaping requirements. When an existing site is undergoing improvement, a change in use or expansion, the objective of these standards shall be to gradually bring the site into compliance with the minimum standards of this section in proportion to the extent of the expansion or improvement.

4. **Required planting.** Whenever in this code, landscaping is required, it shall be planted prior to the issuance of a certificate of occupancy or within six (6) months from the date of issuance of a temporary certificate of occupancy. In the instance where such completion is not possible, a cash bond, letter of credit, or corporate surety bond in an amount equal to the estimated cost of the landscape plan or its portion shall be deposited in accordance with Title V of the City's Code of Ordinances.
5. **Landscape plan required.** A landscape plan prepared by a licensed landscape architect or other certified or licensed professional approved by the Community Development Department shall be submitted for uses requiring site plan approval, per the requirements of Section 4-7.1 Public Hearings. For subdivision landscaping standards, see Section 4-6.21 Landscaping Standards.
6. **Species selection.** Plant materials shall be selected to ensure that the root system will not interfere with public utilities. Planting materials used shall be of good quality and meet American Association of Nurserymen (AANS) standards for minimum acceptable form, quality, and size for species selected, and capable of withstanding the seasonal temperature variations of southeastern North Dakota. The use of species native to southeast North Dakota is encouraged. Size and density of plant material, both at the time of planting and at maturity, are additional criteria that shall be considered when selecting plant material. Where appropriate, the use of drought and salt tolerant plant material is preferred. Species diversity is encouraged.
7. **General landscaping standards.** Landscaping in the City shall meet the following standards:
   a. Innovation and design of landscaping, berm placement, and use of flowering trees is encouraged.
   b. Trees and shrubs shall be placed a minimum of four (4) feet from any fence line or property line.
   c. Deciduous trees shall be a minimum of two (2) inches diameter at breast height (dbh) at the time of planting.
   d. Growth from a tree or shrub that is under eight (8) feet must be pruned to no less than six (6) inches from the right-of-way.
8. **Existing vegetation.** Requirements for greenbelt trees and other planting may be fulfilled or partially fulfilled by existing vegetation, when approved by the approving body.

9. **Street frontage landscaping.** Street frontage landscaping shall be provided on all sites. Street trees are required along all property lines abutting a street, as specified for each zoning district in Chapter 3 - Zoning Districts. In addition to street trees required in all districts and for all uses abutting a street, street frontage landscaping regulated by this chapter (Chapter 5 - Site Standards) is required for all uses except single- and two-family (duplex) homes, and it shall meet the following requirements, intended to promote attractive, high-quality development and to provide an appealing image of the City.
    a. The minimum width of street frontage landscaping shall be ten (10) feet wide along any lot line abutting a street, except where a greater width is required (see applicable zoning regulations). The approving body may approve a reduction of this minimum width or an alternative to street frontage landscaping wherever it makes a finding that reduced building setbacks in the applicable zoning district make a full ten (10) foot landscape area impractical, and that reducing the width of the landscape area will not adversely impact landscape health and longevity. If street frontage landscaping is waived by the approving body required street trees shall be placed within the adjacent street right-of-way.
    b. Evergreen trees shall not be used in street frontage landscaping areas. Additionally, evergreens shall not be planted within twenty-five (25) feet of any non-residential driveway.
    c. **Parking lot buffer required.** A continuous evergreen hedge with a minimum height of two and one-half (2 ½) feet shall be required adjacent to any off-street parking lot in order to screen parking and prevent the intrusion of glare from headlights into the public right-of-way. A low wall or combination of decorative metal fencing, landscaping, and ornamental brick or stone pillars may be substituted for this hedge with approving body approval. Hedges, fences, or walls shall be placed so as to permit at least three (3) feet of overhang for parked vehicles. A two and one-half (2 ½) foot high berm may be substituted as a parking lot buffer in the I-2 district and in the AG, SR-1, SR-2, and SR-3, and MH districts. Parking lot buffers are not to exceed thirty-six (36) feet at maturity.
    d. Any remaining ground surface area within a street frontage area shall be seeded, sodded, or planted with ground cover and shall be irrigated to maintain healthy growth.
    e. The approving body may accept enhanced foundation plantings as a method of obtaining partial compliance where street frontage landscaping requirements cannot be met.
10. **Foundation planting required**. Foundation landscaping areas shall maintain a minimum dimension of four (4) feet in the smallest dimension and shall be placed between street-facing facades and the adjacent street. The length shall total a minimum of 80 percent (80%) of the street-facing facade, excluding pedestrian and vehicle doors. Planting areas shall be as close to the building facade as practicable. Foundation landscaping shall be provided at a rate of one (1) ornamental deciduous tree for every twenty-five (25) feet (rounded up to the nearest whole number) of width of the applicable facade elevation; and one (1) hedge plant or shrub for every three (3) feet of width of the applicable facade elevation. Foundation landscaping shall not be required in the 17/76 district, Old Town district, or other districts where the street facing facade are permitted to have a zero (0) foot front setback.

11. **Greenbelts/Landscaped buffers.** Wherever greenbelts are required by this code, they shall meet the following standards:
    a. A detailed plan for the greenbelt shall be approved during site plan review. The plan shall include information as required in Section 4-7.2 Site Plan Review.
    b. Minor buffer greenbelts shall meet the following minimum standards:
        i. The purpose of screening with minor buffer greenbelts is to soften the impact of one (1) land use on another. This presents an interrupted or open screen that creates an impression of space separation without necessarily eliminating visual contact.
        ii. The minimum width of a greenbelt shall be ten (10) feet.
        iii. The greenbelt shall contain at least one (1) tree for each thirty (30) linear feet of greenbelt.
        iv. Evergreen trees shall be a minimum of three (3) feet in height at the time of planting and deciduous canopy trees shall be a minimum two (2) inch caliper at planting.
        v. A greenbelt shall contain understory plantings, with a minimum of five shrubs or similar plantings per twenty-five (25) linear feet of buffer, with a minimum shrub height of three (3) feet. Where the approving body agrees that canopy trees are impractical, it may approve the substitution of shrubs or ornamental trees.
        vi. The remaining ground surface area of the greenbelt shall be seeded, sodded, or planted with ground cover, shrubs, flower beds, or other vegetation.
        vii. The goal of a landscape plan for a greenbelt should be that branch and leaf canopy overlap by half the maximum predicted width of the adjacent tree at maturity. Shrubs shall be planted in such a manner that spacing between both shrub and trees will be filled at maturity. ✍

FIGURE 4-5.3.A.12.B MINOR BUFFER SIDE VIEW

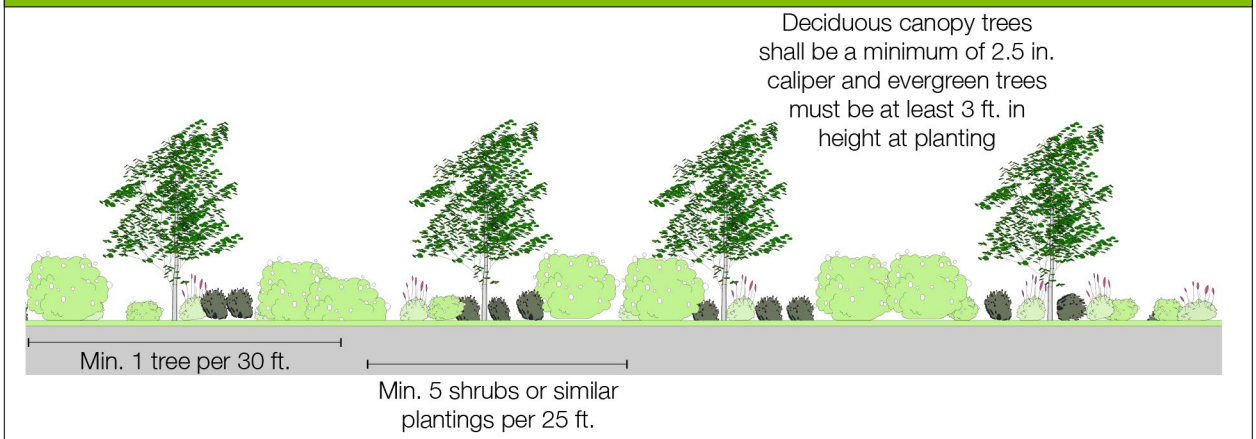


FIGURE 4-5.3.A.11.B MINOR BUFFER TOP (PLAN) VIEW

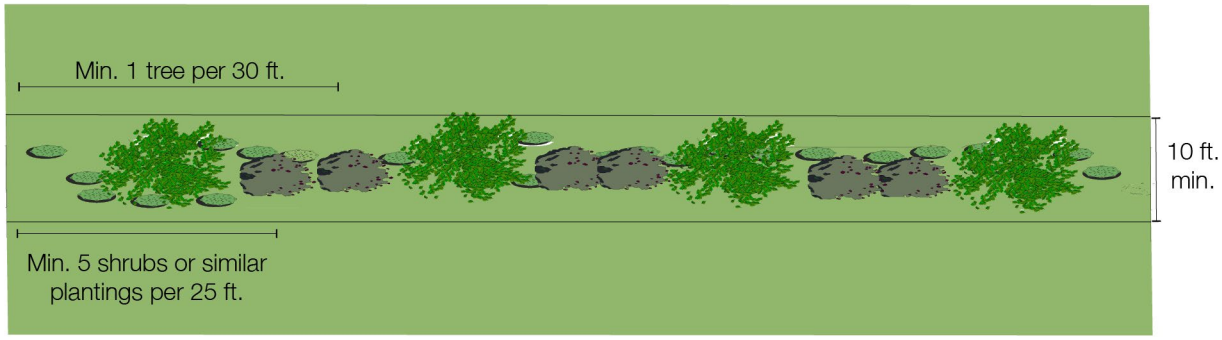


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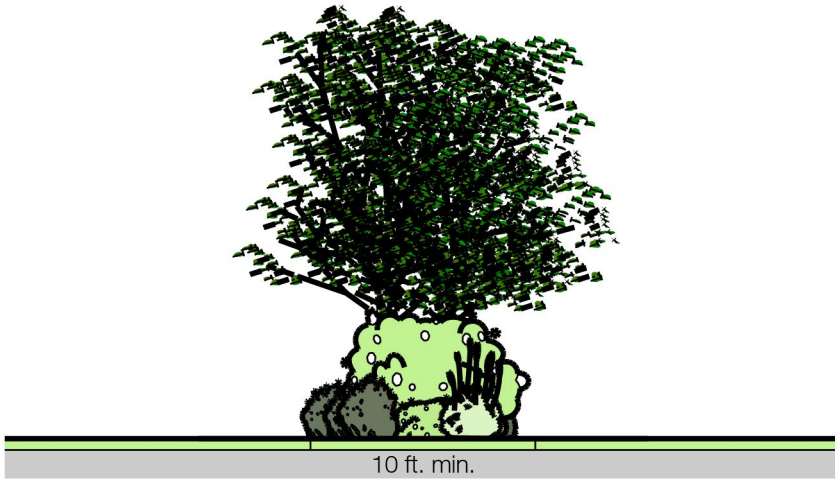
FIGURE 4-5.3.A.11.B MINOR BUFFER CROSS SECTION



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c. Major buffer greenbelts shall meet the following minimum standards:

i. The intent of the major buffer greenbelt is to provide screening where major impacts are anticipated and is intended to block the view of obtrusive or undesirable visual elements, exclude all contact between such uses, and create a strong impression of spatial separation.

ii. The buffer zone shall be developed with two (2) continuous rows of evergreens (spruce or pine), measuring at least eight (8) feet in height at the time of planting, evenly staggered, each row planted at intervals not exceeding twenty (20) feet on center; and a naturally rolling landscaped berm averaging three (3) feet in height.

iii. The minimum width of a greenbelt shall be twenty (20) feet, unless reduced by the approving body per subsection A.16, below.

iv. The remaining ground surface area of the greenbelt shall be seeded, sodded, or planted with ground cover, shrubs, flower beds, or other vegetation.

v. The mix and spacing of evergreen plant materials shall ensure that a maximum obscuring effect will be maintained throughout all seasons. ✍

FIGURE 4-5.3.A.11.C MAJOR BUFFER SIDE VIEW

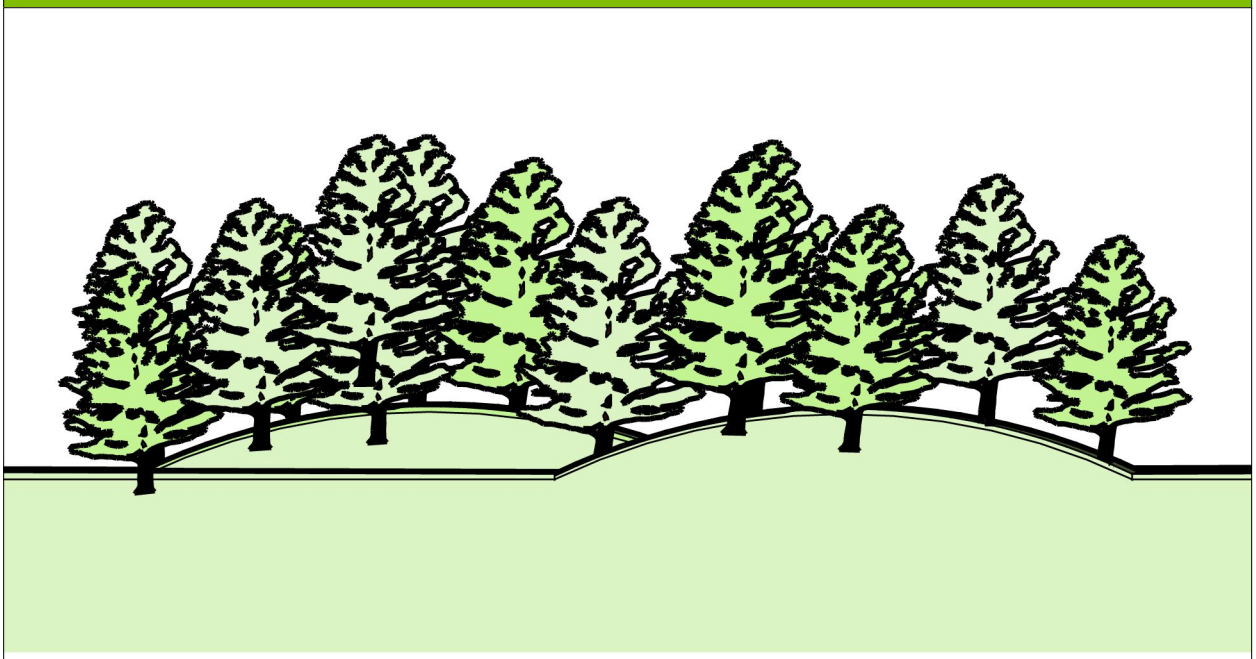

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FIGURE 4-5.3.A.11.C MAJOR BUFFER TOP VIEW

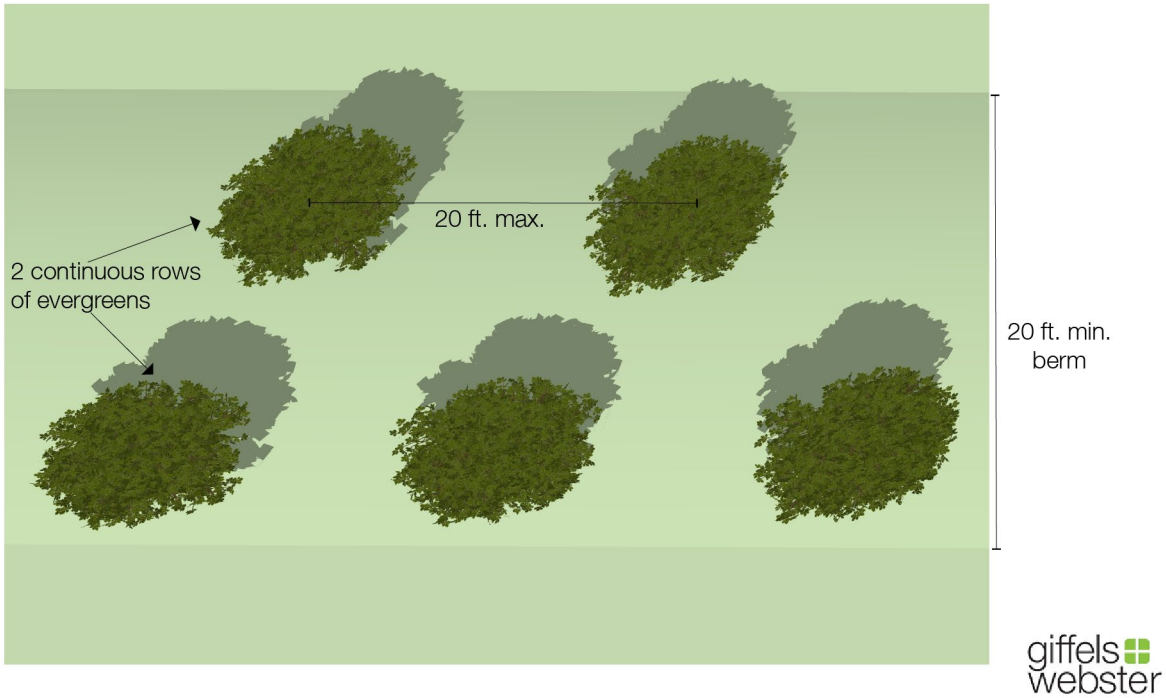
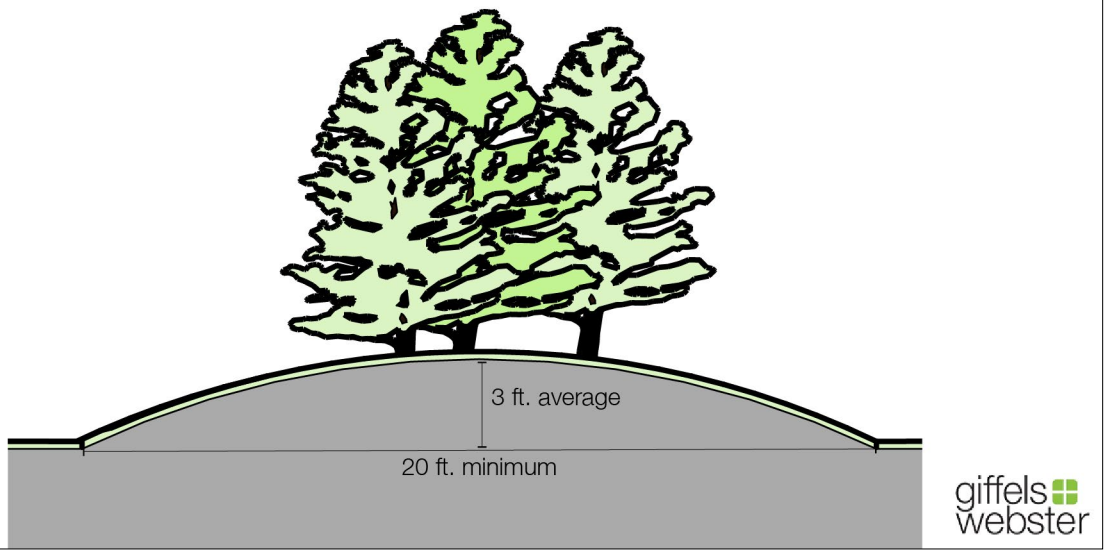


FIGURE 4-5.3.A.11.C MAJOR BUFFER CROSS SECTION



d. Greenbelts shall be designed to avoid creating obstacles to proper sight distance between vehicles and pedestrians. (See Section 4-5.3 Landscape and Natural Features, subsection D.)

e. Greenbelt requirements by zoning district and type of greenbelt.

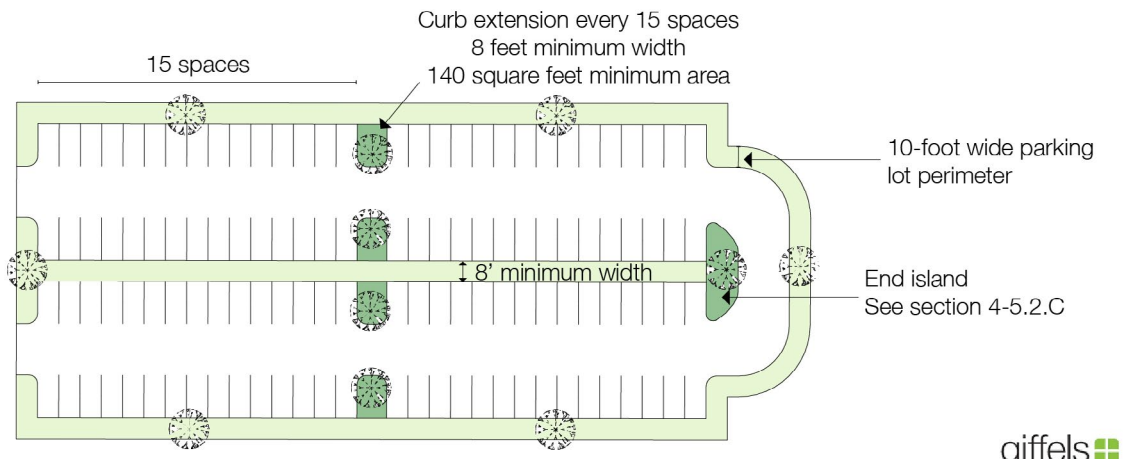
TABLE 4-5.3.A.11.E GREENBELT REQUIREMENTS BY ZONING DISTRICT AND TYPE OF GREENBELT

Zoning or use of subject site	Zoning or Use of Adjacent Site					
	AG, SR-1, SR-2, SR-3, MH - residential uses	CR - residential uses	UR - residential uses	17/76, OT, MX	C, I-1, I-2	CIV, FP
Non-residential uses in residential districts	Major	Minor	Minor	None	None	None
Multi-family housing (over 6 units) in any district	Major	Minor	Minor	None	None	None
17/76, OT, & MX districts	Major	Minor	Minor	None	None	Minor
C districts	Major	Major	Major	Minor	None	Major
I-1 & I-2 districts	Major	Major	Major	Major	Minor	Major
Parking lots in any zoning district	Major	Minor	Minor	None	Minor	Major
	and Table 4-5.3.B.1.b					
Mobile home park	Minor	Minor	Minor	Minor	None	Minor
Public utility buildings in any district		Major	Major	Minor	Minor	Minor
Outdoor storage or loading areas in any district	Major	Major	Major	Major	Major	Major

f. Where a berm is proposed, the following requirements shall be met:
   i. Berms shall be constructed as landscaped earth mounds with a crest area of at least four (4) feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope, which may be shorter than the exterior slope, or retained by means of a wall, terrace, or other means acceptable to the approving body. Whenever an earthen slope is provided, it shall be constructed with an incline not to exceed one (1) foot of vertical rise to three (3) feet of horizontal distance.
   ii. Berm slopes shall be protected from erosion by sodding or seeding. Seeded slopes shall be protected with a straw mulch held in place by jute netting until the seed germinates and a permanent lawn is established. The straw mulch is not required if the seeded slope is protected by a net that is specifically designed to control erosion or if a hydroseeding method is used that will accomplish the same goal, as determined by the Community Development Department. The berm area shall be kept free from refuse and debris and shall be planted with living shrubs, trees, or grass, and shall be maintained in a healthy, growing condition.
   iii. A planting plan and grading plan shall be prepared for the berm. Plant materials within the berm area shall be installed in accordance with the requirements for greenbelts and plant material contained in this section.
   iv. The mix and spacing of deciduous and evergreen plant materials shall ensure that a maximum obscuring effect will be maintained throughout all seasons. Staggering of plant materials may be employed to obtain the obscuring effect.

12. **Parking lot landscaping.** The City finds that large continuous expanses of parking diminish the aesthetic quality of sites and increase the heat island effect. In order to mitigate these effects, parking lot landscaping is required for all parking lots exceeding thirty (30) spaces. Parking lot trees shall be provided as follows:
    a. A minimum of one (1) tree shall be provided for each twenty (20) parking spaces provided and/or landbanked.
    b. One (1) curb extension or island shall be provided every fifteen (15) parking spaces.
    c. Required parking lot trees shall be planted within the end islands and curb extensions. Required parking lot trees unable to be placed within curb extensions or end islands shall be placed within ten (10) feet of the parking lot perimeter, provided they are spaced a minimum of twenty-seven (27) feet apart, on average. ✍

FIGURE 4-5.3.A.12.C PARKING LOT LANDSCAPING



    d. Each curb extension shall be a minimum of eight (8) feet wide and one hundred forty (140) square feet in area.
    e. Refer to Section 4-5.2, subsection C for end island requirements.
13. **Preservation of existing tree lines and shelterbelts.** Where existing mature tree lines cross or are located on the boundary of a lot, they shall, to the extent practical, be preserved and incorporated into the required landscaping for the site.

14. **Landscape maintenance agreements and requirements.**
    a. **Statement of intent.** It is important to the City that all residential and non-residential properties accentuate to the extent practicable, green space, lawn cover, tree protection, water conservation and irrigation, and on-site water runoff management. Thus, the planning and design of green space requirements is critical to any type of development within the City. The goal is also to assure proper buffer area landscaping, appropriate planting types, sizes, visual screens, and noise inhibitors. It also is intended to reduce stormwater runoff from impervious surfaces and associated flooding. Equally important, once the green space is developed in accordance with an approved green space and maintenance plan, adherence to that plan will occur after the site is constructed and a certificate of occupancy is issued. Therefore, to assure the implementation and continuation of this purpose, the provisions hereunder are enacted.
    b. **Landscape maintenance agreement.** The agreement shall be provided by the applicant and recorded or filed in City Hall. Trees and vegetation, irrigation systems, fences, walls, and other landscaping elements shall be considered as elements of the project in the same manner as parking, building materials, and other site details. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of all landscaping elements in good condition. Landscaping shall be maintained free from disease, pests, weeds, and litter, and landscape structures such as fences and walls shall be repaired and replaced periodically to maintain a structurally sound condition in order to maintain the required landscaping of the site.
    c. The Community Development Department shall provide the property owner and/or the tenant or lessee written notice of dead or missing landscape material in violation of landscaping requirements, and they shall allow at least ninety (90) days to provide for the replacement of such materials.
    d. Wherever landscaping has been provided, the landscape maintenance agreement shall indicate the means of providing sufficient irrigation.
    e. Tree limbs shall be trimmed to a height of no lower than thirteen (13) feet above the street surface, and no lower than eight (8) feet above a sidewalk surface or within a required clear vision area.
    f. Topping of trees is prohibited.

15. **Prohibited species**. The planting of species determined to be invasive or to harbor invasive insects or diseases shall be prohibited. The following species shall not be permitted:

TABLE 4-5.3.A.15 PROHIBITED SPECIES	
Genus/Species	Common Name
a. Acer negundo	Box Elder
b. Aesculus glabra	Ohio Buckeye
c. Ailanthus altissima	Tree of Heaven
d. Alnus glutinosa	Black Alder
e. Crataegus crus-galli	Cockspur Hawthorn
f. Elaeagnus angustifolia	Russian Olive
g. Frangula alnus	Glossy Buckthorn
h. Maclura pomifera	Osage-orange
i. Morus species	Mulberry
j. Paulownia tomentosa	Empress Tree
k. Pyrus calleryana	Callery Pear
l. Pyrus fauriei	Korean Pear
m. Pyrus salicifolia	Willowleaf Pear
n. Reynoutria japonica	Japanese Knotweed
o. Robinia pseudoacacia	Black Locust
p. Sorbus cultivars	Mountain Ash
q. Tamarix species	Tamarisk
r. Ulmus cultivars susceptible to Dutch Elm Disease	Elms

16. **Waivers/substitutions.** The approving body may approve a reduction of the minimum requirements in this section wherever it makes a finding that the characteristics of the site make full compliance with the standards impractical due to unique site conditions, and that reducing the amount of required landscaping will not adversely impact adjacent parcels and is in keeping with the spirit and intent of this code.

