

**BILL NO. 18-06**

**ORDINANCE NO. 4.414**

**AN ORDINANCE AMENDING TITLE VII "ZONING AND PLANNING ORDINANCE" OF THE CITY CODE AS IT RELATES TO MISCELLANEOUS ZONING CHANGES.**

**WHEREAS**, The City of Gladstone, Missouri ("City") adopted a Zoning and Planning Ordinance ("ZAPO") by Ordinance No. 3.9473 on November 14, 2005; and

**WHEREAS**, Section 7.100.060 of the ZAPO and Chapter 89 of the Revised Statutes of Missouri provide for the manner of amendment to the ZAPO; and

**WHEREAS**, After due public notice in the manner prescribed by law, the Planning Commission held a public hearing on December 18, 2017, and rendered a report to the City Council recommending that Title VII be amended; and

**WHEREAS**, After due public notice in the manner prescribed by law, the City Council held a public hearing on January 8, 2018, and determined that the proposed amendments be adopted.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**SECTION 1 – AMENDMENT OF TITLE VII.** Title VII "Zoning and Planning Ordinance" of the City Code is amended and attached hereto and incorporated herein.

**SECTION 2 – SEVERABILITY CLAUSE.** The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of the ordinance.

**INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22ND DAY OF JANUARY, 2018.**

  
R.D. Mallams, Mayor

ATTEST:

  
Ruth E. Bocchino, City Clerk

1<sup>st</sup> Reading: January 22, 2018

Second Reading: January 22, 2018

## Title VII – ZONING AND PLANNING ORDINANCE (ZAPO) <sup>(1)</sup>

### Footnotes:

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**Cross reference-** Any ordinance relating to zoning saved from repeal, § 1.100.150(11); planning commission, § 1.110.070 et seq.; land and development, title VII; flood control regulations, § 8.110.010 et seq.; subdivision regulations, § 8.115.010 et seq.; building and construction, title IX; sign regulations, § 9.1600.010 et seq.

**State Law reference-** Zoning and planning. RSMo 89.010 et seq.

### CHAPTER 100. – IN GENERAL

#### Sec. 7.100.010. – Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Active solar system* means a solar energy system that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means.

*Agriculture* means the planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the county. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops. The storage of crops, grains, feeds or other products shall be limited to those raised on or to be consumed on the premises.

*Alteration* means any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.

*Apartment* means a room or suite of rooms, within an apartment house, arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

*Basement* means a story below the first story as defined under the term "story," counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.

*Blades* shall mean the aerodynamic surface that catches the wind.

*Block* means a piece or parcel of land entirely surrounded by public highways or streets. In cases where the platting is incomplete or disconnected, the Community Development Director shall determine the outline of the block

*Boardinghouse* or *lodginghouse* means a building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for not more than three persons for compensation, pursuant to previous arrangements, but not for the public or transients.

*Breezeway* means a pedestrian connection between two buildings, having a permanent roof and floor and having no side walls except that screen wire or lattice having at least 50 percent open area may be attached in the form of sidewalls.

*Buffer zone* means an open and unpaved ground area around the perimeter of a tract landscaped or planted so as to provide an attractive green space, having a grade not exceeding 2:1 and a width of not less than 35 feet. Parking is not allowed in a buffer zone, except as otherwise provided herein. Each buffer zone shall be maintained by the owner thereof in accordance with applicable laws and codes without expense to the city.

*Building* means an enclosed structure, anchored to permanent foundation, and having exterior or party walls, and a roof, designed for the shelter of persons, animals or property. When divided by other common or contiguous walls, each portion of section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway having a continuous roof shall be deemed as one building.

*Building-integrated solar systems* means an active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights, and awnings.

*Cluster dwelling unit* means a single-family dwelling unit constructed as a part of a series or grouping of other single-family dwelling units, each single-family dwelling unit being designed and intended to be separately owned in fee, including but not limited to property coming under the Condominium Property Act of the state (RSMo ch 448).

