

ARTICLE II. GENERAL ZONING PROVISIONS

Sec. 36-40. Zoning districts established.

All land in the city shall be assigned to one of the following zoning districts:

- (a) Neighborhood districts, see article III.
 - (1) N-1 neighborhood district
 - (2) N-2 neighborhood district
 - (3) N-3 neighborhood district
 - (4) N-4 neighborhood district
- (b) Mixed use districts, see article IV.
 - (1) MU-1 neighborhood mixed use district
 - (2) MU-2 community mixed use district
 - (3) MU-3 transit oriented development mixed use district
- (c) Business districts. B-1 general business district, see article IV.
- (d) Industrial districts, see article IV.
 - (1) I-1 light industrial district
 - (2) I-2 general industrial district
- (e) Park and open space districts. P-1 park and open space district, see article IV.
- (f) PUD planned unit development districts, see article V.

Sec. 36-41. Overlay districts established.

Overlay districts are as follows:

- (a) FW floodway district, see article VI, division 1.
- (b) FF flood fringe district, see article VI, division 1.
- (c) FP general floodplain district, see article VI, division 1.
- (d) TDM travel demand management district, see article VI, division 2.
- (e) HWL historic Walker Lake district, see article VI, division 3.

Sec. 36-42. Map.

The boundaries of the use districts listed in section 36-111 are shown on the zoning map, as amended. The map is certified by the city clerk and is stored in the office of community development and is referred to as the "zoning map" or "map," in this chapter. The map and all

of the notations, references and other information shown on it shall have the same force and effect as if fully set forth in this chapter and are hereby made a part of this chapter by reference.

Sec. 36-43. Boundaries

- (a) District boundary lines indicated on the zoning map follow lot lines, the center lines of streets or alleys projected, railroad right of way lines, the center of watercourses, or the corporate limit lines as they exist upon the effective date of the ordinance from which this chapter is derived. If zoning district boundary lines do not follow any of the above-described lines, the zoning district boundary lines are established as drawn on the zoning map.
- (b) Where a district boundary line divides a lot of record which was in single ownership at the time of enactment of the ordinance from which this chapter is derived and places portions of such lot of record in two or more use districts, any portion of such lot within 50 feet on either side of dividing district boundary line may be used for any use permitted in either use district. If the lot shall be wider than the 50-foot limitation, the use district line as shown shall prevail.
- (c) Appeals from the zoning administrator's determination and questions of doubt concerning the exact location of district boundary lines shall be heard by the board of zoning appeals.
- (d) Whenever any street, alley or other public way is vacated by official action of the city, the location of the zoning district line shall not be affected by such proceeding.
- (e) A determination of whether a property is within the boundaries of the FW, FF or FP district shall be made by the zoning administrator. Any person objecting to that determination may appeal to the zoning administrator by submitting a topographic survey which includes the contour of the flood protection elevation and the location and elevation of all proposed structures. The zoning administrator may change the determination based on the topographic survey, but the zoning administrator shall notify the commissioner of the state department of natural resources at least ten days before granting the permit. Provisions for the modification of floodplain district boundaries are contained in division 8 of article IV of this chapter.

Sec. 36-44. Uses

- (a) Interpretation of allowed uses:
 - (1) The only uses which can be made are those uses listed in the zoning district and these are permitted only in the manner described by this chapter.
 - (2) Any person seeking to establish a use of land or a building which is not specifically listed in any of the use categories in this chapter may ask the zoning administrator which category of use shall be applied. The zoning administrator's decision will

establish whether the proposed use is permitted under any of the categories in this chapter. The zoning administrator shall consider functional similarities between uses listed in this chapter and the proposed use including nuisance characteristics, traffic, appearance and mode and hours of operation in making this determination. The determination of the zoning administrator shall be in writing and shall include a statement whether the use is designated as "permitted," "permitted with standards," or "conditional." If the zoning administrator determines that the proposed use is not permitted under any category, that conclusion shall be stated in the written determination.