B. **Fences, Hedges, and Walls.**

1. **Walls Abutting a Residential Zoning District**. For those use districts and uses listed below, there may be provided and maintained on those sides abutting or adjacent to a residential district, an obscuring wall or landscaped berm as required:
   a. In those instances where the border between districts or uses requiring a wall or berm is a roadway; a greenbelt may be substituted for the wall or berm adjacent to the roadway.
   b. The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall or berm, required as follows:

TABLE 4-5.3.B.1.B WALL & BERM HEIGHT REQUIREMENTS ABUTTING A RESIDENTIAL ZONING DISTRICT

Use of, or Zoning District for, Subject Property	Minimum Requirements for Barrier to Screen a Residential Zoning District
i. Off-street parking area	6-foot to 8-foot-high decorative wall as provided in subsection i below, or berm
ii. C, I-1, MX, CIV, 17/76, OT districts	6-foot to 8-foot-high decorative wall as provided in subsection i below
iii. I-2 district	6-foot to 8-foot-high decorative wall, as provided in subsection i below, or berm.
iv. I-2 district--Open storage areas, loading or unloading areas, service areas	6-foot to 8-foot-high decorative wall, as provided in subsection i below, or berm
v. Any auto wash, drive-in/fast food restaurant	6-foot to 8-foot-high decorative wall as provided in subsection i below
vi. Hospital ambulance delivery areas	6-foot to 8-foot-high decorative wall as provided in subsection i below
vii. Utility buildings, stations, or substations	6-foot to 8-foot-high decorative wall as provided in subsection i below

   c. Deciduous trees shall be planted in the ground adjacent to the wall on the nonresidential side with size and spacing in accordance with Section 4-5.3, subsection A.11 whenever a wall or berm is required. If a berm is used, the trees may be either planted on the berm or staggered with at least fifty percent (50%) on the berm. Berms shall also meet the requirements of Section 4-5.3, subsection A.11.f.
   d. The approving body may, in unusual circumstances, permit a wall to be less than six (6) feet in height if no good purpose would be served. In making such determination, the approving body may consider the following:
      i. The height of existing nearby walls;
      ii. The effectiveness of the wall in screening adjacent property;
      iii. Variation in height would result in a significantly better-appearing wall when the length, in the opinion of the approving body, is excessive;
      iv. The characteristics of the area being screened.

e. In those instances where a required wall is located generally parallel to a public street right-of-way and within fifty (50) feet of the right-of-way, the approving body may require that the wall be designed so that it provides a varying setback or distance from the right-of-way. This may take the form of a serpentine wall, a wall with offsets in its alignment, or some other means of providing variety. The use of plant materials in conjunction with the wall is encouraged and may be required. Where site plan approval by the approving body is not required, the City Council shall provide such review.

f. Required walls shall be located along the lot line except where underground utilities interfere and except in instances where this chapter requires conformance with front yard setback lines in abutting residential districts.

g. Upon review of the site plan, the approving body may approve an alternate location for the wall or may waive the wall or deciduous trees requirement if in specific cases it would not serve the purposes of screening the area effectively, where some form of acceptable screening is already in place and likely to remain or where it is determined that the adjoining property is indicated on the future land use plan as a nonresidential area.

h. Required walls may, upon approval of the approving body, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration.

i. Walls required in this section shall be constructed to specifications approved by the Community Development Department. Walls shall be constructed of brick, natural stone, or have durable brick veneer on the side facing the residential district. The approving body may permit the wall to be constructed of poured concrete which simulates standard brick facings on both sides of the wall upon a finding that it would be suitable for the location proposed. A green wall, with one hundred percent (100%) living material, may be used as a decorative wall, provided the living material covers at least forty percent (40%) of the wall(s) with vegetation. Additionally, the approving body may accept an alternative material with equal aesthetic and durability qualities.

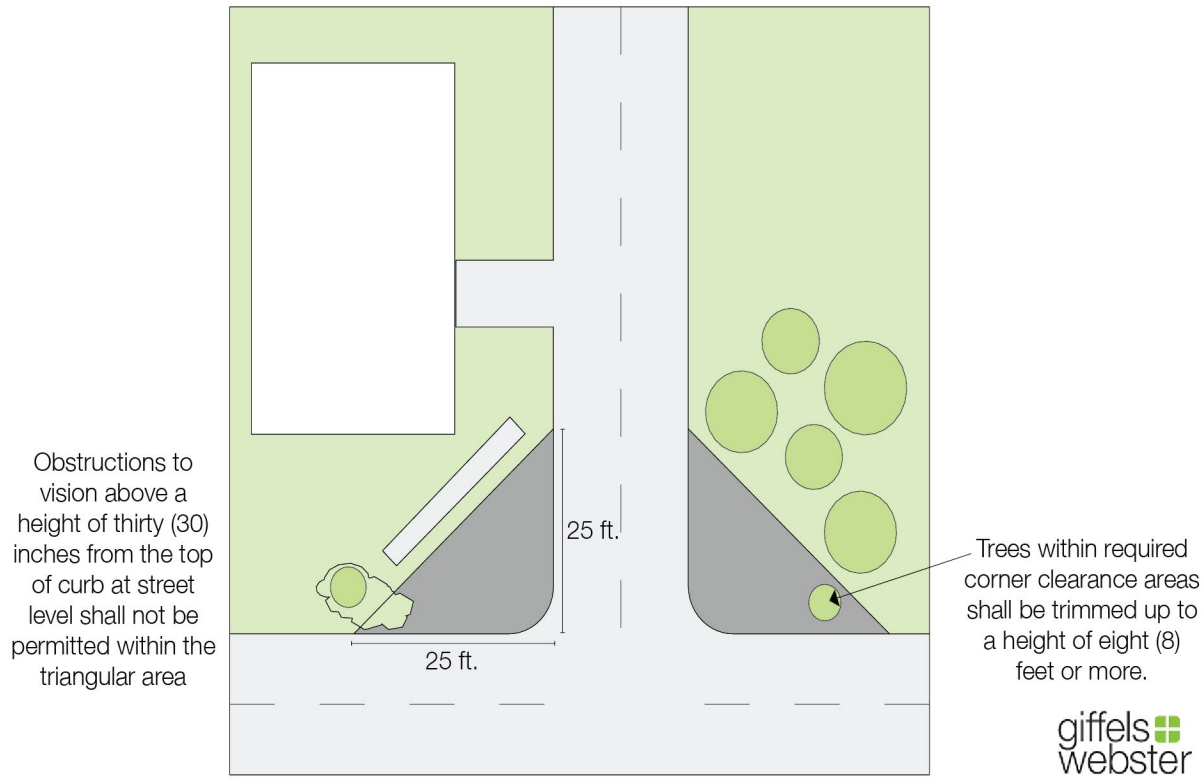
2. **Fences and Hedges.**
   a. Fences shall be constructed of weather-tolerant wood, cementitious concrete, metal, plastic or similar materials for the purpose of providing privacy, safety, and protection of a property.
   b. In residential districts, fences may be erected directly on the property line, unless such erection interferes with an easement.
   c. In all districts, the height of the fences or hedges shall not exceed three (3) feet when located in a front or street side yard, and such fences shall be no more than twenty-five percent (25%) opaque or obscuring.
   d. In the AG, SR-1, SR-2, and SR-3 districts, fencing that is not more that twenty-five percent (25%) opaque or obscuring is permitted in the front and street side yards for agricultural use, and may be up to four (4) feet tall.
   e. Opaque or obscuring fencing may be permitted in a front yard in the I-1 and I-2 district, subject to approval by the approving body.
   f. For interior side and rear yards in residential districts, the height of the fence and hedges shall not exceed six (6) feet, so long as a vision triangle near the street intersection is maintained.
   g. In commercial and industrial districts, the height of the fence shall not exceed eight (8) feet. Fences may be installed on the property line.
   h. Fences shall not obstruct the view of the motorist at an intersection in keeping with sight distance requirements of the American Association of State Highway and Transportation Officials (AASHTO) and clear vision requirements of this code.
   i. Fences visible from residential districts, public and private roads, public parks, and similar areas shall be decorative.
   j. Fences shall be designed based on the intent and context of the district and neighborhood.
   k. Fences require submission to Building Permits and Inspections Department, except temporary fences for construction and snow fences.
   l. The finished side of fences that are installed must face the outside of the property of which the fence is installed.
   m. In all cases, the top of the wall shall be finished to provide positive drainage.
   n. On corner lots, privacy fences in the street side yard may have a maximum height of six feet, and shall be constructed a minimum of six inches from the edge of the public sidewalk. A clear vision area shall be established where any driveway meets a public sidewalk. The clear vision area shall be a triangle formed by measuring a distance of 15 feet along the outermost edges of both the sidewalk and driveway from their point of intersection. Within the clear vision area, no fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches from grade at its base shall be permitted.

C. **Natural Features.**

1. Significant natural or existing features, such as drainage swales, existing trees, and shelterbelts, shall be incorporated into the site design to the extent that retention of the feature allows reasonable use of the site, as determined by the approving body.
2. No building or structure may be erected, constructed, enlarged, or altered within the "Watercourse Setback Zone" which is defined as those lands within one hundred fifty (150) feet of the identified upper edge or bank of any stream, lake, pond, impounding reservoir, marsh, drain, watercourse, waterway, and all other bodies or accumulations of water on the surface of the earth, natural or artificial, public or private, without written authorization by the City Engineer and supported by evidence establishing the suitability of such use.

D. **Corner Clearance.** Fences, walls, shrubbery, signs or other obstructions to vision above a height of thirty (30) inches from the top of curb at street level shall not be permitted within the triangular area formed at the intersection of existing or proposed street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection. These standards shall also apply to the intersection of private drives with public streets, except that the distance from the point of intersection shall be twenty (20) feet and distance along the driveway shall be measured along the edge of the driveway (along back of curb if curb is provided). Further, trees within required corner clearance areas shall be trimmed up to a height of eight (8) feet or more. ✍

FIGURE 4-5.3.D CORNER CLEARANCE



4-5.4 Lighting

A. **Purpose.** The purpose of this chapter is to preserve, protect, and enhance the lawful nighttime use and enjoyment of properties in the City through the use of appropriate lighting practices and systems. Exterior lighting shall be designed, installed, and maintained to control glare and light trespass, minimize obtrusive light, conserve energy and resources, maintain safety, security and productivity, and prevent the degradation of the nighttime visual environment. It is the further intent of this chapter to encourage the use of innovative lighting designs and decorative light fixtures that enhance the character of the community.

B. **Applicability.**

1. **Existing Buildings and Uses.** New outdoor lighting installed on a building or parcel shall meet the requirements of this chapter with regard to shielding and lamp type.
2. **New Uses, Buildings, and Major Additions or Modifications.**
   a. The requirements of this section apply to new and major additions to land uses, developments, buildings, or structures.
   b. If a major addition occurs on a property, the entire property shall comply with the requirements of this code. For the purposes of this section, the following are considered to be major additions:
      i. Additions of twenty-five percent (25%) or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision; or
      ii. Single or cumulative modification or replacement of outdoor legally installed lighting fixtures constituting twenty-five percent (25%) or more of the lumens that would be permitted under this section for the property, no matter the actual amount of lighting already on a nonconforming site, constitutes a major addition for purposes of this section.
   c. **Minor Additions or Modifications.** Additions or modifications of less than twenty-five percent (25%) in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces to existing uses shall require the submission of a complete inventory and site plan detailing existing and proposed new or modified outdoor lighting. New or modified outdoor lighting on the site shall meet the requirements of this section with regard to shielding and lamp type.
   d. **Change of Use.**
      i. Whenever the use of an existing building, structure, or premises is intensified, as described in subsection 2 above, then all outdoor lighting shall be reviewed and brought into compliance with the requirements of this section before the use is resumed to the maximum extent feasible as determined by the Community Development Department.
      ii. For changes of use or intensity which require an increase in parking of less than twenty-five percent (25%) cumulative, the applicant shall only have to meet the requirements of this section for new outdoor lighting provided.

C. **General Provisions.** The design and illumination standards of this chapter shall apply to all exterior lighting sources and other light sources visible from the public right-of-way, road easement, or adjacent parcels, except where specifically exempted herein.

1. **Shielding.** Exterior lighting shall be fully shielded and directed downward at a 90-degree (90°) angle. Oblique lenses (such as many wall-pack fixtures) are prohibited. All fixtures shall incorporate full cutoff housings, louvers, glare shields, optics, reflectors, or other measures to prevent off-site glare and minimize light pollution. Only flat lenses are permitted on light fixtures; sag or protruding lenses are prohibited.
2. **Intensity.** The intensity of light within a site shall not exceed ten (10) footcandles. Exception: the maximum intensity permitted in areas of intensive vehicular use, such as the area underneath gas station pump canopies, in the immediate vicinity of ATM facilities, or outdoor sales areas shall be twenty (20) footcandles.
3. **Glare.** Exterior lighting sources shall be designed, constructed, located, and maintained in a manner that does not cause off-site glare on neighboring properties or street rights-of-way. Except as permitted, the light emitting element of any light fixture shall not be directly visible from a neighboring property, as this is the primary cause of glare. The light emitting element of any light fixture that exceeds 400 lumens shall be fully shielded.
4. **Light Trespass.** Light levels shall not exceed one-tenths (0.1) footcandles at the property line where the site abuts a lot with a residential use or zoning. Where the site abuts a non-residential use or a public right-of way, light levels at the property line shall not exceed three-tenths (0.3) footcandles.
5. **Lamps.** Fixtures shall comply with Illuminating Engineering Society of North America standards.
6. **Required Illumination.** During operating hours, lighting should be even throughout and shall not exceed an average illumination to minimum illumination ratio of 4:1. Specific areas on a site shall be illuminated in accordance with the following table:

TABLE 4-5.4.B.6 ILLUMINATION REQUIREMENTS

Site/Building Feature	Minimum Footcandles
a. Pedestrian areas / sidewalks	0.2
b. Building entrances	1
c. Driveway lighting	0.2
d. Parking areas intended for low nighttime activity	0.2
e. Parking areas intended for high nighttime activity	2

Where the minimum illumination is less than 0.5 footcandles, 0.5 shall be used as the minimum when calculating the average to minimum ratio.

7. **Hours of Operation.** Exterior lighting in nonresidential districts shall incorporate automatic timers and shall be turned off between the hours of midnight and sunrise, except for lighting necessary for security purposes or accessory to a use that continues after midnight. Security lighting shall, to the extent practical, use sensors and dim or turn off when there is no activity on site.
8. **Measurement.** Light intensity shall be measured in footcandles on the horizontal plane at grade level within the site.
9. **Lighting Height.** Fixture height shall be measured from the grade of the illuminated surface directly below the fixture to the bottom of the fixture.
10. **Pedestrian Lighting.** Pedestrian-scale lighting fixtures shall be provided in areas designed for pedestrian activity (walkways, plazas, outdoor seating areas). Fixtures for pedestrian areas shall be directed downward, shall have a maximum mounting height of ten (10) feet, and all light-emitting elements shall be fully shielded.
11. **Light Color.** LED light sources shall have a correlated color temperature that does not exceed 3000K.
12. **Design.** Lighting fixtures shall be architecturally compatible with the development.

D. **Standards by Type of Fixture.**

1. **Freestanding Pole and Building Mounted Lighting.** The maximum height of such fixtures is twenty (20) feet.
2. **Decorative Light Fixtures.** The approving body may approve decorative light fixtures as an alternative to shielded fixtures, provided that such fixtures would enhance the aesthetics of the site and would not cause off-site glare or light pollution. Such fixtures shall not exceed a maximum of 400 lumens.
3. **Edison Bulbs.** Edison bulbs, as defined in this code, may be used outdoors, individually or on strings, to provide atmospheric lighting for outdoor dining areas, gathering spaces, alleys, paseos, and other similar spaces. Such lighting shall be turned off outside of business hours and screened from abutting residential properties.
4. **Architectural Lighting.** Where lighting illuminates features on an above grade or vertical target, including but not limited to architectural features, signs, landscaping, fountains, and sculptures, luminaires shall be partially shielded and shall be installed and aimed to minimize their output past the object being illuminated, skyward or otherwise. Such lighting shall not cause light trespass as specified in this section, or glare. Lighting of an entire building facade is prohibited. Lighting that accents entryways and other site focal points, such as significant architectural, landscaping, or artistic features may be provided.
5. **Signs**. Signs shall be lit in accordance with the standards of Section 4-5.6 Signs.
6. **Indoor Lighting.** Indoor lighting shall not be a source of glare or light trespass as regulated above.

E. **Exempt Lighting.** The following exterior lighting types are exempt from the requirements of this section, except that the Community Development Department may take steps to minimize glare, light trespass, or light pollution impacts where determined to be necessary to protect the health, safety, and welfare of the public:

1. Holiday decorations.
2. Pedestrian walkway lighting.
3. Residential lighting.
4. Instances where federal or state laws, rules, or regulations take precedence over the provisions of this chapter.
5. Temporary emergency lighting.
6. Streetlights installed in public rights-of-way.
7. Traffic control devices.

F. **Prohibited Lighting.** The following types of outdoor lighting are specifically prohibited:

1. Lighting that could be confused for a traffic control device.
2. Lighting that is oriented upward, except as otherwise provided for in this code.
3. Searchlights, beacons, and laser source light fixtures.
4. Lights that blink, flash, move, revolve, flicker, change intensity, or change color.
5. Strip lighting, provided, however, that strip lighting may be used where the source of light is obscured from view by the public by an opaque screen (e.g., recessed behind metal trim above a window).
6. A lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting; and lighting inside of an awning when the awning becomes illuminated.

G. **Exceptions.** It is recognized by the City that there are certain uses or circumstances not otherwise addressed in this chapter, such as sports stadiums, streetlighting, or lighting for monuments and flags, that may have special exterior lighting requirements. The approving body or the Community Development Department may waive or modify specific provisions of this chapter for a particular use or circumstance upon determining that all of the following conditions have been satisfied. The approving body shall be the deciding body in all cases where site plan or special use approval is required, while the Community Development Department shall decide in all other cases.

a. The waiver or modification is necessary because of safety or design factors unique to the use, circumstance, or site.
b. The minimum possible light intensity is used that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare, and light trespass on to neighboring properties or street rights-of-way.
c. For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs, or other passive means.

Additional conditions or limitations may be imposed by the approving body to protect the public health, safety, or welfare, or to fulfill the purpose of this chapter.

4-5.5 Building Appearance Requirements

A. **Applicability.** The building design standards of this section shall apply to new or constructed buildings in the City, except for detached single-family homes, two-family homes, and their accessory buildings. See Section 4-4.8, and for standards for residential accessory buildings, see Section 4-5.1, subsection A for appearance standards for detached single-family homes and two-family homes.

B. **Building Design and Appearance.** The goal of building design shall be to convey permanence, substance, timelessness, and restraint, creating a low-maintenance built environment.

1. **Materials.** Buildings shall be constructed with one (1) dominant material comprising no less than fifty percent (50%) of any facade visible from a public right-of-way. Facade materials shall be drawn from the list of permitted materials in the underlying district. Additional materials may be approved by the approving body provided that the substituted or additional materials meet the purpose and intent of this chapter and are similar in nature to those specified materials herein. The following building materials are prohibited:
   a. Stucco and exterior finish insulation systems (E.I.F.S.) are prohibited on the first floor and allowed only as accent materials on upper floors (2nd floor and above) in the 17/76, OT, and MX districts.
   b. Plywood.
   c. T1-11 paneling.
   d. Unfinished metal.
2. **Windows.** See the transparency standards of each district for window requirements.
   a. I-1 and I-2 districts. On the street-facing facade of any portion of an industrial building devoted to office uses, a minimum of thirty percent (30%) of said facade shall be windows. Outside of office areas, windows are encouraged to the extent practical, but not required.
   b. Non-residential uses in the AG, SR-1, SR-2, SR-3, and CR districts. Ground-floor building facades of non-residential buildings visible from a right-of-way shall have a minimum of twenty percent (20%) glass windows.
   c. The approving body may modify the requirements of this subsection upon a finding that the relative lack of transparency will not have a detrimental effect on the building's function within its district, and that the proposed design will meet the intent of this section where an applicant proposes to provide windows in a quantity less than required herein.
3. **Facade Articulation.** Any portion of a building facade that exceeds one-hundred (100) feet in length shall incorporate architectural and design elements to break up the expanse of wall. Examples include, but are not limited to, windows, lighting, material changes, articulated wall surfaces, architectural treatments such as sculptured wall features or shadow lines, vertical accents, texture changes, or color changes. Landscaping may be used in combination with the design elements listed above. This standard may be waived by the approving body in the I-2 district.
4. **Roofs.** Sloped roofs shall not exceed one-hundred (100) feet without a change in roof plane, gable, or dormer, or combination thereof.

5. **Human Scale.** Building architecture shall emphasize human-scale design to minimize the impression of mass and scale. Design elements that can be used to accomplish this goal include:
   a. Variation in the rooflines and form.
   b. Designs that visually define “tops” and “bottoms” of buildings.
   c. Use of protected or recessed entries.
   d. Use of vertical elements on or in front of expansive blank walls.
   e. Use of visual focal points.
   f. Inclusion of windows on elevations facing public rights-of-way and pedestrian areas.
6. Building entrances, excluding emergency exits, shall be designed as focal points and shall be enhanced through the use of elements such as canopies, overhangs, peaked roofs, paving materials, planters, landscaping features, and outdoor seating areas.

C. **Multi-Building Projects.** Multi-building projects shall feature cohesive design in accordance with the following standards:
1. Plans shall demonstrate the use of consistent design elements throughout the site. Consistency may be achieved via the use of consistent materials, architectural styles, landscaping, or other means acceptable to the approving body.
2. Multi-building developments shall include prominent focal points. Examples of focal points include, but are not limited to, architectural structures, art, historical, and/or landscape features. These features shall be located at, or be visible from, vehicular and pedestrian entrances to the site.
3. Freestanding garage clusters of multi-family residential sites shall not be placed along the main public street frontage.

4-5.6 Signs

A. **Purpose and Intent.** These regulations establish rules and standards for the construction, location, maintenance, and removal of all signs except those exempted from regulation by this Land Use Code. Directional, emergency, or traffic-related signs owned by the City, county, state or federal government agencies are not regulated by this section. The execution of these regulations recognizes that the purpose of this chapter is to protect the interest of public health, safety, and welfare and to ensure the maintenance of an attractive physical environment while satisfying the needs of sign users for adequate identification and communication. In order that such purposes can be achieved, the following objectives shall be applied for this chapter and any future additions, deletions, and amendments:

1. **Generally.** Ensure that signs are located, designed, constructed, installed, and maintained in a way that protects life, health, morals, property, and the public welfare.
2. **Public Safety.** Protect public safety by prohibiting signs that:
   a. Are structurally unsafe or poorly maintained;
   b. Cause unsafe traffic conditions because they unreasonably distract motorists, have similarities to official traffic signs or hinder vision; and
   c. Impede safe movement of pedestrians or safe ingress and egress from buildings or sites.
3. **Protect Aesthetic Quality of Districts and Neighborhoods.** Prevent blight and protect aesthetic qualities by preventing visual clutter and protecting views. Prevent proliferation of signs in residential areas and eliminate abandoned signs and sign structures on unused properties. Also, avoid glare, light trespass, and skyglow through selection of proper fixture type(s) and location, lighting technology, and control of light levels. Additionally, reflect the character of unique districts as may be established by the Comprehensive Plan, other adopted plans, or this Land Use Code.
4. **Free Speech.** Ensure that the constitutionally guaranteed right of free speech is protected and allow signs as a means of communication.
5. **Reduce Conflict.** Reduce conflict among signs and light and between public and private information systems.
6. **Business Identification.** Allow for adequate signage for business identification and other commercial speech, non-commercial speech, and dissemination of public information, including but not limited to, public safety information and notification as may be required by law.
7. **Foster Economic Development.** Ensure that signs are located in a manner that does not cause visual clutter, blight, and distraction, but rather promotes identification and communication necessary for sustaining and expanding economic development in the City.
8. **Recognize Unique Areas.** Acknowledge the unique character of certain districts, and establish special time, place, and manner regulations that reflect the unique aesthetic, historical, and/or cultural characteristics of these areas.

B. **General Regulations.**

The following regulations shall apply, unless otherwise specifically stated in this chapter, to all signs erected or located in any zoning district within the City or its extraterritorial zoning area:

1. **Applicability.** The regulations of this section shall apply to all signs visible from a public right-of-way, private road, public park, or residentially zoned property.
2. **Sign Permitting and Content.** Signs are subject to the general and specific regulations of this chapter whether they require a permit or not.
   a. **Signs Not Requiring a Permit.** A permit shall not be required for the following types of sign:
      i. Freestanding temporary signs twelve (12) square feet or less in area.
      ii. Signs not visible from a public right-of-way, private road, public park, or residentially zoned property.
      iii. Window signs.
      iv. Wall signs less than four (4) square feet in area.
      v. Temporary A-frame signs (see subsection C.6 for regulations).
   b. **Signs Requiring a Permit.** A permit shall be required for the following types of sign:
      i. Temporary signs greater than twelve (12) square feet in area. When additional sign area is permitted during the timeframe and conditions specified in subsection D, no temporary freestanding sign shall require a permit.
      ii. Wall signs, except those placed on single-family residences in accordance with subsection C.2.
      iii. Freestanding signs.
      iv. Banner signs in a non-residential district.
      v. Hanging signs.
      vi. Awning signs.
      vii. Relocation or increase in size of any sign listed above.
   c. **Application for Permit.** A permit is required for all new and modified signs unless the sign is specifically exempted from permit requirements by this chapter. A permit application shall include the following information:
      i. Names and addresses of the applicant and owners of the sign and lot;
      ii. The address at which the signs are to be erected;
      iii. The lot, block, and addition at which the signs are to be erected and the street on which they are to front;
      iv. A complete set of plans showing the necessary elevations, distances, size, and details to fully and clearly represent the construction and placement of the signs;
      v. The cost of the sign(s);
      vi. Type of sign (i.e., wall sign, monument sign, etc.); and
      vii. Certification by the applicant indicating the application complies with all requirements of this chapter.

d. **Review of Sign Applications.** Sign applications shall be subject to administrative review. Appeals of decisions by City administration shall be made to City Council.

e. **Changes to Permitted Signs.** Signs for which a permit has been issued hereunder shall not thereafter be moved to another location within the City nor shall it be structurally altered in any way without the approval of the official or board which granted the original permit. An additional fee shall be paid at the time of application for permission to move or alter each such sign. Fees shall be set by a resolution of the City Council.

3. **Prohibited Signs.** The following sign types are prohibited:

a. Signs designed to, or appear to, flutter or move with the wind, or designed to move by any other means.

b. Balloon signs and inflatable signs.

c. Signs designed to imitate official traffic control devices or which could cause confusion to motorists due to their resemblance to traffic control devices, or their obscuring of traffic control devices.

d. Signs affixed to public utility poles, guard rails, bridges, towers, utility boxes, or similar public structures.

4. **General Locational Requirements.**

a. Signs, except those established and maintained by governmental units, shall not be located in, project into, or overhang a public right-of-way or dedicated public easement unless otherwise expressly permitted herein.

b. Directional signs required for the purpose of orientation, when established by governmental units, shall be permitted in all use districts.

c. Signs shall not interfere with the clear vision triangle at driveways and intersections, as established in Section 4-5.3 Landscape and Natural Features, subsection D (Corner Clearance).

d. Signs shall be set back from property lines as follows:

TABLE 4-5.6.B.4.D REQUIRED SETBACKS FOR SIGNS

Location	Minimum setback
a. From any property line	5 feet
b. From a residential district*	20 feet
c. From a sign on an abutting property	20 feet
* Signs for a non-residential use located within a residential district shall not be closer than twenty (20) feet to a residential property line.	

5. **Measurement of Sign Area.**
   a. For permanent signs, except projecting and hanging signs, sign area shall constitute the entire area within a rectangle or the sum of rectangles enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, regardless of opacity or missing space within the "extreme limits." A single row of text shall be grouped into one, continuous rectangle. ✍
   b. When an internally illuminated sign has a non-reflective, matte black background, the area that is outside the "extreme limits" described above shall not count towards sign area. Otherwise, the entire illuminated background shall be included in the sign area calculation. ✍
   c. For temporary signs and projecting, window, and hanging signs, the extreme limits of the sign including background elements, regardless of opacity, are included in the calculation of sign area. ✍
   d. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back and are at no point more than three (3) feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.
   e. The necessary uprights, backgrounds, or structures used to support or serve as a design feature of a freestanding sign shall be excluded from the calculation of sign area, provided that the surface is not, by definition, a sign and provided further that the area of the support structure / design feature is not more than three (3) times the area of the sign being supported. If the background and support structures are illuminated and are not black in color or constructed of face brick or stone (or similar quality and durable material as determined by the Community Development Department), the area of background and support structures shall be counted towards the total sign area. ✍
   f. Except as regulated in subsection d, each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage.

FIGURE 4-5.6.B.5 CALCULATING SIGN AREA OF FREESTANDING SIGNS

Example showing freestanding sign support and background cannot exceed three (3) times the sign area

The area of the freestanding sign support structure is a maximum of three (3) times the sign area.

Sign Area Calculation

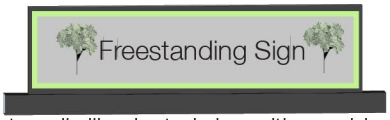
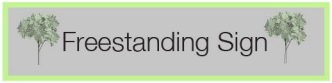
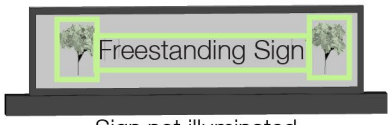
Sign Type Example	Sign Area (Measured)
Internally illuminated sign with black background	
Internally illuminated sign with non-black background	
 Internally illuminated sign with non-black background and additional sign elements	
 Sign not illuminated (no internal or external illumination)	

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FIGURE 4-5.6.B.5 CALCULATING AREA OF WALL, TEMPORARY, & IRREGULARLY-SHAPED SIGNS

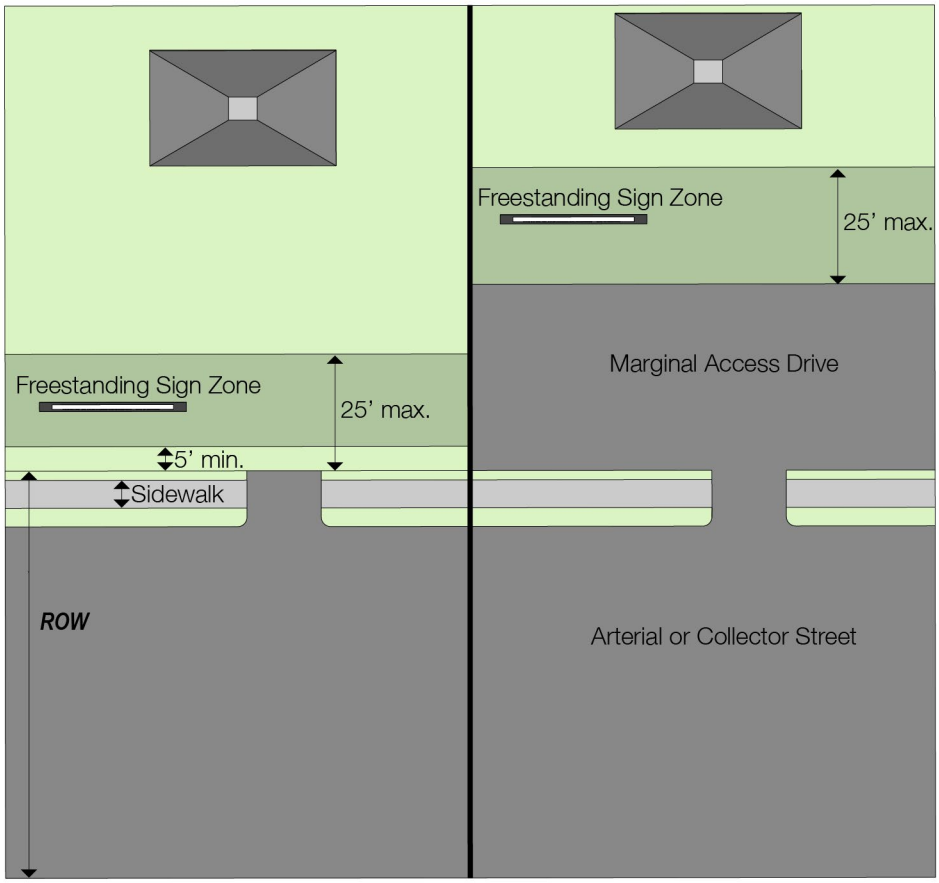
6. **Measurement of Sign Height.** Sign height shall be the vertical distance measured from the point of ground immediately beneath the sign to the highest point of the sign, including decorative embellishments, supporting structures, and backgrounds. Where the ground elevation beneath a sign varies, the average grade of the ground within a five-foot radius of the sign structure shall be used. The average grade shall be the highest point within said radius plus the lowest point within said radius, divided by two (2). Filling, berming, mounding, or excavating solely for the purpose of locating the sign shall not be included in the calculation of average grade.
7. **Illumination.**
   a. Illuminated signs shall not be of the flashing or intermittent type.
   b. The source of illumination may be internal or external. The source of the light shall not be exposed except for lighting that is integral for the use of an electronic sign, as regulated in Section 4-5.6, subsection C.1.
   c. External sources of illumination shall be shielded and directed to prevent glare onto public rights-of-way or neighboring properties.
   d. Electric / electronic signs shall be installed in accordance with the current electrical code and a separate permit for the electrical work shall be obtained prior to construction. See Section 4-5.6, subsection C.1 for limits of illumination levels for electronic signs.
8. **Addresses.** Addresses shall be visible and legible from the public right-of-way.
9. **Substitution Clause.** Nothing in this chapter shall be construed to prohibit non-commercial messages on signs that are otherwise permitted herein.

C. **Specific Regulations for Permanent Signs.**

1. **Freestanding Signs.** Freestanding signs are permitted within the various use districts subject to the following conditions:

   a. Freestanding signs shall be located in the freestanding sign zone, which is an area in the front yard of any lot no closer than five (5) feet to the right-of-way line and no further than twenty-five (25) feet from the right-of-way line or the edge of an easement for a marginal access drive. ✍

FIGURE 4-5.6.C.1.A FREESTANDING SIGN ZONE



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b. The number of freestanding signs permitted on a zoning lot shall be governed as follows:

i. In non-residential zoning districts, the maximum number of freestanding signs permitted within the freestanding sign zone shall be three (3). When only one (1) freestanding sign is provided, it shall be the principal sign. If more than one (1) freestanding sign is provided, one (1) shall be designated by the applicant as the principal sign and any others (up to two (2) additional) shall be secondary signs. The maximum size of a secondary sign is four (4) square feet and the maximum height is thirty-two (32) inches. The total area of all freestanding signs combined shall not exceed the maximum sign area permitted in Table 4-5.6.C.1.C Maximum Size and Height of Freestanding Signs below. Secondary freestanding signs shall be placed a minimum of twenty (20) feet from the principal sign.

ii. On a corner lot that has at least three hundred (300) feet of frontage on each of two (2) major or secondary thoroughfares, one (1) additional principal freestanding sign may be permitted in the freestanding sign zone provided that only one (1) principal sign is oriented toward each thoroughfare. The second principal sign may have an area equal to the maximum permitted sign area for the district.

iii. Where the zoning lot, not a corner lot, has frontage on two (2) major or secondary thoroughfares and has vehicular access via both such thoroughfares, one additional principal freestanding sign may be permitted provided that only one principal sign is oriented toward each thoroughfare.

iv. Where the zoning lot has greater than three hundred (300) feet of frontage on a given thoroughfare, one additional freestanding sign shall be permitted on that frontage. The maximum size of the additional sign shall not exceed fifty percent (50%) of the maximum freestanding sign area for the zoning lot in that district. The second sign shall be located not less than one hundred (100) feet from the principal sign.

v. In all districts, zoning lots where the principal use is non-residential shall be permitted to have additional freestanding signs setback at least fifty (50) feet from any right-of-way or property line as follows:

1) Such signs shall be no greater than five (5) feet in height and no greater than four (4) square feet in sign area.

2) Up to four (4) such signs shall be permitted per one hundred (100) feet of lot frontage.

3) Uniform Traffic Control Devices, such as barrier-free parking signs and signs preventing directional turning, shall be exempt from these provisions.

vi. For non-residential uses and multi-family uses in the AG, SR-1, SR-2, SR-3, MH, CR, and UR districts, one (1) freestanding sign is permitted and subsection ii, subsection iii, and subsection iv above shall apply.

c. The maximum area and height of permitted freestanding signs shall be controlled as follows:

TABLE 4-5.6.C.1.C MAXIMUM SIZE AND HEIGHT OF FREESTANDING SIGNS		
	Maximum Height in Feet	Maximum Area in Square Feet of all Freestanding Signs*
i. AG, SR-1, SR-2, SR-3, MH, CR districts		
1) For dwellings	Not permitted	Not permitted
2) For multi-family complexes	5	48
3) For principal buildings other than residential	6	64
ii. UR district		
1) For dwellings	Not permitted	Not permitted
2) For multi-family complexes	6	48
3) For principal buildings other than residential	6	64
iii. 17/76 district	6	32
iv. OT district	6	32
v. MX district	8	64
vi. C district	8	80
vii. I-1 district	8	80
viii. I-2 district	8	80
ix. CIV district	8	64
x. FP district	8	64
* For any freestanding sign along a road with a posted speed of 45 mph or higher, the maximum size shall be increased to 120 square feet and the maximum height shall be 10 feet.		

d. The minimum height of letters and numbers on a freestanding sign shall be as follows:

TABLE 4-5.6.C.1.D MINIMUM HEIGHT OF LETTERS AND NUMBERS ON FREESTANDING SIGNS	
Posted Roadway Speeds	Minimum Letter and Number Height
45 mph or greater	8 inches
30-40 mph	6 inches
25 mph or less	4 inches

The height of letters and numbers on an incidental message or within a logo may be less than stated above, provided the primary message meets the above standards. In no case shall letters or numbers less than the above standards comprise more than ten percent (10%) of the total sign area.

e. **Electronic Display Areas.** Electronic display areas shall be permitted as follows:

i. Electronic display areas shall not be permitted in the AG, SR-1, SR-2, SR-3, UR, or CR districts, except for non-residential uses that are located on major thoroughfares, as defined in the Comprehensive Plan.

ii. Electronic display areas shall automatically dim.

iii. Electronic message signs shall not emit more than 200 nits during night hours, which commence no later than one (1) hour after sunset and extend through no earlier than sunrise, no more than 5,000 nits in full daylight. The displays shall transition smoothly at a consistent rate from the permitted daytime brightness to the permitted nighttime brightness levels. Electronic message signs shall have functioning ambient light monitors and automatic dimming equipment which shall at all times be set to automatically reduce the brightness level of the sign proportionally to any reduction in the ambient light. In order to verify compliance with this Code or other applicable law, the interface that programs an electronic message sign shall be made available to City staff for inspection upon request. If the interface is not or cannot be made available upon the City's request, the sign shall cease operation until the City has been provided proof of compliance with this code.

iv. Electronic display areas shall be switched off completely after 11:00 p.m. (or thirty (30) minutes after the close of business, whichever is later), and remain off until one hour before sunrise. Alternatively, they shall be dimmed to emit no more than twenty (20) nits during this curfew period.

v. Signs shall be programmed to go dark in the event of a malfunction.

vi. The content of the electronic display area shall not feature motion or animation. Any and all portions of the message shall remain static for a minimum of thirty (30) seconds. The change from message to message shall be instantaneous.

vii. The background of the electronic display shall not be white.

viii. Electronic displays shall not mimic traffic controls.

ix. Unless otherwise provided above, the standards of Section 4-5.6, subsection B.7 also apply.

f. **Entranceway Structures.** Entranceway structures, for the purpose of supporting signs which commonly identify a development, part or all of which is served by a minor public or private street system such as subdivisions, industrial or office parks, or multi-family developments, may be permitted by the Community Development Department. Such structures and signs shall be approved and a permit issued subject to the following restrictions:

i. The entranceway structure shall be permitted for developments in which individual parcels or uses are accessible only by way of public streets which serve more than two (2) zoning lots or by way of private streets or drives which serve more than two (2) separate and distinct principal uses.

ii. Such entranceway structures may be located within a public or private street right-of-way if approved by the governmental entity or property owner having jurisdiction or ownership of the right-of-way area and by the approving body for the sign permit.

iii. Such structures shall be located adjacent to a major or secondary thoroughfare and to the entrance road to a subdivision plat, multi-family development, mobile home park, or other planned development.

iv. Such structures may be located within a required setback provided it shall be set back a minimum of ten (10) feet from any street right-of-way, and the location meets the requirements of Section 4-5.3 Landscape and Natural Features, subsection D (Corner Clearance).

v. Entranceway structures, including supporting structures, shall not be higher than ten (10) feet nor longer than twenty (20) feet.

vi. Entranceway structures and signs may be located only in yards adjacent to streets entering the subdivision or project indicated on the sign.

vii. Entranceway structures that are to be located on individually owned parcels, rather than on parcels which are part of an overall development, may be allowed only in a private easement dedicated for such purposes, and provided that appropriate provision has been made to assure continued maintenance of the structure.

viii. The sign area shall be limited to the maximum area allowed for freestanding signs in Table 4-5.6.C.1.C Maximum Size and Height of Freestanding Signs, except that in the AG, SR-1, SR-2, SR-3, and MH districts, the maximum size permitted shall be thirty-two (32) square feet.

2. **Wall Signs.**
   a. The maximum area of permitted wall signs on a primary facade shall be controlled as follows:

TABLE 4-5.6.C.2.A MAXIMUM WALL SIGN AREA	
District	Maximum Area of All Wall Signs*
i. AG, SR-1, SR-2, SR-3, MH, CR districts:	
1) For single-family residences	4 square feet
2) For multi-family complexes	15 square feet per building
3) For principal buildings other than residential	32 square feet
ii. 17/76 and OT districts:	32 square feet, or two square feet per linear foot of front building facade, whichever is greater. No single sign shall exceed 75 square feet of sign area.
iii. MX district:	64 square feet, or two square feet per linear foot of front building facade, whichever is greater. No single sign shall exceed 120 square feet of sign area.
iv. C district:	15% of primary establishment facade
v. I-1 and I-2 districts:	10% of primary establishment facade
* See also: subsection 4 (Awning Signs).	

   b. The number and location of permitted wall signs shall be controlled as follows:
      i. In non-residential districts:
         1) Where an establishment has facades facing more than one (1) public right-of-way, one (1) wall sign may be permitted on each secondary facade facing a right-of-way. The maximum size of such a sign shall be thirty percent (30%) of the permitted area of all wall signs for the primary facade.
         2) The maximum number of wall signs per primary facade is three (3), and the maximum number of wall signs per secondary facade is one (1), except as provided for in subsection 3) below. When more than one (1) sign is permitted, one (1) sign shall be designated by the applicant as the primary wall sign and it shall contain at least fifty percent (50%) of the total sign area on the primary facade.
         3) Within five (5) feet of any external entranceway meant to serve patrons or visitors in any multi-tenant office, retail, or industrial building, up to four (4) square feet of wall area on the ground floor level may be occupied by a sign, provided that in buildings with multiple entrances where signs are placed, the location and size of such signs shall be standard and uniform.

ii. In residential districts:
   A) For a non-residential use, one (1) wall sign shall be permitted on the principal building.
   B) For multi-family developments, one (1) wall sign is permitted per building.
   C) For single-family residences, one (1) wall sign is permitted on the ground floor of the primary facade.
   D) Wall signs shall be flush mounted and shall not project greater than one (1) foot from the wall on which they are mounted.
   E) Wall signs shall be designed to be integral and compatible with the architecture of the development of the building in terms of scale, color, materials, graphic design, typography, and lighting.

iii. In the 17/76, Old Town, and Mixed Use districts, wall signs for upper floor uses are permitted as follows:
   A) One (1) wall sign may be placed on or within two (2) feet of each entrance door and shall measure no larger than four (4) square feet.
   B) Where more than one (1) upper floor tenant is served by a given entrance door, a total of six (6) square feet of wall signage may be placed within two (2) feet of the door, and divided among the tenants.
   C) Street numbers shall not be counted as a sign when attached to or located on a building wall, provided such signs meet all other applicable sign requirements of this section.

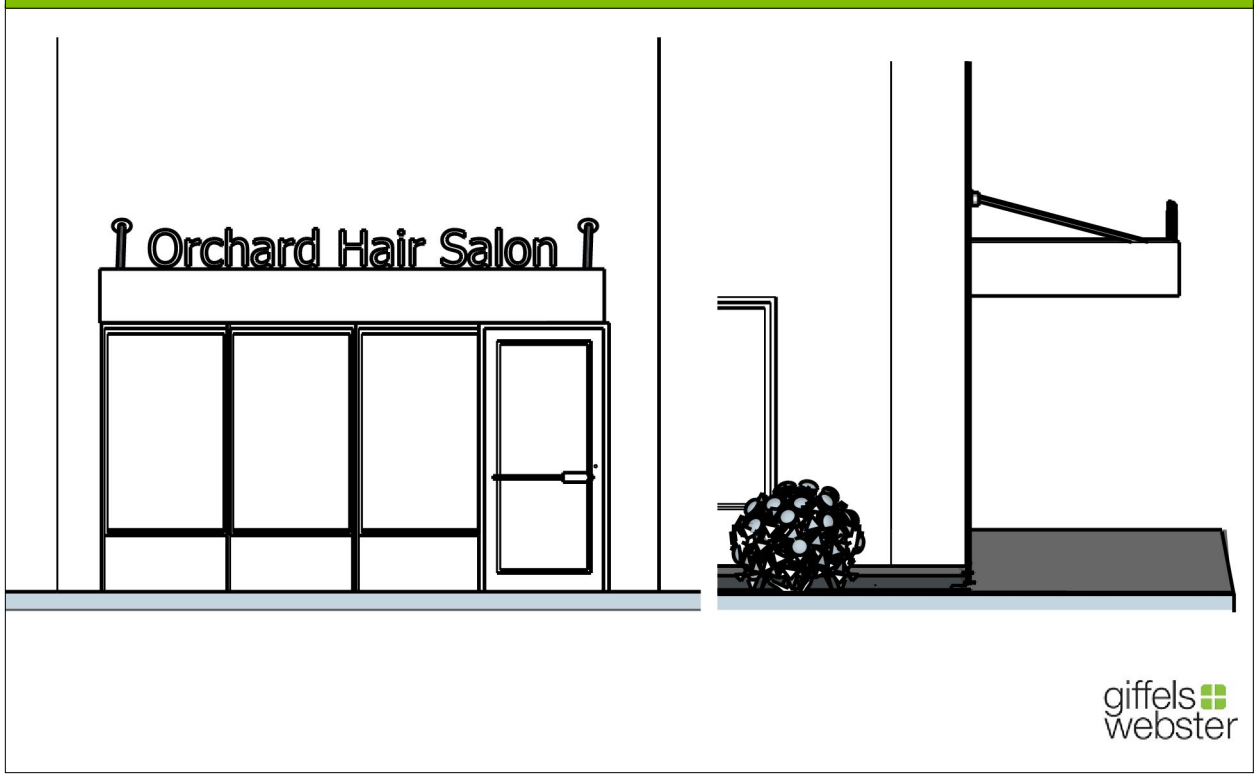
3. **Canopies and Marquees.** Canopies and marquees shall be an integral part of the structure to which they are attached. Canopies and marquees are permitted in the 17/76, Old Town, Mixed Use, and Commercial districts, subject to the following requirements:
   a. May project into the public right-of-way not further than thirty inches (30) from the street curb or curb line;
   b. May have no part of the structure, other than supports, nearer the ground surface than eight (8) feet;
   c. The architectural style of the canopy or marquee shall be consistent with the building being served;
   d. If projecting into the required yards, may not be enclosed except with a transparent material permitting through vision; and
   e. If built over the public right-of-way, must be included in a liability insurance policy holding the City free of all responsibility.
   f. Signs mounted on canopies shall meet the requirements of awning signs, as set forth in subsection 4.
   g. Signs mounted on marquees shall meet the following standards:
      i. Signs shall not occupy more than two (2) sides of a marquee.
      ii. The total display area of a marquee sign may occupy up to seventy-five percent (75%) of the side of the marquee on which it is located.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

4. **Awning Signs.** Awning signs shall be permitted as follows:
   a. Awning signs shall be permitted in all districts except the AG, SR-1, SR-2, SR-3, and MH districts.
   b. The design of awnings shall be of two (2) types: shed awnings or flat awnings, as defined in this code.
   c. Awnings shall not be lit in such a way that they appear to glow from within.
   d. Awning signs shall be regulated as part of the overall allowance for wall signs and shall be located only on the primary facade.
   e. Shed awning signs shall not exceed eight (8) inches in height and shall be located on the drip edge of a shed awning or canopy. Such signage shall not exceed eighty percent (80%) of the awning width.
   f. Flat awning signs may project up to eight (8) inches above the top surface of the awning. Flat awning signs that project above the awning shall not have a solid backing. Such signage shall not exceed eighty percent (80%) of the awning width. ✍

FIGURE 4-5.6.C.4 FLAT AWNING SIGN - FRONT & SIDE ELEVATIONS

FIGURE 4-5.6.C.4 FLAT AWNING SIGN WITH RAISED LETTERS - FRONT & SIDE ELEVATIONS



5. **Projecting Signs and Hanging Signs.** Hanging or projecting signs for ground floor commercial/ retail, service, or restaurant uses are permitted in the 17/76, Old Town, and Mixed Use districts as follows:
   a. In addition to the wall signs noted above, buildings constructed at the build-to line or within ten (10) feet of the right-of-way in the 17/76, Old Town, and Mixed Use districts may have one (1) hanging or projecting sign. The hanging or projecting sign may be on either a primary or secondary facade.
   b. The hanging or projecting sign shall not exceed three (3) square feet in size and shall not be included when calculating the total wall signage on the building. An eight (8)-foot clearance shall be maintained between the suspended sign and the public sidewalk.
   c. The hanging or projecting sign shall not project greater than four (4) feet into a public right-of-way.

6. **Temporary A-Frame Signs.** Temporary A-frame signs are permitted in the 17/76, Old Town, and Mixed Use districts, subject to the following:
   a. The total A-frame sign structure (which includes any sign copy and the remaining structure) shall not exceed twelve (12) square feet per side. ✍

FIGURE 4-5.6.C.6 CALCULATING SIGN AREA FOR A-FRAME SIGNS

For an A-frame sign, measure sign area by the full extent of the sign and support structure (inside green area), except for the legs.

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   b. The height of the sign structure, which includes the sign panel and the support structure, shall be no greater than four (4) feet in height as measured from the ground to the top of the full extent of the A-frame structure.
   c. The A-frame sign shall be located within twenty (20) feet of the main entrance of the establishment placing the sign.
   d. A-Frame signs shall be spaced a minimum of fifty (50) feet apart.
   e. The A-frame sign shall not be placed in a corner clearance area, as regulated in Section 4-5.3 Landscape and Natural Features, subsection D.
   f. The sign shall not be illuminated.
   g. Where the sign is placed on a sidewalk or within a public right-of-way, a minimum of five (5) feet of sidewalk width shall be kept free and clear to permit passage around the sign.
   h. The sign must be stored inside when not displayed and shall not be displayed outside of operating hours of the establishment placing the sign.
   i. The sign must be professionally constructed of weather-proof, durable material, and kept in good repair.
   j. The sign shall not contain moving parts, or have balloons, windsocks, pinwheels, streamers, pennants, or similar adornment attached to them.
   k. The sign shall be so weighted that it will not fall or move in wind conditions up to sixty (60) mph.

7. **Window Signs.** Window signs are permitted as follows:
   a. Window signs are not permitted in the AG, SR-1, SR-2, SR-3, MH, and CR districts. In the UR district, window signs shall be permitted only for non-residential uses.
   b. Window signs shall not occupy greater than twenty percent (20%) of any window regardless of whether they are temporary or permanent.
   c. Etched or applied lettering or designs that are within the lower ten (10) inches of any ground floor window shall be permitted and shall not be considered part of the total area of window signs provided they do not exceed eighty percent (80%) of the width of any window on which they are placed. ✍
   d. Window sign area may include customary message such as "open/closed" signs. Window signs shall contain a static message and shall not flash, scroll, or otherwise give the appearance of movement or intermittent change.

FIGURE 4-5.6.C.7 WINDOW SIGNS

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D. **Specific Regulations for Temporary Freestanding and Wall Signs.**

1. Temporary signs shall be permitted as follows:

TABLE 4-5.6.D.1 MAXIMUM SIZE, MAXIMUM HEIGHT, AND PERMITTED TYPE OF TEMPORARY SIGNS

Use	Permitted Types	Maximum Area of All Temporary Signs	Maximum Area of Any Individual Sign	Maximum Height (Freestanding)
Single-family residential	Freestanding	10 square feet	6 square feet	4 feet
	Wall	6 square feet	6 square feet	
Multi-family residential	Freestanding	32 square feet	16 square feet	6 feet
Non-residential uses in AG, SR-1, SR-2, SR-3, CR, MH, and UR districts	Freestanding	40 square feet	20 square feet	6 feet
	Wall	20 square feet	20 square feet	
Non-residential uses in all other districts	Freestanding	64 square feet	20 square feet	6 feet
	Wall		32 square feet	

2. In recognition that there is a need for additional expression of speech prior to a scheduled election, the following applies for a period of sixty (60) days prior to until three (3) days after a City-designated election day on which there is at least one (1) ballot item: the maximum allowable area of temporary signs shall be increased to sixty-four (64) square feet in all districts. The maximum area of an individual sign remains as stated in the table above during this period.
3. Display of temporary banners and temporary signs mounted on building walls (temporary wall signs) shall be limited to a total of twenty-eight (28) days per calendar year. Such signs shall not be displayed for any continuous period greater than fourteen (14) days.
4. Temporary signs shall be constructed and designed to remain in place and in good repair so long as they remain on display.
5. Temporary signs shall be subject to the maintenance standards of this section.
6. Freestanding temporary signs shall be setback five (5) feet from all property lines.
7. The maximum display time of freestanding temporary signs is sixty-four (64) days unless additional time is granted under subsection 8 below. After this time expires, the sign shall be removed. Once the temporary sign is removed, there shall be a gap of at least thirty (30) days between display of the same temporary sign on the same zoning lot.
8. Notwithstanding the above, three (3) square feet of temporary freestanding or temporary wall sign area is allowed on each zoning lot at any time and without expiration of display time. The area of this sign is counted towards the area maximum.