- (b) Accessory uses shall be limited to a maximum area of 25% of the gross floor area of the principal use unless otherwise specified by this chapter.
- (c) The following definitions shall apply to the uses tables found in Tables XX, XX, XX:
 - (1) Permitted use: "P" indicates that a use is allowed by right, subject to compliance with all other applicable provisions of this code.
 - (2) Permitted with standards use: "PS" indicates that a use is allowed when standards identified in section 36-168 "Use-Specific Standards, Principal" are met. Uses permitted with standards are also subject to all other applicable requirements of this chapter. The use-specific standards shall apply when they are contradictory or otherwise inconsistent with other applicable requirements in this chapter. Any request to vary from the standards set forth for a permitted with standards use shall be processed as a variance.
 - (3) Conditional use: "C" indicates that a use is allowed only when standards identified in section 36-168 "Use-Specific Standards, Principal" are met, and a conditional use permit is issued by the city. Uses permitted by conditional use permit are also subject to all other applicable requirements of this chapter. The use-specific conditions shall apply when they are contradictory or otherwise inconsistent with other applicable requirements in this chapter. Any request to vary from the standards set forth for a conditional use permit shall be processed as a variance.
 - (4) Prohibited use: A blank cell in the use table indicates that the land use is prohibited in that zoning district.
- (d)

Sec. 36-45. Lot provisions.

- (a) Limitations. Unless permitted by this section:
 - (1) A lot which does not conform with the lot width and lot area requirements of the zoning district in which the lot is located shall not be a buildable lot unless the lot already contains an occupiable structure.

- (2) A developed lot which does not meet the area or width requirements of this chapter shall not be more intensively developed unless it is combined with one or more abutting lots or parcels of land to create a lot meeting the requirements of this chapter. This provision does not apply to single-unit dwellings.
- (b) Lots of record, buildable.
 - (1) A lot of record existing upon the effective date of the ordinance from which this chapter is derived in the N-1 or N-2 district, which does not meet either the area or width requirements of this chapter required for a single-unit or two-unit dwelling may be utilized for single-unit or two-unit dwelling purposes if the dimensions of its area and width shown exactly on the plat of record, meet the requirements of this chapter.
 - (2) Any single-unit or two-unit dwelling which exists on the effective date of the ordinance from which this chapter is derived on any substandard lot located within a N district which is later destroyed by fire or other natural disaster or otherwise removed may be rebuilt if a building permit for reconstruction is issued within 365 days of its destruction and if it otherwise is in conformance with the provisions of this chapter.
 - (3) Any substandard lot which is in common ownership with an abutting lot on or after the effective date of the ordinance from which this chapter is derived may not be developed. No building permit shall be issued for such development unless the two lots are combined to increase the substandard dimension of the lot to meet the area and width requirements of this chapter. Under these circumstances, only one single-unit dwelling may be built on the two lots.
- (c) Except as specifically permitted, all activities conducted in a MU, B, or I district shall be conducted wholly within an enclosed structure. This provision does not apply to off-street vehicular parking or off-street loading.

Sec. 36-46. No sewer and water.

- (a) All developments and structures intended for human use or occupancy shall be connected to the public water supply and sanitary sewer systems.
- (b) If a development is proposed for a site which does not have either a public water supply or sanitary sewer system available adjacent to the property proposed to be developed, no building permit shall be issued for such development until adequate provisions have been made by the person proposing the development to provide public water supply and sanitary sewer service to the property. The city shall determine what constitutes adequate water and sewer service.

- (c) The city may also require that a surety in a form approved by the city manager be provided to the city in an amount equal to 125% of the estimated cost of extending public water and sanitary sewer facilities to the subject property.
- (d) No certificate of occupancy shall be issued until the new structure or development is connected to the public water supply and sanitary sewer system.