9. When all or a portion of a building or land area on a zoning lot is listed for lease, the maximum display time of freestanding temporary signs and temporary signs mounted on buildings shall be ninety (90) days. When all or a portion of a building or land area on a zoning lot is listed for sale, the maximum display time of freestanding temporary signs for all uses and temporary signs mounted on buildings for all uses except residential uses shall be the duration the building, building unit, or land is listed for sale. In all cases, the sign area limits in Table 4-5.6.D.1 Maximum Size, Maximum Height, and Permitted Type of Temporary Signs apply.
10. Temporary A-frame signs are regulated separately in subsection C.6.

E. **Administration & Enforcement.**

1. **Nonconforming Signs.** Nonconforming signs are those signs lawfully erected prior to the adoption of this chapter or any applicable amendment thereto that do not meet the standards of this chapter. It is the intent of this chapter that the continued use of nonconforming signs shall not be encouraged.
   a. A nonconforming sign shall immediately lose its nonconforming designation if:
      i. The structure of the sign is altered in any way which tends to or makes the sign less in compliance with the requirements of this chapter than it was before the alteration.
      ii. The sign is relocated to a position making it less in compliance with the requirements of this chapter.
      iii. The sign is replaced.
      iv. On the occurrence of any one (1) of subsection a, subsection b, or subsection c, the sign shall be immediately brought into compliance with this chapter with a new permit secured therefore, or shall be removed.
   b. Nothing in this section shall relieve the owner or user of a nonconforming sign, or owner of the property on which the nonconforming sign is located, from the provisions of this chapter regarding safety, maintenance, and repair of signs, contained in this chapter; provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which does not conform with the provisions of this chapter.
   c. Except as otherwise provided in this section, a sign that is located on property which becomes vacant or on which a building is unoccupied for a period of ninety (90) days or more shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one hundred eighty (180) days or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
2. **Maintenance of Signs.**
   a. Signs, including the face, framing, and all supports thereof, shall be kept and maintained in a safe condition, shall be adequately protected against corrosion, and shall conform to all the provisions of this chapter.
   b. Signs which are broken, torn, bent, or whose supports are broken, bent, or damaged, and signs that are not reasonably level and plumb shall be repaired and re-installed in a manner prescribed by the Community Development Department.

c. Signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code. Failure to comply with this section may result in action by the Community Development Department to rescind the permit with subsequent removal of the entire structure.

d. A sign shall have no more than twenty percent (20%) of its surface area covered with disfigured, cracked, rippled, or peeling paint, poster paper, or other material for a period of more than thirty (30) successive days.

e. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than fifteen degrees (15°) from vertical for a period of more than thirty (30) successive days, unless determined by the Community Development Department, to pose a safety hazard, in which case immediate action may be required.

f. A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than thirty (30) successive days.

g. An internally illuminated sign shall not be allowed to stand with only partial illumination for a period of more than thirty (30) successive days.

h. Signs erected or displayed without a permit or any sign which does not comply with the provisions of this chapter shall be deemed a hazard to the safety of the public and is declared to be a public nuisance and may be abated in accordance with the City's nuisance process in Chapter 15-03.

F. **Variances.** Variances from this chapter may be permitted by the City Council after a public hearing and recommendation by the Planning Commission.

4-5.7 Performance Standards

A. **Generally.** The following performance standards are established in order to preserve the environmental health, safety, and welfare of the City. Activity, operation, or use of land, buildings, or equipment shall not be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition that adversely affects the surrounding area. Uses permitted by this code shall be operated in conformance with all applicable performance standards set forth herein. The following standards are deemed the minimum requirements to be maintained.

B. **Airborne Emissions.**

1. Smoke and other air contaminants: It shall be unlawful for any person, firm, or corporation to permit the emission of smoke or air contaminant in violation of the following:
   a. Applicable air quality standards adopted by the Federal Clean Air Act.
   b. A density greater than that density described as No. 1 of the Ringelmann Chart provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringelmann Chart for a period or periods aggregating four (4) minutes in any thirty (30) minutes.

   Method of Measurement: For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this code, shall be the standard. All measurements shall be taken as close to the emission point of the smoke as reasonably possible.
2. **Gases.** The escape or emission of gas which is injurious or destructive, harmful to person or property, or explosive is prohibited.
3. **Dust, Dirt, and Fly Ash.** Furnaces or combustion devices for the burning of fuel materials shall be equipped and operated with recognized and approved equipment, means, methods, devices, or contrivances to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, so that the quantity of gasborne or airborne solids shall not exceed two-tenths (0.20) grains per cubic foot of the carrying medium at a temperature of five-hundred degrees Fahrenheit (500° F).

C. **Odors.** Conditions or operations which result in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interfere unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line, or beyond the property line if a place where people live, work, or assemble is impacted. Whether or not an odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity. The use of a field olfactometer meter that provides a “dilution-to-threshold” (D/T) reading may be used for documentation, verification, and enforcement as needed. A measurement reading of four (4) D/T or less shall be maintained at the property line.

D. **Vibration.**

1. Ground transmitted vibration is measured with a complement of instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in three (3) mutually perpendicular directions. The instruments used to measure vibration in industrial zone districts shall conform to the applicable ANSI standard for such equipment used to measure community vibrations.
2. Maximum permitted vibration levels. The table below designates the maximum peak particle velocities that apply on or beyond adjacent lot lines within all industrial zones and on or beyond appropriate use boundaries. Vibration shall not exceed the maximum permitted particle velocities in the table below. When a vibration source can be identified and its effects are on more than one (1) land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. Readings may be made at points of maximum vibration intensity.

TABLE 4-5.7.E.2 MAXIMUM PERMITTED VIBRATION LEVELS

Zoning (boundary use)	Steady State Vibration (continuous)	Pact Vibration (discrete)
a. Residential	0.02	0.04
b. Commercial	0.05	0.1
c. Light Industrial	0.1	0.2
d. Industrial	0.15	0.3

3. The maximum particle velocity shall be the maximum vector sum of three (3) mutually perpendicular components recorded simultaneously. Particle velocity shall be measured in inches multiplied by the frequency in cycles per second. For purposes of these standards, steady-state vibrations are vibrations which are continuous; or vibrations in discrete impulses more frequent than sixty (60) per minute, shall be considered impact vibrations. Between the hours of 8:00 p.m. and 7:00 a.m. all the permissible vibration levels indicated in the previous table for residential district boundaries shall be reduced to one-half (½) the indicated levels.
4. Authorized construction activity conducted between 7:00 a.m. and 8:00 p.m. shall be exempt from these requirements.

E. **Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.** Uses shall not create electrical disturbance that adversely affects operations of equipment other than those of the creator of such disturbance, or cause, create or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected. Uses, activities, and processes shall comply with applicable Federal Communications Commission regulations.

F. **Glare.** Glare is the sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility. The following standards are intended to reduce glare:

1. Glare from processes, such as or similar to arc welding or acetylene torch cutting, which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.
2. Glare from automobile headlights or commercial or industrial vehicle headlights shall not be directed into adjacent properties so as to become a nuisance.
3. In nonresidential areas, exterior lighting shall be installed so that the source of light shall not be visible from residential dwellings or passenger car driver's line of sight and shall be so arranged as far as practical to reflect light away from the residential use and public roadways. In no case shall more than one (1) candlepower of light cross a lot line five (5) feet above the ground into a residential district.
4. Buildings more than one (1) story in height where glass constitutes more than one quarter (1/4) of the upper floor facade shall have a non-reflective coating on all upper story glass in order to mitigate glare onto roadways.

G. **Radioactive Materials.** Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

H. **Hazardous Substances.** Hazardous substances include materials or products that may threaten the public health, safety, or welfare because of combustibility, flammability, toxicity, or disease potential.

1. A person, firm, corporation, or other legal entity operating a business of conducting an activity which uses, stores, or generates hazardous substances shall obtain the necessary permits and/or licenses from the appropriate federal, state, or local authority having jurisdiction. The City shall be informed of any and all inspections conducted by a federal, state, or local authority in connection with a permit and/or license.
2. A person, firm, corporation, or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall complete and file a hazardous materials survey that describes such materials and their storage, disposal, and plan for containment in the event of a spill, leak, or other unintended discharge. This survey shall be provided in conjunction with the following:
   a. Upon submission of a site plan.
   b. Upon a change of use or occupancy of a structure or premise.
   c. Upon a change of the manner in which such substances are used, handled, stored, and/or in the event of a change in the type of substances to be used, handled, or stored.

3. Fire and Explosive Hazards. The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with the state rules and regulations as established by the North Dakota Century Code and applicable rules and regulations.

I. **Waste.**

1. Waste discharged into the public sewer system shall comply with all City, county, and state standards, as applicable
2. Waste and Rubbish Dumping. Garbage, sewage, filth, refuse, waste, trash, debris, or rubbish, including cans, bottles, wastepaper, cartons, boxes and crates, or other offensive or obnoxious matter shall not be kept in open containers or piled, placed, stored, or dumped on land within the City in such a manner as to constitute a nuisance or create a hazard to health, safety, morals, and general welfare of the citizens of the City. Uses in every zoning district shall place waste materials in an appropriate covered container and properly dispose of it at least once each month in accordance with state law.

J. **Compliance**. Where a preliminary investigation indicates that a site is not compliant with this section, it shall be the responsibility of the owner to verify compliance.

4-5.8 Building Type Standards

A. **Intent**. This section regulates different physical forms of buildings within each applicable zoning district, creating variation in the urban environment within an appropriate scale.

B. **Applicability**. Primary buildings in any zoning district making reference to this section (Section 4-5.8 Building Type Standards) shall comply with the requirements of this section in addition to requirements of the underlying district. Each building type may house any use allowed in the underlying zoning district.

C. **Exemptions**. Civic and institutional uses are exempt from this section.

D. **Allowed Building Types**.

TABLE 4-5.9.D BUILDING TYPE STANDARDS

Building Type	Dwelling Units Per Building	Buildings Per Lot	Maximum Stories	Allowed Frontage Types
Carriage house*	One (max.)	One (max.)	Two	Porch, Stoop, Gallery
Single-family detached home		One (max.)	Two and one-half	Porch, Stoop, Gallery
Duplex home	Two (max.)	One (max.)	Two and one-half	Porch, Stoop, Gallery
Townhome	Three (min.) to eight (max.)		Three stories above grade	Porch, Stoop, Gallery
Small multiplex	Three (min.) to four (max.)	One (max.)	Three (unless otherwise restricted in the district)	Porch, Stoop, Gallery
Stacked flats	Five (min.)**		***	Porch, Stoop, Gallery, Forecourt
Cottage court dwellings (Detached single-family or duplex units)	One (min.) and two (max.)	Three (min.) to nine (max.)	Two and one-half	Porch, Stoop
Shop			***	Storefront, Terrace, Gallery, Forecourt

*Only allowed on a lot with a principal building unless located in the 17/76 or Old Town district, where frontage on an alley/laneway may be permitted by City Council. Carriage house units shall be accessory to a principal use on the lot. Minimum separation between buildings is 10 feet.
**Some districts may limit maximum.
***Building height regulated by district.
***Common space width a minimum of 18 feet. All units shall front on common space and common space shall have a primary sidewalk system connecting to each unit.

4-5.9 Building Frontage Standards

A. **Intent**. Building frontage types provide a transition and appropriate interface between the public realm (street and sidewalk) and the private realm (yard and building). The allowed frontage type standards supplement the standards for each building type.

B. **Applicability**. Building frontage types shall be applied to primary buildings located in a zoning district that references Section 4-5.9 Building Frontage Standards.

C. **Exemptions**. Civic and Institutional uses are exempt from this section.

D. **Dimensions and Standards**.

TABLE 4-5.9.D BUILDING FRONTAGE STANDARDS

Building Frontage Type	Dimensions				Standards
	Width	Depth	Level	Height	
Porch	8' min. clear measured parallel to building facade	6' min. clear measured perpendicular to building facade	Finished level above sidewalk: 18" min., 48" max.	Railing/Porch wall height: 4' max. from floor of porch	A porch shall have a roof. If unenclosed and open on three sides, a porch may encroach into a required front or corner setback as allowed by the applicable zoning district. Open porch bases shall be enclosed with latticework or similar material, or visually concealed with dense landscape.
Stoop	4' min. clear measured parallel to building facade	4' min. clear measured perpendicular to building facade		Railing/Stoop wall height: 4' max.	A stoop shall be at least 18" above the sidewalk and shall directly connect to the sidewalk, walkway, or driveway. A stoop may have a railing or wall and may have a covering. If unenclosed and open on three sides, a stoop may encroach into a required front or corner setback as allowed by the applicable zoning district.

TABLE 4-5.9.D BUILDING FRONTAGE STANDARDS					
Building Frontage Type	Dimensions				Standards
	Width	Depth	Level	Height	
Gallery	8' min. clear measured parallel to building facade	6' min. clear measured perpendicular to building facade		From ground floor: 8' min. One story max.*	Galleries shall be supported from below by a porch, arcade, or other structure; or visually supported by brackets, corbels, or beams along its full depth. In a 17/76 or Old Town district with a retail ground floor, a gallery shall extend over the sidewalk with approval of the City Council.
Forecourt	12' min. clear measured parallel to building facade	12' min. clear measured perpendicular to building facade		Max. height of structures fronting on forecourt: 2x width of forecourt	A forecourt shall be enclosed by building walls on three sides. A minimum 25% of forecourt shall be composed of landscape with remaining areas paved with hardscape material. Asphalt may not be used as a surface material.
Storefront		Depth of recessed entry from front facade: 5' max.		Window sill height: 3' max.	Open-ended awnings or canopies are encouraged for shade and weather protection. Bi-fold glass windows and doors that allow the space to open to the sidewalk are encouraged. Residential grade windows are not permitted.
Terrace		8' min. clear	Finished level above sidewalk: 4' max.		Frequent steps up to the terrace are required to maximize access and avoid blank walls along the sidewalk. Low walls used as seating are encouraged.

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Title IV | Chapter 6
Subdivision Regulations

Chapter 6 - Subdivision Regulations

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4-6.1 Purpose

Each subdivision in the City of Horace becomes a permanent element – part of the fabric – of the City. Subdivision design impacts public costs related to maintenance of public elements and it impacts the ability to provide services. Because unplanned and poorly planned development patterns may have adverse impacts on traffic circulation and on existing developments, facilities, and services, subdivisions of land hereafter must be submitted to the City for review and approval and shall, in all aspects, fully comply with the regulations hereinafter set forth.

These regulations are hereby adopted for the following purposes:

A. To promote the public health, safety, and welfare of the City;
B. To establish standard procedures, requirements, and conditions for the preparation, submission, and approval of plats for the subdivision of land;
C. To ensure the orderly development of the City;
D. To provide for proper arrangement of streets in relation to other existing and planned streets;
E. To provide for adequate and convenient open spaces for traffic, utilities, firefighting, recreation, light, and air;
F. To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces;
G. To avoid development of unsuitable areas because of soil, drainage, and other physical limitations;
H. To facilitate subdivision of larger parcels into smaller parcels and lots;
I. To assist the developer in harmonizing private interests with those of the City of Horace and the public; and
J. To implement the Comprehensive Plan and require that plats conform to the Comprehensive Plan and this code.

DIVISION 1. GENERAL PROVISIONS

4-6.2 Applicability

Within all regulated land of the City, subdivision of any lot, tract, or parcel of land shall not be made; streets, road easements, sanitary sewer, water mains, or other improvements in connection therewith shall not be laid out, constructed, opened, or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with a plat as finally approved by the City Council.

A person or entity (person, partnership, corporation, or limited liability company) who or which, being the owner or agent of the owner of a lot, tract, or parcel of land, shall lay out, construct, open, or dedicate a street, sanitary sewer, storm sewer, water mains, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or who or which sells, transfers, or agrees or enters into an agreement to sell or transfer land in a subdivision or engages in the subdivision of land or erects any buildings thereon, unless and until a plat has been finally approved in full compliance with this code, shall be guilty of a class B misdemeanor as specified in Chapter 8 - Administration, Enforcement, and Appeals. Each lot, tract, or parcel created or transferred, and each building erected in a subdivision in violation of the resolutions adopted hereunder shall constitute a separate offense.

4-6.3 Exemptions

Applications that are exempt from subdivision review shall be reviewed and approved by the following departments administratively prior to transfer of title to a different owner: Community Development Department, City Auditor, City Attorney, and City Engineer. These departments will require a commitment of title or an attorney's opinion of title and written consent from property owners and lienholders prior to approving the use of an exemption. In addition, all of the following apply:

A. Lots created through the use of an exemption shall have letters of review from the U.S. Postal Service, stating that mail services can be provided and what, if any, on-site facilities will be required.

B. Lots created through the use of an exemption shall comply with the underlying zoning district requirements.

C. Development on lots created through the use of an exemption shall comply with the district standards (Chapter 3 - Zoning Districts), use standards (Chapter 4 - Use Standards), and site standards (Chapter 5 - Site Standards) of this code.

D. Exemptions used under this section shall be executed via a certificate of survey and a deed filed with the Cass County Recorder's Office.

E. Exemptions that do not meet all of the additional standards specific to the exemption (below) shall be reviewed as subdivisions and subject to this code.

F. The following are exempt from the platting process:

1. **Boundary Line Adjustments**. An adjustment in the boundary between adjoining lots if the adjustment does not create a substandard lot, exceed the maximum density allowed by the underlying zoning district, or necessitate new roadway construction or right-of-way dedication. In such cases, a boundary line adjustment survey must be submitted to the Community Development Department for review and approval, and a determination that the reconfigured lots comply with the standards of this code. Upon approval, the boundary line adjustment survey must be recorded with the Cass County Recorder's Office. The following also applies:
   a. When a lot is used together with one (1) or more contiguous lots of the same zoning district for a single use or unified development, all of the lots so used, including any lots used for off-street parking, will be considered a single lot.
   b. All of the resulting parcels must conform to the minimum lot area and width in the applicable zoning district or, for existing nonconforming lots, the degree of nonconformity shall not be expanded.
   c. Boundary line adjustment is not one in a series of interior lot line adjustments made to circumvent the subdivision review process.
2. **Tax Lots**. The division of ownership interests solely for the purpose of assigning tax liability among multiple owners (tax lots), provided that a tax lot survey must be submitted to the City Auditor, who will inform the subdivider of the effect of the tax lot division and record the tax lot survey with the Cass County Recorder's Office.
3. **Rail Rights-of-Way, Drainage Easements, and Utilities**. Land used for street or railroad right-of-way, drainage easements, or other utilities subject to local, state, or federal regulations, where no new street, right-of-way, or easement is involved. Also, land used for a cemetery.
4. **Agricultural**. The division of a parcel or tract of land when the smallest parcel created is greater than forty (40) acres and the land is to be used solely for agriculture and/or living unit purposes.
5. **Land Divisions (Lot Splits)**. See Section 4-6.24 Land Division (Lot Splits).

As noted above, applications that are exempt from subdivision review shall be reviewed and approved by the following departments administratively prior to transfer of title: Community Development Department, City Auditor, City Attorney, and City Engineer.

4-6.4 Proper Designation

The subdivided land is considered an "addition" if the land is within the corporate limits of the City. The subdivided land is considered a "subdivision" if the land is outside the corporate limits of the City. A failure to properly identify the subdivision as either an "addition" or "subdivision" does not invalidate a subdivision which was otherwise approved in accordance with the City ordinances.

DIVISION 2. PLATS

4-6.5 Plat Preparer

The plat must be prepared by a registered engineer/land surveyor and submitted to the Community Development Department for review. The full review process is described in Section 4-6.11 Plan Review Process. The plat must cover the area which is designated for transfer or sale of lots.

4-6.6 Minor and Major Plats

The City has two (2) levels of platting: minor plat and major plat. To qualify as a minor plat, all of the following criteria shall be met:

A. The minor plat does not require the dedication of public rights-of-way or the construction of new public streets.
B. The minor plat does not land-lock or otherwise impair ingress and egress to or from the subject tract or any adjacent property.
C. The minor plat shall result in the creation of no more than five (5) additional lots.
D. The minor plat shall be within the corporate limits of the City of Horace.
E. Properties shall be appropriately zoned and the minor plat shall be approved only on property with non-residential zoning.

A plat that does not satisfy subsection A through subsection D above is classified as a major plat. A pre-plat conceptual plan is required to be presented to the Planning Commission for preliminary review and comment.

4-6.7 Required Pre-Submittal Steps

A. Plats must conform to all provisions of this code.
B. Prior to submittal, the subdivider shall participate in a pre-application meeting with the City.
C. Except for minor plats, the subdivider shall meet with the Park Board to discuss land dedication or payment-in-lieu of land dedication in compliance with Section 4-6.23 Dedication of Land for Public Purposes.
D. Development review fees shall be paid prior to any review of the plat.
E. The subdivider shall provide an Intent to Serve letter from Cass Rural Water, if necessary.
F. Schedule a meeting with Southeast Cass Water Resource District to discuss drainage, if required.

4-6.8 Minor Plat Application

A. The minor plat application and plat content shall consist of the following:

1. General information, including:

   a. Name and location of the subdivision or addition. Names shall not be duplicated and, in the interest of emergency response and public safety, names shall not be so similar to existing names that they may be confused with other existing subdivision names.

   b. The name, address, email address, and telephone number of the person to be contacted regarding the plat, and the names of all owners of record of the land and the name, address, and email address of the developer(s) (if different).

   c. The name, address, email address, phone number, North Dakota registration number, and date of preparation of the plat. Certification shall also be provided verifying that a registered engineer/land surveyor designed the plat, and that the monuments/pins shown thereon exist as located and that all dimensional and geodetic details are correct.

   d. Written notice to the City regarding funding of improvements (e.g., petition for City to install municipal improvements or developer will install the municipal improvements).

   e. The number of paper copies on 11" by 17" sheets will be determined by resolution of the City Council. A PDF file and AutoCAD file of the plat shall also be provided.

   f. Utility providers, garbage collection, and method of sanitary sewer shall be noted.

   g. Vicinity map of sufficient size and scope to locate the property within and its extraterritorial zoned areas, north arrow, and scale.

   h. Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements, streets, sidewalks, multi-use paths, and other public areas.

   i. A draft development agreement or improvement district agreement, or amendment to the same if the minor plat expands or occurs within an existing subdivision, drafted for review by the City Attorney. This requirement may be waived by the City Administrator, if deemed unnecessary.

   j. An overall area map at a scale of 1"-200' showing the relationship of the subdivision to its surroundings such as section lines and major streets or collector streets shall be provided.

   k. A separate sheet showing any and all existing utilities within three hundred (300) feet, on and adjacent to the parent parcel; locations, sizes, invert elevations of existing sanitary and storm sewers; locations and sizes of existing water mains; locations of oil and gas lines across the property; location of existing fire hydrants, electric and telephone lines, poles and streetlights, and railroad lines. If water mains and sewers are not on or adjacent to the tract, indicate the directions and distances to, and sizes of the nearest ones, and invert elevations of sewers (if within three hundred (300) feet).

   l. A separate sheet showing subsurface conditions for the parent parcel. If required by the Community Development Department and/or City Engineer, location and results of tests made to ascertain subsurface soil, rock, and groundwater conditions.

m. A separate sheet showing conditions on adjacent lands such as, but not limited to: approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers; driveways and roads; and other nearby nonresidential land uses or adverse influences that are within three hundred (300) feet of the proposed subdivision.

n. Existing land uses and zoning within and adjacent to the proposed subdivision.

B. The plat drawing for a minor plat shall contain the following:

1. Data and existing conditions, including:
   a. Name and location of the subdivision or addition.
   b. Boundary line of the proposed subdivision or addition.
   c. Names and locations of adjacent subdivisions. For adjacent platted subdivisions, refer to subdivision by plat name, recordation date, and number.
   d. The location, full dimensions, and names of existing street rights-of-way, alleys, public ways, pedestrian or non-motorized pathways, public drain rights-of-way, streams, rivers, other water bodies, railroad rights-of-way, utility rights-of-way, easements, parks, or other public open spaces, corporate boundaries, and section lines within or adjacent to the subdivision or addition. The purpose of any easement shown on the plat shall be clearly stated.
   e. Location of existing property lines, streams, watercourses, wetlands, and drainage ways.
   f. Boundary line of adjacent tracts of land or lots.
   g. Total gross and net (less road easements) areas and acreage of the parent parcel being divided.
   h. A complete and current legal description of all properties contained within the plat boundaries, with size of the property in square feet and acres.
2. Proposed conditions, including:
   a. Boundary line of the proposed subdivision or addition indicated by a solid heavy line, accurately drawn to scale, and showing distances and bearings with reference to section corners in the U.S. Public Land Survey System.
   b. The location, full dimensions, and name of proposed street rights-of-way (for additional rights-of-way proposed to be dedicated for an existing street), alleys, public ways, pedestrian or non-motorized pathways, public drain rights-of-way, railroad rights-of-way, utility rights-of-way, easements, parks or other public open spaces, corporate boundaries, and section lines within or adjacent to the subdivision or addition. The purpose of any proposed easement shown on the plat shall be clearly stated.
   c. Layout, number, and dimensions of all lots and outlots.
   d. Typical lot layout illustration showing typical lot dimensions, lot easement locations, pedestrian easements or right-of-way, and street locations.
   e. Site data table, indicating the number of lots, minimum lot size and width, lot gross acres, lot net acres (less road easements or right-of-way), and acreage in easements, parks, designated public areas, and non-buildable areas.

f. Sites, if any, for non-residential uses, institutional uses, or other non-public uses exclusive of single-family dwellings.
g. Proposed public and private improvements, including the location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks, and open spaces.
h. Highways or other major improvements planned by public authorities, or private parties, for future construction on or adjacent to the subdivision.
i. Preliminary location of proposed sidewalks, paths, roads, stormwater facilities, curbs, gutters, culverts, and other improvements on and adjacent to the parent parcel, including the dimensions.
j. Grades and gradients, including natural drainage flows and drainage flows per the preliminary grading and drainage plan. Include ordinary high water line and building control line of drainage flows, streams, rivers, and other water bodies.
k. Development guidelines and standards (e.g., open space, common facilities, parking areas, garbage collection areas, etc.).
l. Drainage plan with information required by the City Engineer.

3. The plat may consist of one (1) or more sheets, and shall show correctly on its face, in addition to the above, the following information:
   a. Primary control points approved by the surveyor, or descriptions and ties to such control points, to which all dimensions, bearings, and similar data on the plat shall be referred.
   b. Basis of bearing from a known recorded source or with documentation using a reliable source referenced on the plat.
   c. Location and description of survey monuments.
   d. Corner records (if any new corner records require filing per the Survey and Corner Recordation Act, NDCC Chapter 47-20.1, this shall be accomplished prior to or along with recording the plat and in compliance with the Survey and Corner Recordation Act).
   e. Tract boundary lines, streets, easements, and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings, and radii, arc lengths, and central angles of all curves.
   f. Location, dimensions, and purpose of each easement.
   g. Numbers to identify each lot, block, and or site.
   h. Purpose for which lots or sites, other than residential lots/sites, are dedicated or reserved.
   i. Certification of dedication of any roads, parks, or other property to be dedicated to the public by the record owner(s).
   j. Certification by a North Dakota registered land surveyor that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat.
   k. Certification for acceptance by the City Council and/or Park District of any roads, sidewalks, parks, utilities, or other property to be dedicated to the public.
   l. Cass County Recorder Certificate and other certificates required to conform with City ordinances and the North Dakota Century Code.

m. Names of record owners of adjoining platted land by record name, date, and numbers; dotted text.
n. Existing and proposed road cross-sections and road plans (plan view with grades as necessary to demonstrate compliance with the road standards).
o. Title, scale, north arrow, legend, and dates of survey and preparation of the plat.

4-6.9 Plan Content for Major Plat

A. The plat application for a major plat shall contain all items required for a minor plat in Section 4-6.8 Minor Plat Application above, and the following:
   1. Master phasing plan (if applicable).
   2. Curve table for proposed street right-of-way showing curve number, length, radius, and delta and with corresponding curb numbers shown and labeled on the plat.
   3. Proposed street grades, as required by the City Engineer.

B. Additional information to be provided with Major Plat application:
   1. Development agreement or improvement district agreement drafted by the City Attorney.
   2. The location, full dimensions, and name of any proposed street right-of-way, including cross-sections showing improvements proposed within right-of-way.
   3. The required number of paper copies, as established by City Council, at a dimension of 11" by 17", must be provided and the form of the plat shall be suitable for recording with the Cass County Recorder's Office. A PDF file and AutoCAD file of the plat shall also be provided. A DWG file may also be required.
   4. Appropriate places for signatures by the property owner(s), financial institution(s), Park District, and City officials, and, if the proposed plat is located in the second half of the City's extraterritorial zoning jurisdiction, the other political subdivision with extraterritorial zoning jurisdiction, typically the township.
   5. The proposed plat shall be prepared by a North Dakota registered land surveyor, in accordance with state law (including but not limited to NDCC Chapters 40-47, 40-58, and 40-50.1).

4-6.10 Approval Criteria

A plat shall not be approved unless it is located in a zoning district that allows the proposed development (uses and dimensional standards), complies with the Comprehensive Plan, and complies with all other applicable requirements of this code, including the review criteria in Section 4-6.11, subsection E.

4-6.11 Plan Review Process

A. **Pre-Application Consultation**.

1. Prior to the submission of a plat, the subdivider shall consult with the Community Development Department for assistance regarding the requirements of City plans, ordinances, and policies for subdividing any parcel of land. This step is intended to inform the subdivider of the importance of the plans, ordinances, and policies to assist the subdivider in meeting the land subdivision requirements of the City. The subdivider must provide a master plan document that covers the entire contiguous area owned or controlled by the subdivider.
2. Materials submitted or discussed during the pre-application meeting shall not satisfy the required documentation of any required application. Any advice or assistance given by City staff shall not be considered the City's final response or bind the City in any manner. The following is the process for subdivision pre-application meetings:
   a. The pre-application form must be completed and submitted to the Community Development Department in order to get on the pre-application meeting schedule. Pre-application will not be processed or reviewed if it is incomplete. The completed pre-application form must be accompanied by the following:
      i. Location map;
      ii. Copy of instrument identifying recorded legal description;
      iii. Draft of plat of proposed subdivision prepared in accordance with Chapter 6 - Subdivision Regulations;
      iv. Commitment of title or an attorney's opinion of title; and
      v. Any information that may help the Community Development Department better understand the land uses, timeline, and scale of the project.

B. **Meeting with Park Board**. Subdividers for major plats shall meet with the Park Board to discuss land dedication or payment-in-lieu of land dedication in compliance with Section 4-6.23 Dedication of Land for Public Purposes.

C. **Review Process for a Minor Plat**.

1. The subdivider shall schedule and participate in a pre-application meeting with the City prior to submittal of the application for a Minor Plat.
2. The subdivider shall apply on City-provided forms to the Community Development Department.
3. The subdivider shall pay applicable fees at the time of application. The City Council shall establish a fee schedule for plat applications, and such application fee will be charged per lot in the plat.
4. The plat shall comply with all provisions of this code and conditions and requirements set forth by the City.
5. Upon satisfactory review by City staff of all required documentation submitted by the subdivider, reports and recommendations will be forwarded to the Community Development Department.
6. Prior to action by the City, the recommendation from the Park Board and, if required, Southeast Cass Water Resource District, shall be obtained.
7. The approval process for a minor plat shall follow the same process as a major plat.

8. Upon satisfactory review by City staff of all required documentation submitted by the subdivider, the City will publish notice once each week for two (2) consecutive weeks before the time set for the hearing in the official newspaper of the City and provide notification (post marked or hand delivered at least seven (7) days before) to all property owners within three hundred (300) feet of the property in question excluding the street rights-of-way.
9. At the public hearing, the Planning Commission will hear comments from the subdivider, interested individuals, and City staff. After receiving comments, the Planning Commission may approve, conditionally approve, or deny the minor plat, or postpone its decision to request additional information from the subdivider or City staff. The conditional approval of any plat will clearly state the nature and extent of the conditions which must be met before the plat is recorded.
10. Upon approval by the City, and all other governing bodies, and satisfaction of all conditions and requirements, the plat will be recorded in the Cass County Recorder's Office.
11. Final approval may require an approved development agreement or improvement district agreement drafted by the City Attorney and signed by the subdivider. If a development agreement or improvement district agreement is required, it shall be submitted to City Council for approval.
12. Approval of a minor plat is effective for a period of one (1) year. If the plat is not recorded within one (1) year of its approval, the City Administrator may grant one extension of no greater than six (6) months. After the expiration of the extensions, the City Administrator shall require the subdivider to resubmit the plat for review and approval, including repayment of requisite fees.

D. **Review Process for Major Plat**.

1. The subdivider shall schedule and participate in a pre-application meeting with the City prior to submittal of the application for a Major Plat.
2. The subdivider shall apply on City-provided forms to the Community Development Department.
3. The subdivider shall pay applicable fees at the time of application. The City Council shall establish a fee schedule for plat applications by resolution, amended from time to time, and such application fee will be charged per lot in the plat.
4. Prior to action by the Planning Commission, a recommendation from the Park Board and, if required, Southeast Cass Water Resource District, shall be obtained.
5. The plat must comply with all provisions of this code and conditions and requirements set forth by the City Council.
6. City staff may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, and drawings for installation of water, sanitary, and storm sewer facilities.

7. Upon satisfactory review by City staff of all required documentation submitted by the subdivider, the City will publish notice once each week for two (2) consecutive weeks before the time set for the hearing in the official newspaper of the City and provide notification (post marked or hand delivered at least seven (7) days before) to all property owners within three hundred (300) feet of the property in question excluding the street rights-of-way.
8. For subdivisions outside of the City's corporate limits, but within the second half of the extraterritorial zoning jurisdiction of the City, the subdivider shall provide a copy of the plat for review to the other political subdivision with extraterritorial jurisdiction. The approval of the other political subdivision with extraterritorial jurisdiction is necessary for all plats within the second half of the City's extraterritorial jurisdiction. This approval must occur before the plat is presented to the City Council.
9. At the public hearing, the Planning Commission will hear comments from the subdivider, interested individuals, and City staff. After receiving comments, the Planning Commission may recommend approval, conditional approval, or denial of the plat, or postpone its decision to request additional information from the subdivider or City staff. The conditional approval of any plat will clearly state the nature and extent of the conditions which must be met before the plat is submitted to the City Council.
10. If all conditions and requirements of the Planning Commission and City staff have been met, City staff will schedule a public hearing before the City Council and publish notice of the hearing once each week for two (2) consecutive weeks before the time set for the hearing in the official newspaper of the City and notification (post marked or hand delivered at least seven (7) days before) to all property owners within three hundred (300) feet of the property in question excluding the street rights-of-way.
11. At the public hearing, the City Council will hear comments from the subdivider, interested individuals, and City staff. After receiving comments, the City Council may approve, conditionally approve, or deny the plat, or postpone its decision to request additional information from the subdivider or City staff. The conditional approval of any plat will clearly state the nature and extent of the conditions which must be met before the plat is recorded.
12. As part of its conditional approval, the City Council may require plat review by Southeast Cass Water Resource District to ensure the development has adequate drainage and does not negatively affect Southeast Cass Water Resource District's facilities or infrastructure.
13. Upon approval by the City Council, and all other governing bodies, and satisfaction of all conditions and requirements, the plat will be recorded in the Cass County Recorder's Office.
14. Final approval shall require an approved development agreement or improvement district agreement that has been drafted by the City Attorney and signed by the subdivider, and City representatives.
15. Approval of a plat is effective for a period of one (1) year. If the plat is not recorded within one (1) year of its approval, the City Council may grant an extension of no greater than six (6) months. If the plat is not recorded at the expiration of this period, the City Council may require the subdivider to resubmit the plat for review and approval, including repayment of requisite fees.

E. **Review Criteria**.

1. In reviewing a minor plat or major plat being submitted for approval, the Community Development Department, Planning Commission, and City Council, as applicable, shall inquire into the public use and interest proposed to be served by the subdivision. They shall determine whether the plat, application, and other required documents, conform to the following:
   a. Subdivision regulations (Chapter 6 - Subdivision Regulations);
   b. District standards (Chapter 3 - Zoning Districts);
   c. Comprehensive Plan; and
   d. All other applicable City ordinances.
2. Whether appropriate provisions or considerations are made for the following:
   a. Public health, safety, and general welfare;
   b. Open spaces, parks, and playgrounds;
   c. Drainage ways;
   d. Streets, alleys, and other public ways;
   e. Sites for schools and school grounds; and
   f. Other relevant factors.
3. Action of the final approving body shall be noted on at least four (4) copies of the approved plat, which shall be referenced and attached to any conditions of plat approval. One (1) copy of the plat shall be returned to the developer and three (3) copies shall be retained by the City. In addition, appropriate copies shall be provided to the Cass County Recorder for recording, as specified by the Cass County Recorder.

4-6.12 Condominium Plats

Condominium subdivisions shall follow the plat procedure as established for major plats and are subject to all standards in this code.

4-6.13 Subdivision Variances

A. A variance from the development standards of this code may be considered and granted by City Council for subdivisions when the following criteria are met:
   1. A literal enforcement of any provision would result in great practical difficulties, unnecessary hardship, or injustice;
   2. The difficulties, hardship, or injustice is based on conditions unique to the property (e.g., unique physical conditions, etc.) which were not created by the subdivider;
   3. Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining property;
   4. Granting of the variance will not be contrary to the public interest or the general purposes of this code; and
   5. The variance will not place the subdivision in nonconformance with any adopted zoning standards or the Comprehensive Plan.

B. In granting variances, reasonable conditions may be imposed to secure the purpose and objectives of this code.

C. Any variance must be requested by the subdivider and considered at a public hearing before the Planning Commission and subject to final approval by the City Council.

DIVISION 3. DESIGN STANDARDS

4-6.14 Introduction, Intent, and Development Agreement

For the health, safety, and welfare of the citizens of the City, subdivision design standards have been adopted and included within this code. The City's approval of any plat shall not relieve the subdivider or the subdivider's engineer from liability related to portions of the design that are not in conformance with these standards or that do not follow standard engineering practices.

4-6.15 Lots

A. The size of the lots, and the minimum building setback lines of lots, shall meet the minimum size and setbacks for the underlying zoning district. The shape and orientation of the lots shall meet the City standards for the zoning district and for the type of subdivision and use contemplated. Lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated for the subdivision.

B. Every lot shall front on a publicly dedicated street with the following exceptions:
   1. Within the 17/76, OT, UR, MX, and CR districts, the City may permit the following:
      a. For cottage court bungalow building types, lots shall front on a common green space with a public sidewalk and have either a rear yard or street side yard access to a public or private street.
      b. For carriage house building types, lots shall front on a public laneway or alley, which may be located behind street-fronting principal dwelling and in front of the carriage house or to the rear of the carriage house.
   2. The City Council, after receiving a recommendation from the Planning Commission, may permit lots to access a private street. Private streets shall be constructed to public street standards except that the City Council may permit a reduction in the width of right-of-way and/or road cross-section width if it makes a finding that the reduction is keeping with the protection of the health, safety, and welfare of the City. Private streets shall only be permitted for roads designated as local streets, and easements or plat dedications shall be recorded for all private streets after review and approval of the City Attorney.

C. All lots created after the adoption of this code shall comply with the requirements of the underlying zoning district in which they are located unless a variance is granted.

D. Corner lots shall be designed to have sufficient width to permit appropriate building setbacks from both streets/roads and to provide acceptable visibility for traffic safety. (See the setback requirements of applicable zoning districts in Chapter 3 - Zoning Districts). At a minimum, corner lots in residential districts (AG, SR-1, SR-2, SR-3, CR, UR, and MH) and the 17/76, OT, and MX districts shall have an extra ten (10) feet of lot width in addition to the minimum lot width requirements of the applicable zoning district.

E. Double frontage lots shall be avoided except where essential to provide separation of development from arterial access streets (reverse frontage street) or for creative, pedestrian-oriented plans in the 17/76, OT, UR, or CR districts.

F. Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking and service facilities required by the type of use and development and the provisions of the underlying zoning district and parking provisions of these regulations.

G. Flag lots are prohibited.

H. Side lot lines shall be substantially at right angles or radial to street lines.

I. Lot lines shall follow municipal and zoning district boundary lines rather than cross them.

4-6.16 Block Design

A. The length, width, and shape of blocks shall be suited to the planned use of land, zoning requirements, need for multi-modal connectivity, traffic safety, and the topographic conditions. Block design must meet these requirements:

1. Residential blocks must have sufficient width to provide for two (2) tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets across from a public park or open space, to allow for unusual topographical conditions, or when adjacent to the outer perimeter of a subdivision.
2. Block length of residential zoned land in all districts except 17/76, OT, UR, and CR shall be a minimum of three hundred (300) feet and shall not exceed one thousand (1,000) feet; however, residentially zoned blocks up to two thousand (2,000) feet in length are permitted when the block face directly on the opposite side of the street has a mid-block street “T” configuration intersection interruption that establishes blocks less than one thousand (1,000) feet in length.
3. Any block exceeding seven hundred fifty (750) feet in length and up to one thousand (1,000) feet in length shall have a dedicated right-of-way of forty (40) feet in width to split the block length. This right-of-way shall contain a paved, non-motorized pathway of ten (10) feet in width located near the mid-point of the block that connects from one (1) street to another and provides for pedestrian and bicycle circulation. Deciduous trees of at least one and one-quarter (1 ¼) inch caliper shall be planted along both sides of the path and shall be spaced forty (40) feet apart and offset at least ten (10) feet from the edge of the path. The non-paved area of the right-of-way shall be planted and maintained with grass or other ground cover approved by the City Council. Design and construction shall be subject to approval by the City Engineer.
4. Block length in 17/76, OT, UR, and CR districts shall be regulated as follows:
   a. Block length shall be a minimum of three hundred (300) feet and shall not exceed six hundred (600) feet;
   b. If a block includes a midblock pedestrian passage that connects two (2) streets, the maximum block length may be increased up to a total of eight hundred (800) feet. The passage shall be a minimum of ten (10) feet wide and accessible at all times to the general public in order for the block to qualify for additional length;
   c. Blocks up to one thousand two hundred (1,200) feet in length are permitted when the block directly on the opposite side of the street has a mid-block street “T” configuration intersection interruption that establishes blocks six hundred (600) feet in length or less.

5. Non-residentially zoned block length, excluding 17/76 and OT districts, shall not exceed one thousand three hundred twenty (1,320) feet.
6. The following are exempt from block length requirements:
   a. Agricultural zoned properties;
   b. Properties that abut a river, former or current railroad property, and/or drain, provided that "T" intersections at mid-blocks are provided to meet the spirit and intent of this code, as determined practicable by the approving body in the City.

B. Blocks are recognized as closed polygons, bordered by street right-of-way lines, addition lines, private street near easement lines, or a combination of the two (2), unless an alley, lane, or non-motorized passage is desired, in which case a block may be comprised of two (2) closed polygons separated by the adjoining alley or passage.

C. Cul-de-sacs shall be subject to the following:

TABLE 4-6.17.C CUL-DE-SACS		
	Maximum Length	Maximum Number of Dwelling Units
Agricultural, SR-1, SR-2, SR-3	750 feet	20
All other residential and mixed use districts	500 feet	20

4-6.17 Street Design

A. The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, flood plain, public convenience and safety, and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.

B. New streets and extension of existing streets shall generally follow the Comprehensive Plan. Where it is not shown on the Comprehensive Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning Commission to meet a particular situation.

C. Where a subdivision abuts or contains an existing or proposed major street or highway, the approving body may require:
   1. Service streets, reverse frontage street with screen planting in a reservation strip along the rear property line;
   2. Lots with rear service alleys abutting the arterial and collector streets; and
   3. Additional highway right-of-way as may be necessary for adequate protection of residential properties and for separation of through and local traffic.

D. Where a subdivision borders on or contains a railroad right-of-way, a limited access highway right-of-way or other arterial highways, the approving body may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land.

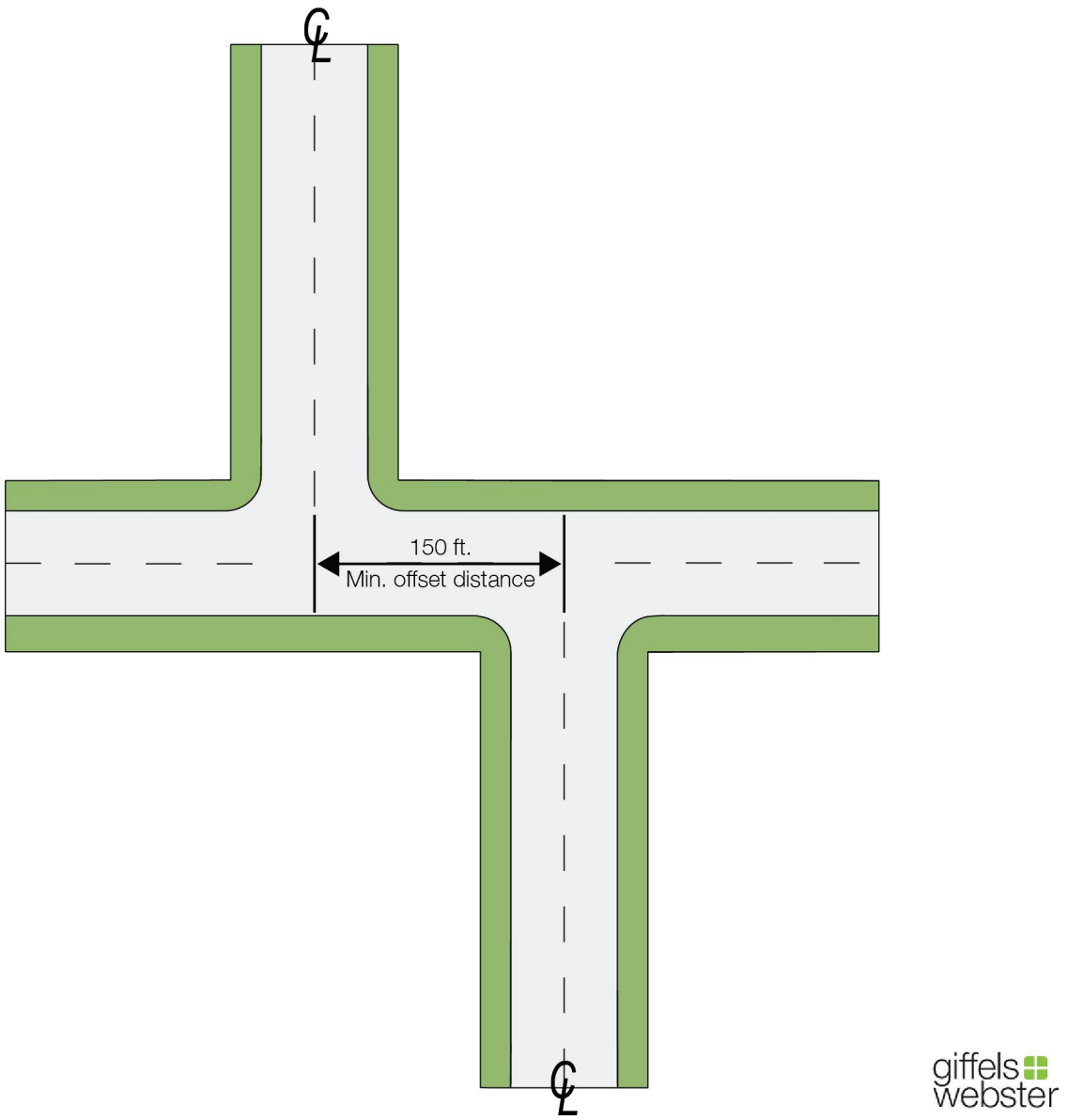
E. The street network shall include minor streets so laid out that their use by through traffic shall be discouraged.

F. Reserve strips in private ownership controlling access to streets are prohibited. This causes problems for street improvement and widening.

1. Purpose & Intent
2. Definitions
3. Zoning Districts
4. Use Standards
5. Site Standards
6. Subdivision Regulations
7. Development Review
8. Administration, Enforcement, & Appeals

G. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted.

FIGURE 4-6.17.G STREET JOGS



H. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on all arterial, collector, and connector streets.

I. Streets shall be laid out so as to intersect as nearly as possible at right angles. To create a more attractive environment curvilinear streets are permitted.

J. Curb radii on all block corners shall be at least twenty (20) feet.

K. Street rights-of-way for construction of streets and other infrastructure shall not be less than the following:

1. Major arterial streets: one hundred fifty (150) feet;
2. Minor arterial streets: one hundred twenty (120) feet;
3. Mixed use collector and residential collector streets: one hundred (100) feet;
4. Local residential, local commercial, and local mixed use urban streets: seventy (70) feet;
5. Cul-de-sac: one hundred thirty (130) feet in diameter for cul-de-sac bulb; and
6. Laneways/Alleys: thirty (30) feet.

In general, the street classification in the Comprehensive Plan shall be used. The approving body and City Council may adjust right-of-way widths and cross-sections on approved plans and plats when necessary to further the intent of this code. Within the 17/76, OT, MX, UR, and CR districts, reduced right-of-way widths may be considered to promote walkability and pedestrian-oriented design.

L. Access points to minor and major arterial streets shall be via street intersection and no private driveways shall be permitted. The total number of access points to minor and major arterial streets shall be limited to eight (8) per side per mile. An existing driveway access point may be exchanged with a street access.

M. Half streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this code and where the City Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided after recommendation of approval from the Planning Commission. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

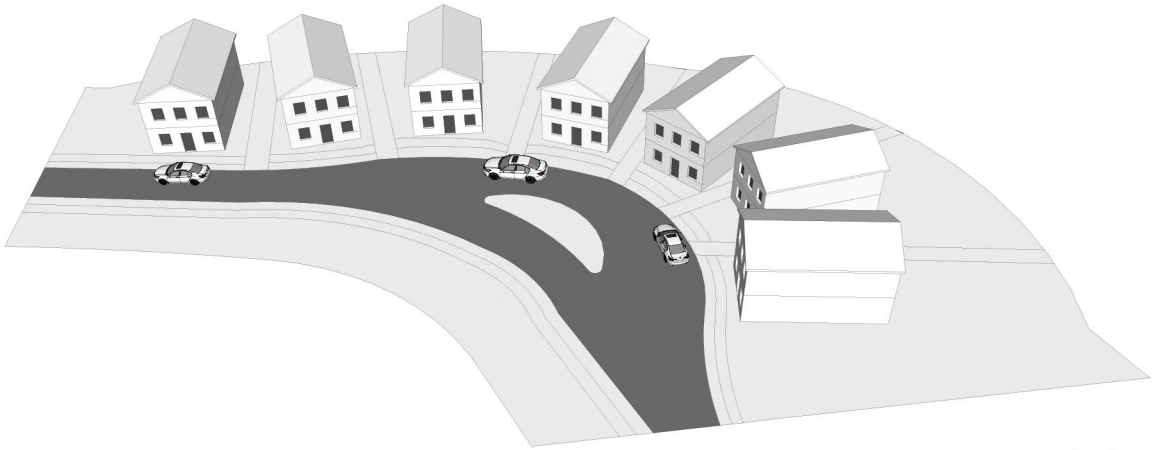
N. Intersections of more than two (2) streets at a point less than ninety degrees (90°) shall not be permitted unless there is a finding of a practical difficulty by the approving body that is related to unique site conditions.

O. Dead-end streets shall have a cul-de-sac turnaround with a minimum pavement radius of fifty (50) feet (one hundred (100) foot diameter). When a stub street to a future development site is approved or required by the City, as an alternative to a cul-de-sac, the City may allow a temporary hammerhead turnaround at the stub street end for fire apparatus. The hammerhead shall be at least one hundred twenty (120) feet wide and perpendicular to the road and shall be placed at property line with a twenty (20) foot wide turnaround section.

P. The following alternatives to cul-de-sacs may be approved by the approving body and City Council at the time of subdivision:

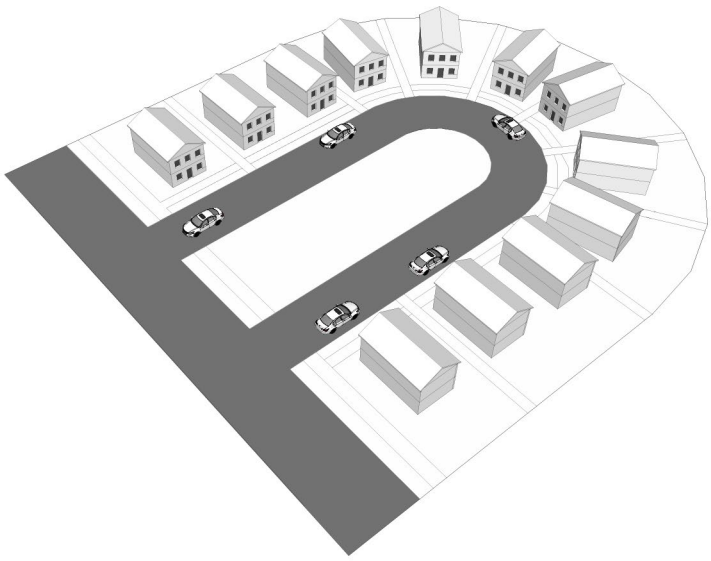
1. Eyebrow. An eyebrow is a rounded expansion of a street beyond the normal curb line. An eyebrow must have a landscaped island and is only allowed in the suburban context (AG, SR-1 SR-2 or SR-3 districts). The right-of-way shall extend at least ten (10) feet beyond the outside back of curb. ✍

FIGURE 4-6.17.P.1 EYEBROW



2. Loop Lane. A loop lane is a two-way street, no portion of which may be more than the maximum allowable cul-de-sac length from the abutting street right-of-way. The interior landscaped area must have at least an average width of seventy-five (75) feet. ✍

FIGURE 4-6.17.P.2 LOOP LANE



Q. Storm sewers are required in all districts.

R. All streets shall be constructed in accordance with the guidelines of the American Association of State Highway and Transportation Officials (AASHTO) and, where under the jurisdiction of Cass County, the Cass County urban highway standards. For streets in the 17/76, OT, MX, UR, and CR districts, the Urban Street Design Guide of the National Association of City Transportation Officials (NACTO) may be accepted as an alternative to AASHTO guidelines, subject to approval by the City Council.