Sec. 36-47. Utility service lines

- (a) New structures and structures which expand the gross square footage of the structure by more than 50% shall be required to place all utility service lines including electric, gas, water, sanitary sewer, telephone and cable underground. Any new service to an existing building shall be placed underground.

Sec. 36-48. Required yards and open space.

- (a) The area of a yard or designed outdoor recreation area shall not be reduced below the minimum size required by this chapter.
- (b) If the existing designed outdoor recreation area is less than the minimum size required by this chapter, it shall not be reduced in size.
- (c) On a through lot, both street lines shall be front lot lines for the application of this chapter.

Sec. 36-49. Permitted yard encroachments.

- (a) No permanent structure may be placed in an easement without first obtaining approval of an encroachment agreement.
- (b) The following may encroach on yard requirements provided all structures are located entirely upon the private property of the party requiring or requesting the construction of the structure, the encroachment is within height limitations of this Code and ornamental structures are constructed so the finished side is facing towards the neighboring properties, exposing the structural side to the party requiring or requesting the structure:
 - (1) Front enclosed entryways not exceeding a depth of five feet toward the front lot line and not exceeding a total of 40 square feet in area.
 - (2) Balconies, bays and window wells not exceeding a depth of three feet and containing an area of less than 20 square feet.
 - (3) Chimney, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, and eaves; provided they do not extend more than three feet into a required yard; and provided such encroachment is no closer than four feet from all lot lines. Building overhangs shall also comply with the state building code.
 - (4) Gutters up to six inches wide.

- (5) Steps which do not extend above the ground floor level of the principal building may encroach up to five feet into any yard.
- (6) Stoops which do not extend above the ground floor level of the principal building and do not exceed 25 square feet.
- (7) Canopies and door hoods.
 - a. In the N-1 and N-2 districts, door hoods and canopies may extend up to four feet into a front and side yard abutting a street.
 - b. In all other N, MU and B districts, door hoods and canopies may extend to the front lot line and side lot line abutting a street.
- (8) Open covered porches that do not contain either windows or screens may extend up to 10 feet into a front and rear yard. Porches shall be open between the floor and the ceiling. All railings shall be open utilizing posts and spindles.
- (9) Uncovered porches, patios or decks.
 - a. Uncovered porches, patios or decks which do not extend above the height of the ground floor level of the principal building may be located a minimum of two feet from any interior side or rear lot line and 15 feet from any front lot line. Encroachment on any side yard abutting a street is prohibited.
 - b. Non-residential properties: Ground level patios and decks may extend up to the property line provided it is part of a non-residential use, adjacent to a right of way or a non-residential property, and does not encroach into an easement without prior approval.
- (10) Driveways, parking areas and pedestrian sidewalks subject to the requirements of sections 36-162 and 36-361.
- (11) Enclosed pedestrian walkways meeting the following standards:
 - a. The walls of the walkway shall conform with the class I exterior materials requirements of this chapter.
 - b. Such walkways may be no more than 16 feet wide and 12 feet in height from floor to ceiling.
 - c. A clearance of 16 feet six inches is required if the walkway is above a traveled roadway.
 - d. The properties connected by the walkways must submit documents that indicate their agreement to build the arrangement for maintenance of the walkway, and under what conditions the walkways might be removed.
 - e. The location of any pedestrian walkway shall be approved by the director of public works and community development director. Approval shall not be

granted for any walkway that does not provide a satisfactory means to access any utility or public trail lying under or adjacent to the walkway.