S. Mini-roundabouts may be permitted at the intersection of local residential streets with other local residential streets. The following standards shall apply:

1. The mini-roundabout should be set within the footprint of a conventional local street - local street intersection, with an inscribed circle diameter of ninety (90) feet or less.
2. The central island should be large enough to deter approaching passenger car drivers from making direct left turns.
3. The central island should be domed concrete and provided a contrasting surface treatment for adequate visibility. Since large trucks must be able to make direct left turns over the island, it should have a maximum cross slope of five-to-six percent (5-6%) and a maximum height of five (5) inches. Large trucks should be able to safely make direct left turns over the island.
4. Splitter islands are required on the approaches to the intersection and should be a minimum of fifty (50) square feet in size. They may be painted or raised, although the latter is preferred where significant pedestrian volumes can be expected.
5. Proper placement of painted entrance lines, as well as YIELD signs, shall be provided, subject to approval of the City Engineer.
6. Subdividers are referred to the publication *Mini-Roundabouts*, report FHWA-SA-10-007, for additional details of design standards.
7. The location and design of all mini-roundabouts is subject to approval of the City Engineer.

T. The subdivider shall be responsible for the dedication and improvement of the streets and streetscapes in accordance with the standards of this code. The standards for the construction of pavement on all streets shall be in accordance with the specifications established by City Council and following the Street and Alley Dimensional Standards below:

1. **Local residential street**. A local residential street is a minor local street intended for use where the predominant character is one of suburban residential uses, accessory uses, and limited non-residential uses. The local residential street is only allowed within SR-1, SR-2, SR-3, and CR districts. ✍

FIGURE 4-6.17.T.1 LOCAL RESIDENTIAL STREET

TABLE 4-6.17.T.1 LOCAL RESIDENTIAL STREET STANDARDS

Dimension	Standard
Right-of-way width	70 ft.
Road cross-section	30 ft. (25 ft. plus 2.5-ft. curb/gutter on each side)
Road to sidewalk	14 ft. each side
Sidewalk width	5 ft. each side
Sidewalk to right-of-way edge	2 ft. each side

2. **Local commercial street**. A local commercial street is a minor connector street intended for use where the predominant character is automobile-oriented commercial uses. The local commercial street is only allowed within C districts. ✍

FIGURE 4-6.17.T.2 LOCAL COMMERCIAL STREET

TABLE 4-6.17.T.2 LOCAL COMMERCIAL STREET STANDARDS	
Dimension	Standard
Right-of-way width	70 ft.
Road cross-section	24 ft. (39 ft. including bike lanes and curb/gutter)
Attached bike lanes	7.5 ft. each side (5-ft. lane plus 2.5 ft. for curb/gutter) (when bike lanes required by City)
Curb to sidewalk	8.5 ft. each side (13.5 ft. with no bike lanes)
Sidewalk width	5 ft. each side
If the City Council finds that bike lanes are not appropriate for a segment, the additional 5 feet on each side shall be added to the “curb to sidewalk” dimension.	

3. **Local mixed use urban street**. A local mixed use urban street is a local connector street with on-street parallel parking, intended for use where the predominant character is a walkable, mixed use district with buildings abutting or close to the right-of-way line. The local mixed use urban street is only allowed within 17/76, OT, MX, and CR districts.

FIGURE 4-6.17.T.3 LOCAL MIXED USE URBAN STREET

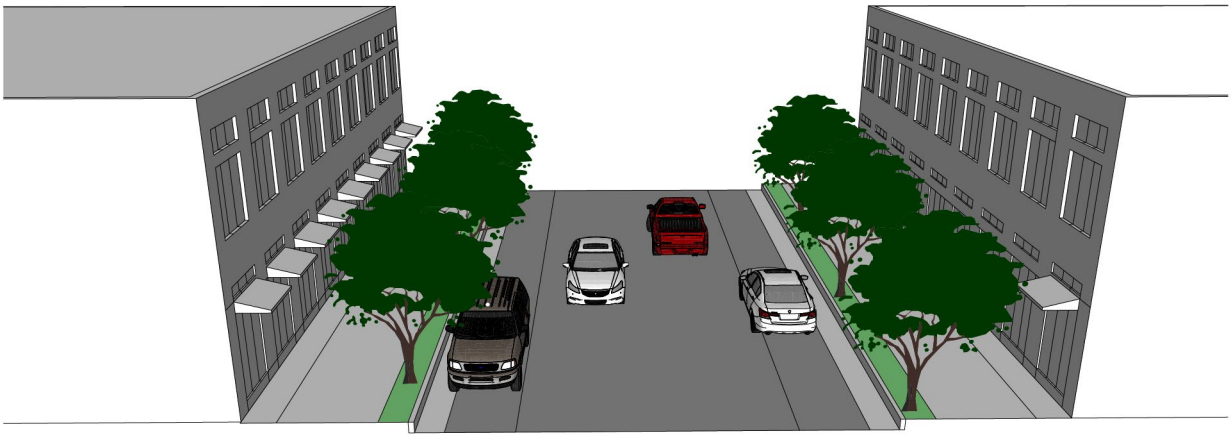


TABLE 4-6.17.T.3 LOCAL MIXED USE URBAN STREET STANDARDS

Dimension	Standard
Right-of-way width	70 ft.
Road cross-section	24 ft. + 8.5 ft. each side for parallel parking and curb/gutter (41 ft. from back of curb to back of curb
Parallel parking	8.5 ft. each side (includes 2.5-ft. curb and gutter)
Furnishing zone (curb to main sidewalk)	4.5 ft. each side
Sidewalk width	7 ft. each side
Frontage zone	3 ft. each side

4. **Mixed use collector street and residential collector street**.
   a. **Mixed use collector street**. A mixed use collector street is a local collector street with on-street parallel parking, intended for use where the predominant character is a walkable, mixed use district with buildings abutting or close to the right-of-way line. It may include protected bike lanes on each side that is at the same elevation as the sidewalk. This street is only allowed within 17/76, OT, MX, UR, and CR districts. ✍

FIGURE 4-6.17.T.4.A MIXED USE COLLECTOR STREET

TABLE 4-6.17.T.4.A MIXED USE COLLECTOR STREET STANDARDS

Dimension	Standard
Right-of-way width	100 ft.
Road cross-section	53 ft. (36 plus 8.5 ft. each side for parallel parking and curb/gutter
Parallel parking	8.5 ft. each side (includes 2.5-ft. curb and gutter)
Furnishing zone (curb to main sidewalk)	11.5 ft. each side
Optional bike lane (if required by approving body)	6 ft. plus 3-ft. green buffer each side
Sidewalk width	10 ft. each side
Frontage zone	2 ft. each side

b. **Residential collector street**. Outside of 17/76, OT, MX, UR, and CR districts, the parallel parking spaces may be removed on one or both sides of the street, if allowed by the approving body, and the road will function as a residential collector street, with a forty-one (41) foot back of curb to back of curb road section. Buildings fronting on a residential collector street will typically have a front yard and a front setback requirement. For the residential collector street, there will be a ten (10) foot wide shared use path on each side. ✍

FIGURE 4-6.17.T.4.B RESIDENTIAL COLLECTOR STREET

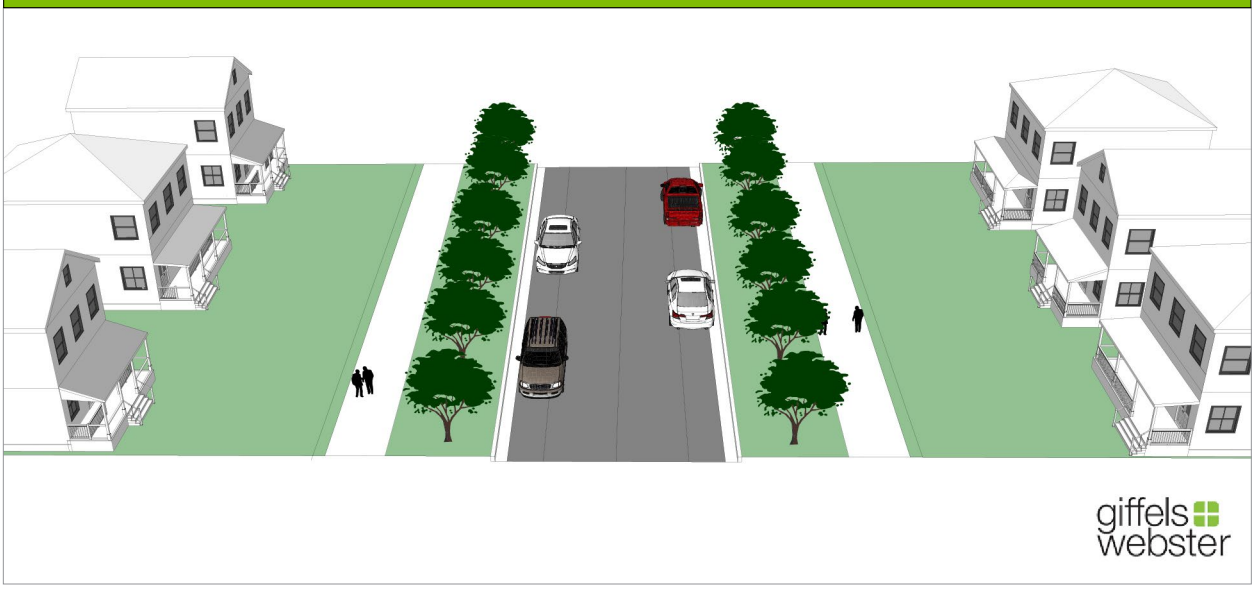


TABLE 4-6.17.T.4.B RESIDENTIAL COLLECTOR STREET STANDARDS*

Dimension	Standard
Right-of-way width	100 ft.
Road cross-section	41 ft. (24 ft. plus 8.5 ft. parallel parking and curb/gutter each side
Parallel parking	8.5 ft. each side (includes 2.5-ft. curb and gutter)
Shared use path	10 ft. each side
Green space	17.5 ft. between back of the curb and shared use path; 2 ft. from edge of shared use path and right-of-way
* Dimensions only allowed in suburban and rural districts, as specified above in subsection b.	

5. **Industrial street**. An industrial street is a local collector street intended for I-1 and I-2 district local travel. ✍

FIGURE 4-6.17.T.5 INDUSTRIAL STREET

TABLE 4-6.17.T.5 INDUSTRIAL STREET STANDARDS

Dimension	Standard
Right-of-way width	70 ft.
Road cross-section	32 ft. plus 2.5 ft. curb and gutter
Curb and gutter	2.5 ft. each side
Sidewalk to street	8.5 ft. each side
Sidewalk	6 ft. each side located 2 ft. from right-of-way edge

6. **Laneway (alley)**. Laneways are service lanes in I-1, I-2, C, and MX districts. They can also be found in UR and CR districts. ✍

FIGURE 4-6.17.T.6 LANEWAY (ALLEY)

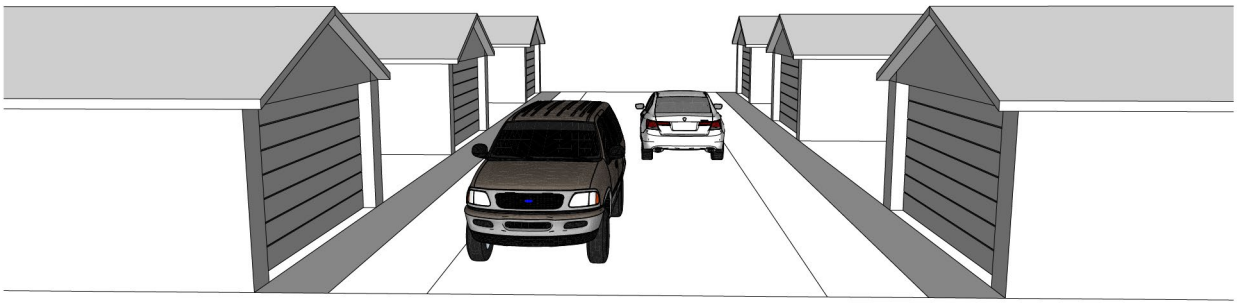


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TABLE 4-6.17.T.6 LANEWAY (ALLEY) STANDARDS

Dimension	Standard
Right-of-way width	30 ft.
Road cross-section	20 ft.

4-6.18 Street Names

A. The approving body may disapprove the name of any street shown on the plat which has already been used elsewhere in the area or because of similarity that may cause confusion.

B. Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

C. A street name assigned to a street, which is not presently a through street, shall be continued as if the street is extended to become a through street.

4-6.19 Easements and Utilities

A. Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be ten (10) feet wide on each side of the lot line or subject to the yard requirements of the underlying zoning district, set forth in Section 4-3.1 Established Districts, whichever is less, and shall be designated as "utility easement."

B. Lots shall be served by underground electric, cable television, internet, and telephone lines unless waived by the City Council due to topographic conditions or other practical difficulty.

C. Utility lines for electric power, cable television, internet, and telephone service carried overhead shall be placed in the utility easement.

D. Utility lines installed in the utility easement shall not be closer than three (3) feet to any monument/pin or property line, unless waived by the City Council.

4-6.20 Drainage Way Easement/Watercourse Setback Zone

A. Where a subdivision is traversed by a water course or drainage way, an adequate drainage way shall be provided. The location, width, alignment, and grading of such easement shall be set by the City Council based on the recommendations of the City Engineer to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

B. No building or structure may be erected, constructed, enlarged, or altered within the "Watercourse Setback Zone" which is defined as those lands within one hundred fifty (150) feet of the identified upper edge or bank of any stream, lake, pond, impounding reservoir, marsh, drain, watercourse, waterway, and all other bodies or accumulations of water on the surface of the earth, natural or artificial, public or private, without written authorization by the City Engineer and supported by evidence establishing the suitability of such use. This prohibition does not extend to bike paths, walking trails, multi-use paths, stairways, or fences so long as drainage is not adversely affected, nor does it apply to previously platted areas wherein lot sizes are insufficient to meet the one hundred fifty (150) feet Watercourse Setback Zone standard. As to previously platted lands, the City Engineer will help identify an appropriate setback consistent with known soil conditions.

4-6.21 Landscaping Standards

A. **Purpose**. The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment of the community. The regulations outlined herein are designed to provide for the health, safety, and welfare of the residents of the City.

B. **General Goals and Objectives for Landscaping Standards**.

1. Clearly define spaces, articulate use areas, and unify site elements through use of landscape materials by creating a distinction of natural planting areas and implemented landscaping.
2. Use sustainable landscaping practices.
3. Limit and control erosion throughout site.
4. Minimize use of non-sustainable fertilizers, herbicides, and pesticides.
5. Use plant material to reduce adverse climatic conditions such as heat, wind, and precipitation.
6. Guide future development toward sustainable and environmentally sound design through use of native and locally available plant material, reclaimed water irrigation, and other practices.
7. Feature native plant material.
8. Reinforce a natural context of the site by simulating a natural type of planting.
9. Protect and preserve the environment and natural beauty of the City.
10. Provide for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear-cutting during development.
11. Enforce landscaping and tree preservation standards to promote and protect the public health, safety, and welfare of the City.

C. **Applicability**. The requirements of this section apply to all development within the City, except for the exemptions provided herein. Street boulevards are required to have boulevard trees unless the Community Development Department deems otherwise. Multi-family properties and commercial properties are required to adhere to the plant unit chart standards described in Section 4-5.3 Landscape and Natural Features. Properties which require green areas (grassed) or landscaped open space, shall have the appropriate landscaping completed prior to the issuance of a certificate of occupancy. A temporary certificate of occupancy may be issued when weather and/or seasonal conditions do not allow the installation of landscaping with a schedule for completion as may be approved by the Community Development Department.

D. **Exemptions**.

1. Single-family homes, duplexes/two-family dwellings, mobile homes, manufactured homes, and industrial properties are not required to meet proposed plant units for each lot, though they are encouraged to participate. However, single-family homes, duplexes/two-family dwellings, and manufactured home properties shall have a minimum of one (1) three-gallon shrub for every three (3) lineal feet along the foundation for every street facing facade.

E. **Plant Standards**.

1. General Standards.
   a. Acceptable trees include but are not limited to those identified as suitable for the intended use in the "Plant List" which shall be approved by resolution of the City Council and kept on file in City Hall. Acceptable vegetative ground cover consists of shrubs, grass, and native prairie grass.
   b. Species of trees shall not be planted if the roots cause damage to public works, the branches are subject to a high incidence of breakage, or the fruit is considered a nuisance or high maintenance, as determined by the Community Development Department.
   c. Trees shall be planted in good condition. Plant materials shall be nursery grown and root pruned stock free of insects, disease, and defects.
   d. The developer shall plant or install, as appropriate, grass, tree grates, porous pavers, or similar pervious surfaces, which shall extend to twice the initial drip line of the newly planted tree. Minimum tree grate size shall be five (5) square feet.
2. The City shall maintain a Plant List identifying plants compatible with local soils and climatic conditions including salt tolerance, sun and heat exposure, and mean low temperature. Required landscape plants must be selected from the Plant List. Plant material shall be selected that is best suited to withstand the soil and physical growing conditions on the project site. Plant species that are freeze and drought tolerant are preferred. Protection and preservation of native species and natural areas are encouraged.

F. **Landscaping Material**.

1. Where landscaping and associated landscape plans are required, the landscaping materials shall consist of the following:
   a. Walls shall be constructed of natural stone, brick, or other appropriate aesthetically pleasing decorative materials approved by the City Council or other approving body.
   b. Retaining walls exceeding four feet (4') in height, including stage walls which cumulatively exceed four feet (4') in height, must be constructed in accordance with plans prepared by a registered engineer or landscape architect of brick, concrete, or natural stone. Artificial material may be approved if appropriate. A building permit is required.
   c. Earth berms shall be physical barriers, which block or screen the view similar to a hedge, fence, or wall. Mounds shall be appropriately graded and constructed with proper and adequate plant material to prevent erosion.
2. Plant materials shall be living plants; artificial plants are prohibited. Plants must be selected from the approved Plant List or as approved by the Community Development Department. Plant materials shall meet the following requirements:
   a. Deciduous trees shall be species having an average crown spread of greater than fifteen feet (15') and having a trunk which can be maintained with over five feet (5') of clear wood in areas which have visibility requirements, except at vehicular use area intersections where an eight foot (8') clear wood requirement will control. Trees having an average mature crown spread less than fifteen feet (15') may be substituted by grouping them together so as to create the equivalent of a fifteen-foot (15') crown spread.

b. Deciduous trees must have a minimum of ten feet (10') overall height or minimum caliper [trunk diameter measured six inches (6") above the ground] of at least two inches (2") immediately after planting. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be placed closer than fifteen feet (15') to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior containing dimensions shall be five feet (5') square and five feet (5') deep and for which the construction requirements shall be reinforced concrete four inches (4") thick.

c. Evergreen trees shall be a minimum of four feet (4') high when planted.

d. Shrubs and hedges shall be at least two feet (2') in average height when planted and, in addition, shall conform to the opacity and other requirements within four (4) years after planting. Evergreen shrubs shall be at least two feet (2') in average height and two feet (2') in diameter.

e. Vines shall be at least twelve inches (12") high at planting and are generally used in conjunction with walls or fences.

f. Grass or ground cover shall be planted in species normally grown as permanent lawns, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted in such a manner as to present a finished appearance and seventy-five percent (75%) of complete coverage after two (2) complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar materials if approved by the City Council.

3. **Street Tree Vegetation**.

a. Tree layouts shall be coordinated with existing corridor planting plans, subdivision street landscape plans, and other established landscape plans to provide the desired effect as determined by this standard and the Community Development Department.

b. A minimum of one (1) tree shall be placed on all streets in accordance with the average spacing required in the applicable zoning district. Trees shall be planted ten feet (10') from driveways and alleyways. The spacing shall be at least twenty-five feet (25') from existing trees. On corner lots, trees shall be planted forty feet (40') from the point of intersection of the curbs. The Community Development Department shall have final approval of the location of the tree and have the right to approve alterations of the above requirements where conditions necessitate.

c. No tree measuring less than one and one-quarter inches (1 ¼") in diameter of trunk, measured one foot (1') above ground, may be planted to satisfy street tree requirements. The tree must be a single stem trunk and have a straight vertical line.

4. **Open Space Landscaping**. Undeveloped areas of a site, excluding protected wetlands, river districts, and tree preservation areas, shall be seeded or sodded. Seeding includes native prairie grass. In addition, an appropriate mix of trees and other plant material shall be provided to create an aesthetically pleasing site.

5. **Existing Trees and Landscapes**.
   a. Where the site contains existing trees, the following shall be done to preserve them in accordance with the following requirements:
      i. Trees in a healthy condition that are to remain shall be protected and preserved.
      ii. Removal of unhealthy or diseased trees is mandatory. Tree replacement may be required.
      iii. Trees to be preserved shall be protected during construction operations by the use of barricades or fencing large enough to include everything inside the outer edge or drip line of the tree and conspicuous enough to be seen easily by operators of trucks and heavy equipment.
      iv. Tree roots shall be protected and preserved where possible. Tunneling shall be used to avoid damaging roots where construction in the immediate area is necessary. No trenching of tree roots within twenty feet (20') of the trunk shall be performed without approval of the Community Development Department.
   b. Chemical poisoning and run-off from petroleum products, lime and mortar, fertilizers, pesticides, soil sterilants, or washing of equipment designed to apply these materials shall be prohibited within the dripline of trees to be preserved.
   c. Agricultural tree rows (shelterbelts) shall not be removed unless authorized by the Community Development Department or the City Council. These trees are not only an important part of the City's quality but are needed to help control extreme winds and weather. Adequate measures shall be taken to mitigate any danger to the preservation or health of the tree rows. If agricultural tree rows (shelterbelts) cannot be preserved, based upon the discretion of the Community Development Department stating that the trees are no longer in a healthy condition, the trees may be removed. Tree rows authorized for removal shall be replaced and/or additional landscape enhancement shall be provided as approved by the Community Development Department.
6. **Wooded Areas**.
   a. Wooded areas with mature trees are to be preserved, at the subdivider's option, these trees may be included to meet all or part of the canopy requirements, provided the site plan identifies such trees and the trees meet the standards of size, health, placement, etc. set out in this section. The Community Development Department shall evaluate use of existing trees to ensure they have adequate health and strength to allow such use.
   b. Existing trees in wooded areas designated to be included as part of these requirements should be protected during construction by fencing as specified in Section 4-6.21, subsection F.5.
7. **Installation**.
   a. Materials installed shall conform to the approved landscape plans. If any changes of materials are desired, amended plans must be submitted and approved before installation.
   b. Curb cuts and driveway aprons which are abandoned shall be removed and replaced with standard curbing and sod.
   c. During installation of landscaping, grassed areas off-site or within the public rights-of-way which have been disturbed by construction activity shall be cleaned of all debris, regraded to the proper elevations, and resodded or reseeded. Preserved vegetation areas that have been damaged or removed shall be replanted and refurbished to restore the area as much as possible to its original condition.

8. **Maintenance**.
   a. It shall be the duty of all persons, whether owners or tenants, to keep shade trees along public streets and avenues adjoining such property trimmed in such a manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks.
   b. The property owner and tenant shall be jointly and severally responsible for maintenance of all required landscape, irrigation, and hardscape improvements as originally approved. This maintenance requirement shall carry with the land and shall be the responsibility of any subsequent owners and tenants of the property. It is the responsibility of the owner to notify any subsequent owners of the property of this responsibility.
   c. Landscape areas and site improvements shall be maintained in good condition for a healthy, neat, and orderly appearance and shall be kept free from weeds and debris. Plant materials shall be maintained in a healthy and vigorous condition through proper irrigation, fertilization, pruning, weeding, mowing, and other standard horticultural practices so as to grow to their normal shape, color, and height, and to fulfill the required functions of screening, shading, buffering, and aesthetic appeal set forth by the City. Dead plants shall be replaced. Damaged plants including lawn grass shall be replaced or restored. Mulch shall be at the proper coverage and depth.
   d. Pavement, curbing, wheel stops, and other hardscape improvements shall be sound and in place. If it is determined by maintenance inspections that such curbs are insufficient to prevent vehicular encroachment, then installation of bollards or similar devices substantial enough to prohibit encroachment may be required. Any such fixtures shall be architecturally consistent with other site fixtures and structures for materials and colors.
   e. The City shall notify the property owner and tenant in writing of any maintenance violations. Upon notification of a maintenance violation, the property owner, tenant, or authorized agent shall correct the violation within thirty (30) days.
   f. Failure to comply or cure the violation within thirty (30) days result in the City taking legal action in accordance with Section 4-8.1.

9. **Replacement**.
   a. **Tree replacement requirements**:
      i. It is the policy of the City to preserve shelterbelts, boulevard trees, and natural woodland areas throughout the City and with respect to specific site development to retain as far as practical, substantial tree stands which can be incorporated into the overall landscape plan.
      ii. The owner, tenant, and their respective agents shall be held jointly and severally responsible to maintain their property and landscaping in a condition presenting a healthy, neat, and orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan and which have died shall be replaced within three (3) months of notification by the City. However, the Community Development Department may extend the time for compliance up to nine (9) months in order to allow for seasonal or weather conditions.
      iii. No clear cutting of shelterbelts or woodland areas shall be permitted, except if approved by the Community Development Department.
   b. **Allowable tree removal**:
      i. Applicable to shelterbelts, boulevard trees, and significant woodland areas.
         1) Shelterbelts consist of healthy trees measuring a minimum of six inches (6") in diameter for hardwood deciduous trees; a minimum of twelve inches (12") in diameter for softwood deciduous trees; or a minimum of twelve feet (12') in height for coniferous/evergreen trees planted in a row for weather protection and/or privacy.
         2) Boulevard trees consist of healthy trees of any size planted within the designated boulevard area.
         3) Significant woodland areas are those areas where a grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees in excess of four inches (4") in diameter or coniferous trees in excess of four feet (4') in height.
      ii. **Tree removal**.
         1) Any tree protection measures identified in the landscape plan shall remain in place until all grading and construction activity is terminated or until a request is made to and approved by the City.
         2) Trees designated in a landscape plan to be preserved must not be removed unless approved by the City. If trees that were intended to be preserved are removed without permission of the City or damaged so that they are in a state of decline within one (1) year from date of project closure, a cash mitigation, calculated per removed/destroyed tree or per total square foot of significant shelterbelts and/or woodland areas, in the amount set forth in the City fee schedule, shall be remitted to the City to be placed in the forestry fund and designated specifically for tree replacement.

iii. **Inspection**. The City shall have the right to inspect the development and/or building site in order to determine compliance with the approved landscape plan. The City shall determine whether or not compliance with the landscape plan has been met.

iv. **Tree removal allowance**. Tree removal shall be in accordance with the City approved landscape plan and in no case shall the amount of tree removal exceed the following percentages:

TABLE 4-5.2.I.3 TREE REMOVAL ALLOWANCE	
Type of Development	Maximum Percentage
Single-Lot Development	
Single-unit residential	20% of the trees, shelterbelts or woodland area
Commercial and multi-unit residential	30% of the trees or woodland area
Multi-Lot Development - Single-Phase Development Process	
Single-unit residential	20% of the trees or woodland area
Commercial and multi-unit residential	30% of the trees or woodland area
Multi-Lot Development - Two-Phase Development	
Initial site development	25% of the trees or woodland area
Single-unit residential (Individual lot development)	20% of the trees or woodland area
Commercial and multi-unit residential (Individual lot development)	30% of the trees or woodland area

v. **Exception**.

1) When practical difficulties or unnecessary hardships result from strict compliance with the provisions of this subsection, the approving body may permit tree removal in excess of the allowable limits. In the event the exception is granted, an amended landscape plan or a cash mitigation will be implemented.

2) The Community Development Department has final authority to determine which form of mitigation shall be utilized.

c. **Tree replacement schedule**:

i. Size of replacement trees at a one tree to one tree (1:1) ratio:

1) Deciduous trees: not less than two inches (2”) in caliper.

2) Coniferous trees: not less than four feet (4’) in height.

ii. **Warranty requirement**. Any replacement tree which is not alive or healthy, as determined by the City, or which subsequently dies due to construction activity within one (1) year after the date of project closure, shall be removed by the applicant and replaced with a new healthy tree meeting the same minimum size requirements within three (3) months of removal, unless extended by the Community Development Director.

d. **Mitigation**:

i. In any development that the tree, shelterbelt or woodland area allowable removal limits described above are exceeded, the applicant shall mitigate the tree loss by either tree replacement within the development area, in accordance with the tree replacement schedule, or payment to the City in the sum required for replacement trees in accordance with the tree replacement schedule. The fee shall be set forth in the City fee schedule and the payment thereon shall be deposited into the City's forestry fund and designated specifically for tree replacement.

ii. The form of mitigation to be provided by the applicant shall be recommended to the City with final approval by the Community Development Department. Appeals of this decision must be made in writing to the City Auditor within thirty (30) days of the Community Development Department's decision. The appeal will then be heard by the City Council who may agree or modify the decision.

iii. Planting trees for mitigation shall be in addition to any other landscape requirements of the City.

10. **Plan Submission and Approval**. The property owner or developer is required to prepare a landscape plan drawn by a licensed landscape architect or other professional acceptable to the City if deemed necessary by the Community Development Department. The City shall apply the following standards in reviewing the landscape plans including but not limited to:

a. Landscape plan drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines, easements, utilities, buildings, and other structures, vehicular use areas (including parking stalls, driveways, service areas, square footage), water outlets, and landscape material.

b. Typical elevations and/or cross sections may be required in any landscape plan.

c. Title block with the pertinent names and addresses (property owner and person drawing the plan), scale date, north arrow (generally orient plan so that north is to top of plan), and zoning district.

d. Existing landscape material shall be shown on the required plan and any material in satisfactory condition may be used to satisfy this section in whole or in part.

11. **Approved Plant List**. The list of street trees and other species shall be adopted by resolution of the City Council and known as the Plant List.

4-6.22 Street Lights

Streetlights, suitable for different uses and street type, and their location shall be in accordance with the minimum standards established by the City Council.

4-6.23 Dedication of Land for Public Purposes

A. **Purpose.** The City of Horace finds it is necessary and in the public interest to provide public spaces and recreational areas for its residents. This is caused, in part, by new development within the City and its extraterritorial area which increases population and/or demand upon public services. Accordingly, the City finds it shall be required that the owner or developer (the subdivider) of every subdivision or resubdivision dedicate land for parks, playgrounds, public open space, public trails, municipal facilities, park facilities, and/or pay a fee in accordance with this section for the purpose of providing the above-mentioned public uses and facilities for existing and future residents of the community.

B. **Application.** Except as provided in this section, the provisions of the public land dedication requirements shall apply to all residential, commercial, industrial, and other subdivisions and shall include replats where land dedication and/or fee-in-lieu of land dedication have not been previously provided. Where landowners previously have dedicated land in advance of development, the City Council will determine if a dedication will be required and the equitable amount. Subdivisions or resubdivisions of properties which are partially or fully developed will only be required to provide for dedication on the undeveloped portion of the property being platted into lot(s).

C. **Procedure.** Prior to submitting an application for subdivision or resubdivision, the subdivider must obtain a letter from the Horace Park Board indicating its recommendation for land dedication and/or fee-in-lieu of land dedication. This letter of recommendation from the Park Board must be submitted with the subdivider's application or the application will be considered incomplete. If the application is considered incomplete, the applicant shall forward the subdivision information to the Park Board. The Park Board will be given thirty (30) days to review the subdivision information and provide a recommendation, whereupon the application will be considered complete and the City will proceed with platting procedures. The Planning Commission will consider the Park Board's recommendation in addition to public uses and facilities identified within the Comprehensive Plan and other City plans when formulating the Planning and Zoning Commission's land dedication recommendation to the City Council. The City Council will have final authority to determine whether land dedication and/or fee-in-lieu of land dedication will be accepted.

D. **Land Dedication.** The amount of land required to be dedicated by the subdivider pursuant to this section shall be based upon the type of development and shall be a percentage of the gross area of all property to be subdivided as follows:

1. Residential Subdivision - 10%
2. Commercial Subdivision - 5%
3. Industrial Subdivision - 5%
4. Other Subdivision - 10%

Where no proposed use is given for lots within the proposed subdivision, the City will base the required dedication on the future land use as shown in the Comprehensive Plan. The land area conveyed or dedicated to the City will not be used in calculating density requirements of the Comprehensive Plan.

E. **Land Suitability.** Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. In evaluating the adequacy of proposed land dedications, the City shall consider factors including size, shape, topography, geology, hydrology, tree cover, access, and location. Land will not be accepted as meeting the required dedication if it is encumbered with major utility easements, storm drains or retention areas, wetlands, or other features which make the property difficult to utilize for parks or other desired municipal or park facilities. The City may consider land for parks or open space that is located in the vicinity of areas for storm water retention, major drains, wetlands, or other natural features provided the dedication will further the interests of the City or Park District, as well as the Comprehensive Plan. The City Council will make the final decision whether land will be accepted for dedication.

F. **Timing and Maintenance.** Prior to plat approval by the City Council, the subdivider shall denote on the plat the designated land for parks, playgrounds, public open space, public trails, municipal facilities, park facilities, and/or related facilities, or shall tender a deed of the dedicated land to the public entity that is to receive the land. The subdivider shall pay all costs of transferring the dedicated land to the City, including the costs of:

1. Environmental clean-up, if necessary;
2. Title opinion;
3. Taxes prorated to the closing date;
4. Recording fees; and
5. Charges or fees collected by the title company.

If the subdivider tenders a deed to the City and the plat is not approved, the deed shall be returned to the subdivider. The transfer of the deed is only final upon final approval of plat. The public entity that receives the dedicated land shall be required to maintain such land.

G. **Fee-In-Lieu of Land Dedication.** When it is determined that land dedication for parks, playgrounds, public open space, public trails, municipal facilities, park facilities, and/or related facilities is not desirable due to location, size, or other suitability factors, the City shall require, in lieu of land dedication, a cash dedication equal to a percentage of the fair market value of the property. Such percentage is based on the requirements identified in subsection D of this section. For the purposes of this section, fair market value shall be determined at the time of plat approval in accordance with the following:

1. The City may establish by resolution of the City Council annually the acceptable value for residential, commercial, and industrial designated land for consideration as the fair market value; or
2. The subdivider may submit a copy of the purchase agreement and/or other pertinent information for which the City will take into account any and all concessions made and any improvements to said property to arrive at an agreed upon fair market value at the time of approval of plat; or
3. The fair market value may be based upon a current appraisal submitted to the City by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are certified or licensed through the State of North Dakota.
4. If the City disputes each appraisal, the City may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

H. **Combined Land and Fee Dedications.** The City may elect to receive a combination of fees and land as part of the land dedication requirements. In such cases, the percentage of land dedicated shall reduce the required fee percentage by an equal amount.

I. **Payment Time and Procedures.** The subdivider shall make payment to the City upon approval of the plat. Funds received by the City shall be placed in a public improvement fund and in the discretion of the City Council, after consultation with the Park Board, be used to benefit the residents of the community. Public facilities constructed or improved with these funds shall be located in the general neighborhood if benefitting that subdivision, or elsewhere in the community if benefitting the community as a whole.

J. **Private Open Space/Parks.** Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Council, against the requirement of dedication for park and recreation purposes, provided the City Council finds it in the public interest to do so. Generally, however, land dedications for private parks will be discouraged.

DIVISION 4. LAND DIVISIONS

4-6.24 Land Division (Lot Splits)

A lot split shall be exempt from the platting requirements of this code if the following conditions are met:

A. **Conditions**.
   1. That the lot split does not contain more than one (1) new lot.
   2. That the new lot and the remaining parcel conform to the requirement of the respective zoning district for width and area coverage of each lot.
   3. That any lot may be split only once under these provisions.
   4. That the lot split is not part of a continuing practice of lot splitting for a particular area to circumvent platting or replatting requirements of this code.
   5. That the lot split does not violate any provisions of City ordinances, plans, or any other state and local ordinances.

B. **Procedure**. An application for lot split shall be submitted to the Community Development Department. If the Community Development Department determines that conditions are met, they shall schedule a review/approval before a board represented by the Chair of the Planning Commission, the Mayor, and the Community Development Department. If the Community Development Department is vacant, then the City Administrator shall serve on the board. Written notice of the application shall be sent to all property owners within three hundred (300) feet of the proposed lot, excluding street rights-of- way and publicly owned properties at least seven (7) days before the meeting. The board may approve, conditionally approve, or deny the application for lot split. If approval is granted by the board, the Mayor shall authorize such approval by signing a certificate of lot split approval which shall be filed by the Community Development Department, a copy of the certificate shall subsequently be given to the subdivider.

C. **Application**. The City Council shall establish a fee schedule for lot splits, such application fee shall be charged per lot.

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Title IV | Chapter 7
Development Review

Chapter 7 - Development Review

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4-7.1 Public Hearings

Wherever in this code a public hearing is required, notice shall be published as follows:

A. Notice of the hearing shall be given by publication in a newspaper of general circulation in the City at least once a week for two (2) consecutive weeks prior to the hearing. The notice shall include:
   1. The time and place of hearing for the Planning Commission or the City Council;
   2. Description of the property by street address for platted lands and clearly identifiable location for unplatted lands;
   3. Time and place for public inspection of the documents submitted by the applicant before the hearing; and
   4. The existing and proposed zoning districts, when applicable.

B. For public hearings pertaining to specific properties, including Planned Unit Developments (PUDs), conditional uses, variances, and amendments to the Official Zoning Map (rezonings), notice shall also be given by mail or personal delivery to the property owners of record for which approval is being considered and to all property owners of record within three hundred (300) feet of the subject property. The notice shall indicate the property that is subject to the request, including a list of all existing street addresses within the subject property.

C. A notice of public hearing will be published only after receipt of all information required in this code. Failure to submit the required data and information will result in a delay of the hearing.

4-7.2 Site Plan Review

A. **Applicability**. A site plan shall be required for approval of any of the following:
   1. A use or development for which the submission of a site plan is required by any provision of this code;
   2. A new development, except single-family dwellings on an existing lot;
   3. A use requiring conditional use approval;
   4. A modification of an approved site plan or previously developed site, except for single-family development on existing lots; or
   5. Planned Unit Developments (PUDs).

B. **Process**.
   1. The Community Development Department may approve the site plan administratively for principal permitted uses that do not require design review or public hearings.
   2. The Planning Commission and City Council will approve the site plan under the provisions that follow for all other instances.

C. **Review Criteria**. Review of a site plan shall assess the plan's compliance with the Land Use Code. In addition, the Community Development Department shall distribute the plans to the Department of Public Works, City Engineer, Building and Inspections, and Horace Rural Fire District for review. Every site plan shall be in accordance with the requirements of this chapter.

D. The site plan presented is to be of draftsman quality. A plot or sketch plan is unacceptable. The following information shall be included on or with the site plan:

TABLE 4-7.2.D APPLICATION FORM CONTENTS
1. The name, address, and phone number of the applicant.
2. Identification of present zoning.
3. A general written description of the proposed use of the development depicted in the plan.
4. The area of the parcel in question in square feet or acres.
5. The legal description of the site.
Contents of the Site Plan
6. The seal and signature of a qualified civil engineer, architect, landscape architect, surveyor, or other professional designer qualified to prepare a site plan.
7. A location map showing the subject site in the context of the rest of the City.
8. A survey showing the location, angles, and dimensions of all property lines of the property that correlates to the legal description.
9. A sheet showing all existing conditions on the site, including buildings, vegetation, and paved areas superimposed on the survey.
10. The location of all existing and proposed easements.
11. The location of any existing utilities on the site.
12. The relationship of the property to adjacent properties and rights-of-way, including the names of said rights-of-way, parcel IDs of neighboring properties, structures and general vegetation within thirty (30) feet of the subject property, and driveways within one hundred (100) feet of the subject property, including across a street. The plan shall include the widths of all adjacent rights-of-way.
13. A scale of not less than one inch that equals fifty (50) feet if the subject property is less than three (3) acres, and one (1) inch equals one hundred (100) feet if three (3) acres or more.
14. Date, north point, and scale.
15. The elevation of all finished floor grades.
16. The topography of the site at two-foot contours and the location of any natural features.
17. The height and square footage of all proposed and existing buildings.
18. Floor plans showing the square footage of each room or use area of a building.
19. The location and dimensions of all existing and proposed drives, parking areas, and delivery/loading areas, as well as proposed pavement markings and parking and circulation-related signage.
20. A photometric plan including the location and height of all proposed light fixtures, and cut sheets of the fixtures showing how they will meet the anti-glare standards of this code.
21. Pedestrian and bicycle amenities, including sidewalks, benches, bicycle racks, trash cans, and the like.
22. The location and method of screening of all mechanical equipment.

23. Proposed locations of signage.
24. Detailed landscaping plan prepared by a licensed landscape architect or other certified or licensed professional approved by the Community Development Department indicating the following:
a. A landscaping maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials shall be provided.
b. Methods for irrigating berms, greenbelts, and other landscaped areas.
c. Plant list detailing all plantings by genus, species, cultivar (variety) according to the International Code of Botanical Nomenclature, assigned USDA Hardiness Zone number, number, size, or height at time of planting;
d. Location and spacing of plant materials;
e. Method of planting and details;
f. Groundcover or grass (specify whether seed or sod);
g. Cross sections of any berms;
h. The location of protective fencing for any existing plantings that are proposed to remain.
25. Proposed open space, fences and walls, trash enclosures, topographical changes, outdoor storage areas, driveways, and parking areas.
26. Copies of any required permits from federal, state, or county agencies.
27. A grading plan showing the direction of surface water drainage, and locations for stormwater detention or retention.
28. A utility plan showing the locations of proposed connections to public utilities, and a preliminary plan for the location of utilities; if utilities are unavailable, the location of the proposed well and septic field and tank.
29. Full elevations of all sides of all proposed buildings.
30. The names and addresses of the architect, planner, designer, engineer, or person(s) responsible for the preparation of the site plan.
31. Any other information deemed necessary by the Community Development Department.

E. **Approval**. Site plan approval shall be valid for a period of one (1) year after final approval of the site plan is granted. If permits are not obtained within one (1) year, the approval will be deemed expired. Said approval may be extended up to six (6) months for cause up to two (2) times. In order to receive an extension, the applicant must show that work, such as obtaining agency approvals, contracting with service providers, or engaging with City staff or consultants to resolve issues or modify the plans, has been diligently undertaken.

4-7.3 Design Review

A. **Applicability**.

1. Design review by the Planning Commission is required for all development within 17/76 and OT districts, C districts, I-1 and I-2 districts, and MX districts and multi-family, multi-building, or mixed use developments in all districts.
2. Design review by the Community Development Department is required for new buildings and modifications to existing buildings in the City, except for detached single-family homes, two-family homes, and their accessory buildings. The following modifications to existing buildings shall be subject to administrative review only:
   a. Modifications not visible from a public right-of-way.
   b. Modifications affecting less than five percent (5%) of a given facade and meeting the material requirements of Section 4-5.5, subsection B.1.
   c. Modifications conducted solely to become compliant with the Americans with Disabilities Act.

B. **Scope**. In conducting a design review, the Planning Commission shall assess the compliance of the plan with Chapter 4 - Use Standards and Chapter 5 - Site Standards of this code.

C. **Submission of Plans**. Plans for construction and renovation of applicable structures shall be submitted to the Planning Commission for design review. The owner of the property to be constructed upon or renovated shall submit two (2) full-sized and to-scale plans plus two (2) reduced copies of the necessary drawings to the Planning Commission, as well as a digital file of the plans. The Planning Commission shall have forty-five (45) days to review the completed submission, hold a meeting, and approve, conditionally approve, or deny the proposed plans. Upon a motion of the Planning Commission, the review period may be extended for an additional thirty (30) days or to a time mutually agreed upon by the Planning Commission and the applicant.

D. **Planning Commission Action**. The goal of design review shall be to ensure the orderly and harmonious development of the City. The Planning Commission shall issue an approval, conditional approval, or denial of every application for design review. Any action by the Planning Commission must be approved by simple majority of the voting members of the Planning Commission.

E. **Authority to Adopt Guidelines**. In addition to the foregoing authority and responsibility, the Planning Commission shall have the power to adopt such guidelines, standards, policies, procedures, rules, regulations, conditions, and requirements as it may determine to be reasonably necessary or convenient to the exercise of the Planning Commission's authority and implementation of such guidelines, standards, policies, procedures, rules, regulations, conditions, and requirements to carry out the purposes of this section.

F. **Appeal**. An owner or representative having submitted a request to the Planning Commission may appeal a decision of the Planning Commission to the City Council provided that such appeal is filed with the City Auditor within fifteen (15) days following any decision by the Planning Commission.

4-7.4 Conditional Uses

A. **Purpose**. The City recognizes that in addition to the compatible uses which are permitted in a particular district as a matter of right, there are certain other uses which may be necessary or desirable to allow in certain locations in the district, but because of their actual or potential impact on neighboring uses or public facilities, there is a need to carefully regulate them in respect to their location, design, and operation. Therefore, it may be necessary to impose special requirements upon such uses as a condition for permitting their establishment.

B. **Conditional Use Permit Required**. Uses which are identified as conditional uses in this code shall be established only after the issuance of a conditional use permit by the City Council. The City Council shall approve, conditionally approve, or deny a request for a conditional use permit only after a public hearing as described in subsection C below.

C. **Public Hearing and Notice**. The Planning Commission shall hold a public hearing on any request for conditional use approval in accordance with the procedures established in Section 4-7.1 Public Hearings and make a recommendation of approval, conditional approval, or denial to City Council following the hearing. The City Council shall then hold a public hearing and issue a final approval or denial.

D. **Standards for Approval**. Proposed use shall not be permitted unless the facts of the case establish to City Council's satisfaction that the use will meet the following standards:

1. Will be served adequately by essential facilities and services such as roads, police and fire protection, drainage facilities, refuse disposal, sewage disposal, and water supply.
2. Shall be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
3. Shall be of a nature that it will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity, and relationship to intersections, adequacy of sight distances, location and access of off-street parking, and provisions for pedestrian traffic, with particular attention to minimizing potential child vehicle interfacing.
4. Shall be designed such that the location, size, intensity, site layout, and periods of operation substantially reduce or eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights.
5. Shall be such that the proposed location, nature, and height of walls, fences, and landscaping will not interfere with or discourage the appropriate development, and use of adjacent land and buildings or unreasonably affect their value.
6. Shall relate harmoniously with the physical and economic aspects of adjacent land uses regarding prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the City.
7. Is necessary for the public convenience at the proposed location.

8. Is designed, located, planned, and will be operated so there is no interference with the public health, safety, and welfare.
9. Shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

E. **Site Plan Requirements**. For all conditional uses, a site plan shall be submitted for review by the Planning Commission and City Council which conforms to all requirements and procedures for site plan review set forth in Section 4-7.2 Site Plan Review.

F. **Approval**. If the City Council determines that the conditional use should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which have been allowed. This approval shall constitute a conditional use permit. In all cases where a conditional use has been approved as provided herein, application for a building permit or final certificate of occupancy pursuant to the approved use must be made and received by the City not later than one (1) year thereafter, or such approval shall automatically be revoked and the Community Development Department shall notify the applicant in writing of the expiration of said conditional use permit. The applicant may request and the City Council may grant an extension of a conditional use permit for a period not exceeding six (6) months.

G. **Conditions of Approval**. If it is determined that certain design features or methods of operation are needed in order for a proposed use to comply with the standards of this code, the City Council shall set such requirements for design or operation as may be necessary. These requirements and their relationship to achieving compliance shall be set forth by City Council in a motion of approval. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. Conditions imposed shall do all of the following:

1. Be designed to protect the natural resources; the health, safety, and welfare; as well as the social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this code for the land use or activity under consideration; and be necessary to insure compliance with those standards.

H. **Denial**. If the City Council determines that the particular conditional use(s) requested does not meet the standards of this code or otherwise will tend to be injurious to the public health, safety, welfare, or orderly development of the City, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.

I. **Revocation**.

1. Once the conditional use is established and the conditions of the conditional use permit fulfilled, the conditional use permit shall be valid until such time that there is a change of conditions or use related to the permit.
2. If any conditional use fails to conform to the specific standards for the particular use, any conditions imposed as part of the conditional use permit, the Performance Standards of Section 4-5.7 Performance Standards, any other provisions of this code, or any federal, state, and local statutes governing the particular land use allowed under the conditional use permit, then the City Council shall have the authority to revoke the conditional use permit based on a site inspection by the Building Permits and Inspections Department and its own findings of fact. Prior to revoking the conditional use permit, the City shall:
   a. Have its Building Permits and Inspections Department inspect the site and use under consideration and issue a written notice of the violation(s) found to the current permit holder by regular U.S. Mail.
   b. Offer the permit holder thirty (30) days to correct all violations, without penalty.
   c. If all violations are not corrected within thirty (30) days, the City Council shall hold a revocation hearing as follows:
      i. City Council shall notify the permit holder by regular U.S. Mail of the date, time, and place of a hearing concerning the proposed revocation of the conditional use permit.
      ii. During the hearing, the permit holder shall be afforded an opportunity to present any reasons for why the standards of the permit and/or this code are not being met.
      iii. Following the hearing, the City Council may revoke the conditional use permit, based upon findings made in the specific case and testimony received during the hearing, and shall notify the permit holder of the findings and decision in writing.

4-7.5 Amendment to the Future Land Use Map

On an annual basis, the City of Horace will evaluate its future land use map during September and October. In August and September, property owners or parties with a purchasing interest in property may request an amendment to the City of Horace Future Land Use map. An amendment to the Future Land Use Map typically precedes a request for rezoning, when necessary. The process for requesting an amendment to the Future Land Use Map is as follows:

A. **Application and Fee**. The applicant shall submit the proper application, as supplied by the City, and pay the required fee. The application shall be accompanied by, at a minimum, the following:
   1. A legal description of the property in question, and an illustration of the property's boundaries, on a survey or an aerial image.
   2. A letter acknowledging the property's current zoning and Future Land Use designation, and explaining the reasons for requesting the new Future Land Use designation, including any potential request for rezoning.

B. **Process**.
   1. Upon receipt of the fee, completed application, and accompanying information, the City shall schedule a public hearing at the next available Planning Commission meeting and publish a notice of public hearing in accordance with the procedures set forth in Section 4-7.1 Public Hearings.
   2. The Planning Commission shall hold the public hearing and make a recommendation to approve or deny the request to the City Council, or postpone said recommendation to permit the applicant to provide more information or modify the request.
   3. The City Council shall issue a final approval or denial of the request.
   4. If the request is approved, the City shall update its Future Land Use map accordingly.

C. **Review Criteria**. The Planning Commission and City Council shall approve a request for amendment to the Future Land Use Map only upon a finding that each of the following criteria are met:
   1. The amendment to the Future Land Use Map is consistent with the overall vision and goals of the Master Plan.
   2. The amendment to the Future Land Use Map would not facilitate a rezoning that places an unreasonably high burden on public infrastructure.
   3. The amendment to the Future Land Use Map is generally compatible with the planned uses on surrounding property.
   4. Changes in circumstances since the adoption of the Future Land Use Map necessitate a change to the map.

4-7.6 Vacation of Rights-of-Way

Any request for the City to vacate a public right-of-way shall proceed in accordance with NDCC Chapter 40-39 as follows:

A. **Application and Fee**. The application for vacation of a public right-of-way shall be signed by the owners of all property adjoining the area to be vacated. The applicant(s) shall submit the proper application, as supplied by the City, and pay the required fee. The application shall be accompanied by, at a minimum, the following:

1. A stamped, professional survey and legal description of the right-of-way in question and the adjacent properties.
2. A letter of intent stating the reason for the request to vacate the right-of-way, including a proposed future use of the land, and any plans to demolish or relocate any existing public infrastructure.
3. A financial guarantee, prepared in accordance with the requirements of Title V of the City's Code of Ordinances and NDCC Chapter 40-39, for any removal or relocation of public utilities to be performed by the applicant.
4. Draft easement documents for any public utilities that will continue to be routed through the vacated right-of-way, or proof that utilities located in the right-of-way have been abandoned.
5. A plat of such public grounds, streets, or alleys proposed to be vacated

B. **Process**.

1. Upon receipt of the fee, completed application, and accompanying information, the City shall schedule a public hearing at the next available City Council meeting and publish a notice of public hearing in accordance with the procedures set forth in Section 4-7.1 Public Hearings, except that notice of the hearing shall be published once (1) a week for four (4) weeks prior to the hearing, rather than two (2).
2. The City Council shall hold the public hearing and approve or deny the request, or postpone said approval or denial to permit the applicant to provide more information or modify the request. A vote to vacate shall require a two-thirds (2/3) majority of the City Council, which shall issue a resolution declaring the public grounds described in the application to be vacated. Notice of such vacation shall be published in accordance with the publication procedures for amendments.
3. If the request is approved, the applicant shall record the transfer of the land with the Cass County Recorder's Office.
4. Any person aggrieved by the decision to grant vacation may appeal within fifteen (15) days to the district court in accordance with procedures set forth in NDCC Chapter 28-34.