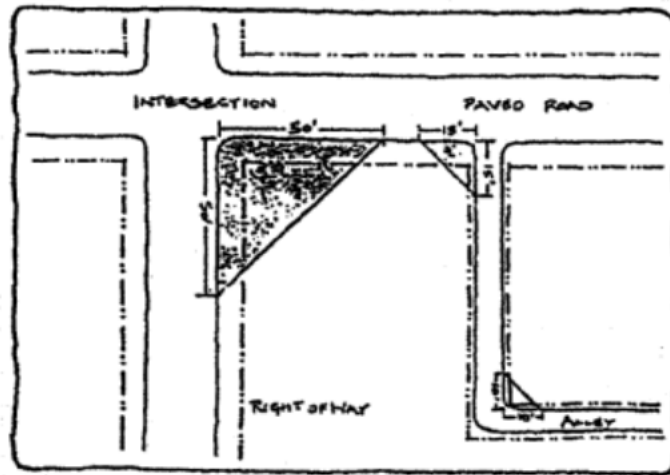
- (12) Heating, ventilating and air conditioning equipment in side and rear yards in N-1 and N-2. None of that equipment shall extend more than six feet from the principal structure and the equipment shall be screened from view.
- (13) Fences and retaining walls subject to the requirements of section 36-74 and provided the retaining walls are necessary to correct grade differences and height is minimized via terracing where feasible. Where a fence is attached to a retaining wall structure, the retaining wall shall be included in the fence height measurement.
- (14) Yard lights and the nameplate signs for one-unit and two-unit dwellings in the N-1 and N-2 districts.
- (15) Floodlights or other sources of light illuminating authorized illuminated signs, or illuminating parking areas, loading areas, or yards for safety and security purposes if these meet the regulations of section 36-363.
- (16) Railroad
 - a. Feeder tracks which provide access to buildings and structures in the I-1 and I-2 districts. No loading or unloading may be done from railroad cars on any feeder track in any front yard.
 - b. Railroad spurs and sidings for loading and unloading of railroad cars in the I-1 and I-2 districts may encroach on side and rear yard requirements.

Sec. 36-50. Traffic visibility.

- (a) Walls, fences, structures, trees, shrubs, vegetation or other obstructions shall be permitted in any yard as regulated in this article except when it poses a danger to traffic by obscuring the view from any street, roadway or alley.
- (b) Visibility from any street or roadway shall be unobstructed above the height of two and one-half feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines of the two streets, and extending a distance of 50 feet along the edge of each street. This defines two sides of the triangle. The third side is a line connecting the end points of the two sides described in this subsection.
- (c) Visibility from the intersection of any street or roadway and an alley shall be unobstructed above the height of two and one-half feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines or pavement edges or, if unpaved, the edge of the traveled surface of the street and alley, and extending a distance of 15 feet along the edge of each street.

This defines two sides of the triangle. The third side is a line connecting the end points of the sides described in subsection (b) of this section.

- (d) Visibility from the intersection of any two alleys shall be unobstructed above the height of two and one-half feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines or pavement edges of the two alleys, and extending a distance of ten feet along the edge of each alley. This defines two sides of the triangle. The third side is a line connecting the end points of the two sides described in subsection (b) of this section.



Sec. 36-51. Building height limitations.

- (a) Height limitations set forth elsewhere in this ordinance shall be increased by 50 percent when applied to the following structures:
- (1) Art objects in neighborhood districts and accessory to permitted principal non-residential uses (places of worship, schools, parks, etc.) in neighborhood districts.
 - (2) Belfries.
 - (3) Chimneys.
 - (4) Church spires.
 - (5) Cooling towers.
 - (6) Cupolas and domes which do not add additional floor area.
 - (7) Elevator penthouses.
 - (8) Fire and hose towers.
 - (9) Flagpoles.
 - (10) Monuments.

(11) Observation towers.

(12) Smokestacks.

- (b) Parapet walls extending not more than three feet above the limiting height of the building are permitted.
- (c) Water towers are exempt from height limitations.
- (d) Building integrated solar energy system extending not more than three feet above the limiting height of the building are permitted.

Sec. 36-52. Essential services.

- (a) Essential services shall be permitted as authorized and regulated by state law and ordinances of the city. Such essential services are exempt from the application of this chapter, except when they are conducted in the FW, FF and FP overlay districts.

Secs. 36-53 to 36-73 reserved.