4-7.7 Certificates of Zoning Compliance

A. A certificate of zoning compliance shall be required for any non-residential use in Horace established on or after the adoption of this code. Application for the certificate shall be made on an application provided by the City, and shall include a fee, as established by a resolution of the City Council. Certificates of zoning compliance are required in the following circumstances:
   1. Establishment of any new non-residential use, excluding home occupations as defined in this code.
   2. A change of use or re-occupancy in any existing non-residential building or on any existing non-residential, non-agricultural parcel.
   3. The conversion of a residential structure or parcel to a non-residential use.
   4. The conversion of an agricultural structure or parcel to a non-residential use.

B. For any use requiring conditional or site plan approval, a certificate of zoning compliance shall be issued as part of the final approval for said site plan or conditional use.

C. No building, plumbing, electrical, mechanical, or other permit shall be issued for a non-residential use unless a certificate of zoning compliance has been obtained. Existing businesses applying for such a permit shall also apply for a certificate of zoning compliance at the time of application.

Title IV | Chapter 8
Administration, Enforcement, & Appeals

Chapter 8 - Administration, Enforcement, and Appeals

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4-8.1 Violations and Penalties

Anyone who violates the provisions of this code or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of no more than $1,000.00 per day. Each day that a violation continues shall constitute a separate offense.

4-8.2 Enforcement

The provisions of this code shall be administered by the Community Development Department. The Community Development Department shall have the power to make inspection of buildings and premises necessary to carry out the administration and enforcement of this code. They shall not have the power to vary or waive code requirements.

4-8.3 Public Nuisances

Public nuisances, including but not limited to, noxious weeds, smoke gases, radio interference, noise, accumulation of junk, trash, rubbish, automobiles, or dead or diseased trees shall not be permitted and shall be subject to violation and penalties of Section 4-8.1 of this code and Chapter 15-03.

4-8.4 Nonconforming Uses, Lots, and Buildings

A. **Intent**. It is the intent of this section to permit nonconforming lots, structures, or uses to continue until they are removed but not to enlarge or encourage their continuation.

1. **Legal nonconformities**.

   a. Certain existing lots, buildings, structures, and uses of land were lawful prior to adoption of this code, but have become nonconforming under the terms of this code and its amendments. Such nonconformities, particularly nonconforming uses which are more intense than the uses permitted within the underlying zoning district, are declared by this code to be incompatible with permitted uses and in conflict with the purposes of this code. The intent of this section is to permit such legal nonconforming lots, buildings, structures, or uses to remain until they are discontinued or removed, but not to encourage their continuation, or where discontinuance or removal is not considered feasible, to gradually upgrade such nonconformities to a more conforming status. A nonconforming use, building, structure or combination thereof, shall not be extended, enlarged, expanded, or replaced, except as provided herein, and shall not be used as grounds for adding other nonconforming uses, buildings, or structures.

   b. To avoid undue hardship, nothing in this code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

2. **Illegal nonconformities**. Any lot, use, building, structure, or any combination thereof that was not lawful at the date of adoption of this code or any amendments shall not receive any of the rights, privileges, or protection conferred by this code. Such illegal nonconformity shall be in violation of this code and shall be terminated and removed.

B. **Nonconforming Lots**.

1. **Existing plats**. A permitted principal building and uses, and permitted accessory structures and uses, may be erected or placed on a lot of record which existed at the date of adoption or amendment of this code, or that is a result of local, state or federal government action, provided such lot shall have been in separate ownership and not contiguous 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 applicable in the district, provided that minimum setback dimensions and other requirements shall conform to the regulations for the district. A reduction of minimum setback requirements shall only be permitted upon granting of a variance by the City Council.
2. **In process**. Properties platted and identified as Compact Residential on the Zoning Map, or deemed "in process" prior to the adoption of this ordinance shall be subject to the following setbacks: 20 ft front yard, 20 ft rear yard, 5 interior side and 15 street side yard. "In process" is defined as has submitted an application that has been determined as a complete application and has requested an R-6 zoning district classification in accordance with the Land Use Ordinance adopted by the City of Horace, North Dakota on February 3, 2003, and all amendments thereto.

C. **Nonconforming Uses of Land**. Where, at the effective date of adoption or amendment of this code, lawful use of land exists that is made no longer permissible under the terms of this code as enacted or amended, such use may be continued, so long as it remains lawful, subject to the following provisions:

1. Such nonconforming use shall not 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 code.
2. Such nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this code.
3. If such nonconforming use of land ceases for any reasons for a period of more than twelve (12) consecutive calendar months, any subsequent use of this land shall conform to the regulations specified by this code for the district in which such land is located.

D. **Nonconforming Structures**. Where a lawful structure exists at the effective date of adoption or amendment of this code that could not be built under the terms of this code by reasons of restrictions on area, building coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Such structure shall not be enlarged or altered in a way which increases its nonconformity; for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
2. Except as permitted in subsection 4 below, should such a structure be destroyed by any means to an extent of more than fifty percent (50%) of its market value, at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this code.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
4. Repair or replacement of nonconforming single-family dwellings. A nonconforming single-family dwelling and its accessory structures may be continued, replaced, repaired, or remodeled if damaged by flood, fire, tornado, or other natural events, accidents, or vandalism, subject to approval of a permit issued by the Building Permits and Inspections Department. Such approval requires a finding that the resulting building footprint will be within twenty percent (20%) of the size of the building before such change. Replacement of such nonconforming single-family building shall commence within one (1) year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or diligently work toward completion shall result in the loss of legal, nonconforming status.

E. **Nonconforming Uses of Structures and Land**. If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this code, that would not be allowed in the district under the terms of this code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. An existing structure devoted to a use not permitted by this code in the district in which it is located shall not be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Nonconforming structure use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this code, but such use shall not be extended to occupy any land outside such building.
3. If structural alterations are not made, nonconforming use of a structure, or structure and premises may be changed to another nonconforming use of the same or a more restricted classification provided that the Planning Commission finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In approving such change, the approving body may require appropriate conditions and safeguards in accord with the purpose and intent of this code. Where a nonconforming use is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.
4. Structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure and land in combination, is discontinued or ceases to exist for twelve (12) consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

F. **Zoning Lots with Other Nonconforming Site Features**. A zoning lot existing as of the effective date of this code that is nonconforming due solely to failure to meet the site development standards of this code (Chapter 5 - Site Standards) may be used for any purposes permitted in the applicable zoning district provided the use is in conformance with the provisions of this section.

1. **Maintenance and Restoration**. A zoning lot that is nonconforming due to site development not being in compliance with the standards in Chapter 5 - Site Standards may be maintained or restored provided no expansion of the nonconformity occurs.
2. **Expansion**. Additions to structures, additional paving, lighting, or parking shall require correction of existing nonconforming parking, paving, landscaping, lighting, and screening as follows:
   a. Complete site redevelopment or expansions that result in a thirty-three percent (33%) or greater increase of the gross floor area of the existing principal structure or an increase in gross floor area by more than two thousand five hundred (2,500) square feet require the entire property to meet all of the landscaping and screening, lighting, paving, and parking requirements of this code.
   b. Expansions that result in less than a thirty-three (33%) increase of the gross floor area of the existing principal structure require a corresponding percentage increase in compliance for landscaping and screening requirements of this code until the site achieves one hundred percent (100%) compliance.
   c. Expansions that require an increase in the number of parking spaces shall be required to provide one hundred percent (100%) of the required parking spaces for the gross floor area in accordance with this code. The additional parking area shall comply with all associated landscaping and drainage requirements of this code.
   d. Expansions that result in the installation of new exterior lighting shall require all new lighting to conform to this code. Existing lighting shall also be made conforming in a manner that is at least proportional to the proposed modifications to the site, as determined by the approving body, with the emphasis on minimizing impacts from non-conforming lighting that is closest to adjacent or nearby residential uses.
   e. Properties that are physically constrained from complying with these provisions shall comply to the maximum extent practicable or propose alternative approaches to meeting the spirit and intent of this code, and shall be subject to approval and final determination by the approving body.

G. **Repairs and Maintenance**. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this code shall not be increased. Nothing in this code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting public safety, upon order of such official.

H. **Uses Allowed as Conditional Uses Not Deemed Nonconforming Uses**. Any use which is permitted as a conditional use as provided in this code shall not be deemed a nonconforming use but shall without further action be deemed as a conforming use in such district.

I. **Change of Tenancy or Ownership**. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of such nonconforming uses.

4-8.5 Amendments, including Rezoning

A. **Terminology**. For the purposes of this code, an amendment to the Official Zoning Map is synonymous with the common term "rezoning."

B. **Initiation of Amendments**. The City Council may amend, modify, supplement, or revise the zoning district boundaries shown on the Official Zoning Map or the provisions of this code. Amendments to the provisions of this code may be initiated by the City Council, the approving body, or by application from one or more residents or property owners of the City. An amendment to the zoning district boundaries contained on the Official Zoning Map may be initiated by the City Council, the Planning Commission, or by application from the owner or owners of the property which is the subject of the proposed amendment. Proposed amendments to the provisions of this code or the Official Zoning Map shall be referred to the Planning Commission for public hearing and recommendation to the City Council, prior to a public hearing and consideration thereof by the City Council.

C. **Application Procedure**.

1. An amendment to this code or the Official Zoning Map, except those initiated by the City Council or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the City, including an application fee, which shall be established by resolution of the City Council.
2. In the case of an amendment to this code, other than an amendment to the Official Zoning Map, a general description of the proposed amendment shall accompany the application form along with a fee, established by resolution of the City Council. In the case of an amendment to the Official Zoning Map, the following information shall accompany the application form:
   a. Completed application form and fee.
   b. A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
   c. The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property if not the owner in fee simple title.
   d. The existing and proposed zoning district designations of the subject property.
   e. A written description of how the site's rezoning meets Section 4-8.5, subsection E, Criteria for Amendment to the Official Zoning Map.

D. **Amendment Procedure; Public Hearing and Notice**.

1. An applicant may request a pre-application conference with City staff prior to formal submission of a request for rezoning in order to identify potential issues with the request.
2. Upon initiation of an amendment, a public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given by publication in a newspaper of general circulation in the City at least once a week for two consecutive weeks prior to the hearing.
   a. The notice shall include:
      i. The time and place of hearing for the Planning Commission and the City Council;
      ii. Description of the property by street address for platted lands and clearly identifiable location for the unplatted lands;
      iii. Time and place for public inspection of the documents submitted by the applicant before the hearings;
      iv. The existing and proposed zoning districts, when applicable.
   b. For amendments to the Official Zoning Map, notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered and to the property owners of record within three hundred (300) feet of the subject property regardless of whether the property or occupant is located within the City or its extraterritorial zoning areas.
   c. The notice shall indicate the property that is subject to the request, including a list of all existing street addresses within the subject property.
3. Following receipt of the findings and recommendation of the Planning Commission, the City Council shall hold a public hearing to consider the proposed amendment. In the case of an amendment to the text of this code, the City Council may modify or revise the proposed amendment prior to enactment. In the case of an amendment to the Official Zoning Map, the City Council shall approve or deny the amendment, based on its consideration of the criteria contained in Section 4-8.5, subsection E, below.

E. **Criteria for Amendment to the Official Zoning Map (Rezoning)**. In considering any application for an amendment to the Official Zoning Map, the approving body and City Council shall consider the following criteria:

1. Consistency with the goals, policies, and future land use map of the Comprehensive Plan. If conditions have changed since the Comprehensive Plan was adopted, recent development trends in the area.
2. Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses currently permitted in the proposed zoning district.
3. Evidence from the applicant that the applicant cannot receive a reasonable return on investment through developing the property with the uses permitted under the current zoning.
4. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
5. The capacity of utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
7. The apparent demand for the types of uses permitted in the requested zoning district relative to the amount of land in the City currently zoned and available to accommodate the demand.
8. The boundaries of the requested zoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.
9. The requested rezoning is to the most appropriate district.
10. If the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?
11. The requested rezoning will not create an isolated and unplanned spot zone.
12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
13. Other factors as appropriate.

F. **Final Decision of City Council**. The City Council shall state the grounds upon which the zoning amendment or rezoning is approved or denied, and the written findings shall be kept on file at the City.

G. **Approval of Zoning Amendments**. Approved amendments shall require the following:
1. Publication of a notice of adoption in the official newspaper of the City. The notice shall describe the nature, scope, and purpose of the regulation, restriction, or boundary, and shall state the times at which it will be available to the public for inspection and copying at the office of the City Auditor.
2. The Land Use Code text and/or Official Zoning Map shall be amended to reflect the new zoning classification or language.

H. **Citizens' Protest**.
1. A protest against a change, supplement, modification, amendment, or repeal may be filed by either of the following:
   a. The owners of twenty percent (20%) or more of the lots included in such proposed change; or
   b. The owners of twenty percent (20%) or more of the adjacent area, extending three hundred (300) feet from the area to be changed, excluding the width of the streets.
2. When such a protest is filed with the City Auditor, the amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all members of the City Council. A public hearing shall be held in accordance with the noticing requirements of Section 4-7.1 Public Hearings.

4-8.6 Administration

A. **Organization**.

1. To administer this code, the following bodies are hereby vested with authority to act on behalf of the City:
   a. Community Development Department
   b. Planning Commission
   c. City Council
2. All of the above have authorization to hire professional consultants to assist in these administrative duties, subject to approval by the City Council.
3. For land divisions and minor plats, a board consisting of the Chairperson of the Planning Commission, the Mayor, and Community Development Department shall be the approving body.

B. **Community Development Department**.

1. The Community Development Department and its Director are responsible for the administration of this code, and to assist the Planning Commission and the City Council on any matter related to this code. In the event this position is vacant, the City Administrator or their designee shall perform the duties of the Department Director.
2. **Development Applications**.
   a. Issue all zoning certificates, permits, and certificates of occupancy, and to maintain records thereof.
   b. Maintain zoning and platting related records including records of all amendments, conditional uses, variances, and amendments to the Comprehensive Plan.
   c. Receive, file, and forward to the Planning Commission all applications for rezoning, design review, conditional uses, and variances.
   d. Receive, file, and forward to the Planning Commission, the City Engineer, and the City Attorney all applications for plats and their supporting documents.
   e. Prepare and publish notices and notify adjoining property owners in accordance with Section 4-7.1 Public Hearings.
   f. Communicate the recommendations of the Planning Commission to City Council.
   g. Provide written notification to the property owner or user of any violation of this code, cite the nature of violation clearly, require compliance, and submit a report of the violation to the City Council and the City Attorney.
   h. Obtain from an applicant any information requested by the City Engineer, City agencies, the Planning Commission, and/or the City Council.
   i. Establish a schedule of application deadlines for each application to be considered by the Planning Commission and the City Council.
   j. Collection of fees related to development, conditional use, variance, platting, and permit applications.
   k. Issue conditional use permits upon approval by the City Council.
   l. Provide plats for the Mayor's signature upon approval by the City Council.
   m. Record conditions of any variance in the permit.
   n. Inform applicants of their right to appeal to the approving body when an application is denied due to noncompliance with code regulations.

C. **Planning Commission**. The Planning Commission shall consist of at least five (5) members appointed by the City Council. The Community Development Department may act as secretary of the Planning Commission. A representative of the extraterritorial area, appointed by the Cass County Planning Commission, shall serve on the Planning Commission as a voting member. The Planning Commission shall appoint its chair and vice-chair annually. In case of vacancies, the City Council shall appoint new members to complete the unfinished term of a former member. Duties of the Planning Commission are as follows:

1. To hear and act on all applications for amendments to zoning district boundaries, the text of the Land Use Code, plats of subdivision, conditional uses, planned unit developments, and variances, and to make a recommendation of approval, denial, or approval with conditions to the City Council. The action of the Planning Commission is advisory to the City Council and all final decisions rest with the City Council.
2. To hear and act on all applications for modification to parking requirements or design review, and to issue a final approval, denial, or approval with conditions.
3. The Planning Commission shall fix a reasonable date for the hearing of applications requiring a public hearing and provide notice in accordance with Section 4-7.1 Public Hearings.
4. Meetings of the Planning Commission shall be held at the call of the Chairperson and at such other times as the Planning Commission may determine. Meetings shall be open to the public.

D. **City Council**. The City Council maintains the authority for review, and acts on the recommendations of the Community Development Department, City consultants, and the Planning Commission.

1. The City Council is responsible for approval, modification, or denial of amendments to the text of this code and to the boundaries of zoning districts.
2. The City Council is responsible for granting conditional use permits, variances, plat approval, and establishing a fee schedule for all applications and permits issued by the Community Development Department to cover the cost of notices of public hearing and staff time on the projects.
3. The City Council shall hear appeals of code interpretations by the Community Development Department or Planning Commission and shall be responsible for issuing written rulings on the interpretation of the regulations of this code.
4. The City Council may hold hearing(s) as required by this code and the laws of the State of North Dakota.

4-8.7 Permit Requirements

The following shall apply in the issuance of any permit under this code:

A. **Permits Not to Be Issued**. A building permit shall not be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all sections of this code.

B. **Permits Required**. A building or structure, or part thereof, shall not be erected, altered, moved, or repaired unless a building permit has been issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts; stairways; type of construction; type, class, or kind of occupancy; lighting or ventilation; means of egress and ingress; or other changes affecting or regulated by the City Building Code, the housing law of the state, or this code, except for minor repairs or changes not involving any of such features.

C. **Permits for New Use of Land**. Land heretofore vacant shall not hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

D. **Permits for New Use of Buildings**. Buildings or structures, or parts thereof, shall not be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

E. **Temporary Permits**. The Community Development Department may issue a temporary permit for a temporary building or use allowed in the zoning district for up to one year. The temporary permit may be renewed once by the approving body for a second one-year period if the issuance of the permit would avoid an unreasonable hardship and not cause any undue or unreasonable disturbances to surrounding properties or in the general area.

F. **Building Permit Applications**. A person or persons intending to construct or reconstruct or relocate a building or make an alteration, shall, before proceeding with the work, or commencing any excavation in connection with it, obtain a permit from the Building Permits and Inspections Department. These provisions shall also apply to manufactured and modular homes.

1. Applications for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be built upon, the size, shape, and location (footprint) of the building for observing the yard requirements of this code.
2. The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings, and the building cost.
3. The application must accompany a site plan for multi-family residential, commercial, or industrial districts.

4-8.8 Variances

A variance from the dimensional standards of this code may be granted provided that the applicant establishes proof of practical difficulty or undue hardship. Use variances shall be prohibited and variances shall be limited to height, bulk, and setback lines of the buildings and structures. Variances shall not be used to obtain a conditional use permit.

A. **Public Hearing Notice**. See Section 4-7.1 Public Hearings for Public Hearing notice requirements.

B. **Data Submission Requirement**. Applications for variances shall be submitted with the following information:
   1. Legal description of the property.
   2. A map showing the existing land uses and zoning district classification of the area.
   3. The variance that is being requested and the reason for the variance request.
   4. Proof of whether the practical difference or undue hardship is unique to the applicant's property.
   5. Other information that the approving body deems necessary.

C. **Deliberation and Decision**. In making its recommendation, the Planning Commission shall ascertain that the request for variance is consistent with the Comprehensive Plan and meets all requirements of this code and other regulations of the City. The Planning Commission may recommend approval, conditional approval, or denial of said variance to the City Council. After the Planning Commission has had an opportunity to review the application and make its recommendation to the City Council, the City Council shall make a finding on the variance application. The City Council, at its next regular or special meeting, may approve, conditionally approve, or deny the variance.

D. **Standards**. An application for variance shall not be approved unless the City Council finds that all of the following are present:
   1. Special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.
   2. Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
   3. Special conditions and circumstances have not resulted from actions of the applicant.
   4. Granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.

E. **Justification**.
   1. The reasons set forth in the application justify granting of the variance.
   2. The variance is the minimum which would make possible a reasonable use of the premises.
   3. Granting of the variance will be in harmony with the general purpose of this code and will not be injurious to the surrounding premises, neighborhood, or the City and will not be contrary to the Comprehensive Plan and the purposes of this code. That there is practical difficulty or undue hardship in use of the premises if the strict application of the regulations are to be carried out.

F. **Appeal**. The decision of the City Council may be appealed to Cass County District Court under the laws of North Dakota.

4-8.9 Final Inspection

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof shall notify the Building Permits and Inspections Department immediately upon the completion of the work authorized by such permit, for a final inspection.

4-8.10 Fees

The City Council may, by resolution, adopt schedules of fees to be charged to persons applying for amendments to this code, conditional use permits, variances, rezones, review of site plans, design review, appeals, or inspections, and the issuance of permits or certificates required under the provisions of this code. Applicants shall deposit the required sum with the City at the time that the application is filed for any of the above-listed applications, and in advance of the issuance of any required permits or certificates. In any case where an approval, permit, or certificate is required prior to construction, and such approval, permit, or certificate was not obtained prior to construction, the party responsible for that construction shall apply for the required approval, ruling, permit, or certificate within ten (10) days of notification. If application is made greater than ten (10) days after notification, the responsible party shall pay 200 percent (200%) of the fee set by the City Council at the time of application.

4-8.11 Special Accommodation Residence

A. **Intent**.

1. This section is intended to authorize the grant of relief from the strict terms of this code in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) et seq, the Americans with Disabilities Act, as amended, 42 USC §12131 et seq, and the Rehabilitation Act, as amended, 29 USC §794(a). This section responds to the prohibition of housing discrimination based on a disability which is defined as:
   a. A physical or mental impairment which substantially limits one or more of such person's major life activities;
   b. A record of having such an impairment; or
   c. Being regarded as having such a physical or mental impairment that limits one or more of such person's major life activities.
2. This section is further intended to advance a legitimate governmental interest by regulating Special Accommodation Residences in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses, limits inappropriate overcrowding of land or particular uses and/or congestion of population, and it ensures that public streets and facilities are not overburdened.

B. **Applicability**. The provisions of this section shall be applicable to various types and capacities of transitional and permanent homes and structures which occupy dwellings and may include, but not be limited to group homes, other congregate living facilities, and sober living facilities. The City Administrator or their designee may approve a Special Accommodation Residence, subject to and in accordance with this section.

C. **Conditions of Approval**. As a condition to approval of a Special Accommodation Residence, the applicant must comply with all the terms of this section, and must demonstrate all of the following:

1. The ultimate residential user or users of the property shall be persons for whom state or federal law mandates the City to make reasonable accommodations in connection with proposed uses of land under the existing circumstances;
2. Taking into consideration the needs, facts, and circumstances which exist throughout the City and the population to be served by the use, the proposed reasonable accommodation shall be necessary to afford such person equal opportunity to the proposed use and enjoyment within the City; and
3. Approval of the proposed housing shall not require or will not likely result in a fundamental alteration in the nature of the zoning district and neighborhood in which the property is situated or result in an excess concentration of such proposed housing in a particular area, considering cumulative impact of one (1) or more other uses and activities in, or likely to be in, the area, and shall not impose undue financial and administrative burden. The interests of the City shall be balanced against the need for accommodation on a case-by-case basis.

D. **Application Provisions**. The application for a Special Accommodation Residence within an existing or proposed structure shall include the following, in addition to all other applicable permits required by the City:

1. A sketch plan, drawn to scale, showing the proposed use and development. At a minimum, the sketch submittal shall include the following information:
   a. Evidence of ownership; location and description of site; dimensions and areas;
   b. Scale, north arrow, date of plan;
   c. A recent aerial photograph from an available resource (City or county GIS portal), Google Earth, or similar platform showing site and area within at least one hundred (100) feet of property boundaries;
   d. Location, type, and land area of each proposed land use and number of dwelling units in structure or structures to be occupied;
   e. Sketch of floor plan showing layout and number of persons to occupy each bedroom or similar sleeping area;
   f. General description of proposed water, sanitary and storm drainage systems; and
   g. General location of proposed parking and number of spaces required and provided.
2. A separate document that provides the following:
   a. A summary of the basis on which the applicant asserts entitlement to approval of a Special Accommodation Residence, covering each of the requirements of this code.
   b. The number of residents served, resident services provided, and the anticipated length of stay, and staffing and duties performed.

E. **Standards and Regulations**. In order to determine whether a Special Accommodation Residence should be granted, the need to provide a reasonable accommodation under state or federal law shall be considered and weighed by the City Administrator in relationship to the following:

1. If the proposed housing does not constitute a permitted use in the zoning district in which the property is situated, the intensity of the use (e.g., number of residents in the residential facility) shall be the minimum required in order to achieve feasibility of the use; and
2. The use, and all improvements on the property, shall be designed and constructed to meet the following standards and conditions:
   a. Taking into consideration the size, location, and character of the proposed use, the proposed use shall be established in such a manner to be compatible and harmonious, as determined by the application of generally accepted planning standards and/or principles, with:
      i. The surrounding uses; and/or
      ii. The orderly development of the surrounding neighborhood and/or vicinity.
   b. The proposed use shall be designed to ensure that vehicular and pedestrian traffic shall be no more hazardous than is normal for the district involved, taking into consideration traffic volume, proximity, and relationship to intersections, adequacy of sight distances, on-site parking, pedestrian traffic safety, and location and access of off-street parking;

c. The proposed use shall be such that the location and height of buildings or structures and location, nature and height of walls, fences, and landscaping will not interfere with or discourage the appropriate development or use of adjacent land and buildings and will not have a detrimental effect upon their value;

d. The proposed use shall be designed, located, planned, and operated in such a manner that the public health, safety, and welfare will be protected; and

e. The proposed use shall be designed and operated so as not to cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

F. **Conditions**. In connection with the approval of a Special Accommodation Residence, the City Administrator may impose such conditions as are authorized by law. If a standard in this code is reduced or modified to be less stringent, any condition imposed shall be proportional to mitigate the impact of the reduction or modification granted and shall be in keeping with protecting the health, safety, and general welfare of the City.

G. **Timeframe for Application Review**. The City Administrator or their designee will review the request for a special accommodation and approve or deny the application within fifteen (15) business days of submittal of a complete application.

H. **Districts**. A district permitting of a residential use as a principal permitted use may be eligible for consideration of an application for a Special Accommodation Residence.

I. **Effect of Approval**.

1. Approval of a Special Accommodation Residence shall be solely for the benefit of the particular class of users who were the basis of requiring the City to make a reasonable accommodation under applicable state and/or federal law, and not for the benefit of any other persons. Accordingly, the effect of an approval under this section shall be for the exclusive benefit and occupancy of such class of persons. If a change in such use occurs such that it is occupied by others, the regulations applicable within the district in which the property is situated shall thereupon immediately and fully apply, unless application is made and approved for another Special Accommodation Residence based on the change.

2. An approval under this section shall be effective for a period of one (1) year and shall thereafter be void unless there is an occurrence of actual occupancy by persons for whom the special accommodation has been made in granting approval.

4-8.12 Comprehensive Plan

This code is administered and enforced to implement the Comprehensive Plan of the City of Horace, a document adopted by the City Council as a policy guide to protect the City's resources and accommodate the type of development deemed appropriate, including but not limited, to the following:

A. Preserve and enhance the taxable value of land and buildings, and to avoid land uses which pose negative impacts on one another.
B. Encourage the most appropriate use of land in the City.
C. Regulate and restrict the location and intensity of use of buildings and lands.
D. Separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
E. Facilitate traffic movement and promote development of compatible uses.
F. Guide placement and types of streets, water, and sanitary and storm sewers.
G. Guide placement and development of public facilities, parks, and other municipal facilities such as libraries, community centers, and indoor and outdoor recreational facilities.

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Appendix
Schedule of Amendments

Appendix: Schedule of Amendments

Reserved for future amendments to the code.

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