*Cluster grouping* means a series or grouping of cluster dwelling units. Each single-family cluster dwelling unit may be adjoined or attached to adjacent dwelling units by party walls or otherwise, or may be constructed as an independent structure.

*Commercial floor area* means that area of a building surrounded by permanent walls and covered by a permanent roof, excluding storage areas, utility rooms, washrooms, vaults and other areas not generally used by patrons.

*Commercial garage* means a building, or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles, which garage is operated for commercial purposes.

*Community acreage* means a building, or portion thereof, other than a public, private or storage garage, providing storage for automobiles with facilities for washing, but no other services, such garage to be in lieu of private garages within a block or portion of a block.

*Corner lot* means a lot abutting upon two or more streets at their intersection; a corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Community Development Director.

*Curb level* means the top of the curb in front of the lot or, in the case of a corner lot, along that abutting street where the curb is the highest.

*Dwelling* means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels, motels, house trailers or mobile homes.

*Emergency generator* means an engine that converts mechanical energy into electrical energy during times of electrical power outages or failure. Emergency generators are not regulated by this chapter.

*Family* means one or more persons who are related by blood, marriage or adoption living together and occupying a single housekeeping unit, or a group of not more than five (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit basis. The term "family" shall also include individuals residing in a home for mentally or

physically handicapped persons or residing in a foster home, in compliance with and as permitted by state statute.

*Front lot line* means the boundary between a lot and the street upon which it fronts.

*Front yard* means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

*Garden-apartment building* means an apartment building, located on a lot either singly or together with other, similar apartment buildings, the total ground floor area of which does not exceed 25 percent of the area of the lot, and which building does not exceed 35 feet or 2½ stories in height.

*Grid-intertie solar system* means a photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

*Height of buildings* means the vertical distance measured from the average finished grade abutting the building to the level of the highest point of the roof beams of flat roofs, or roofs including not more than one inch to the foot, or to the mean height level of the top of the main plates and highest ridge for other roofs.

*Height of building or wall forming a yard or court* means the vertical distance from the lowest level of such yard to the highest point of any boundary wall.

*Hotel* means a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged with or without meals, and in which there are more than 12 sleeping rooms, and no provisions for cooking in individual rooms.

*House trailer or mobile home* means any structure used or designed for living, commercial or sleeping purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place.

*House trailer or mobile home court* means land used or intended to be used, let or rented for occupancy by one or more house trailers or mobile homes.

*Indirect illumination* means lighting of a sign or object in such a way that the source of light cannot be seen.

*Interior lot* means a lot whose side lines do not abut upon any street.

*Large/utility scale wind turbine* shall mean a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of more than 200kW and which is intended to produce electricity for sale to a rate regulated or nonregulated utility or use off site. Turbines in this category are typically grouped together to form wind farms or a wind power plant, these groupings may also be referred to as a wind facility.

*Lot* means a parcel of land occupied or to be occupied by one building or unit group of buildings, and the accessory buildings or use customarily incident thereto, including such open spaces as are required under this title, and having its principal frontage upon a public street.

*Lot depth* means the mean horizontal distance from the front street line to the rear line.

*Lot lines* means the lines bounding a lot as defined herein.

*Lot width* means the horizontal distance between side lines, measured at the front building line.

*Micro wind turbine* shall mean a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of ten kW

or less. Examples of items that can be used to power include small appliances in boats and campers, a few lights, or portable communication systems, such as radio equipment.

*Multiple dwelling* means a building, or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartment houses, townhouses and apartment hotels.

*Nacelle* shall mean the body of the propeller-type wind turbine.

*Nonconforming use, building or yard* means a use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to December 11, 1978.

*Off-grid solar system* means a photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

*One-family dwelling* means a detached building arranged, intended or designed for occupancy by one family.

*Overspeed controls* shall mean mechanisms that are used to limit the speed of blade rotation to below the design limits of the WECS. The following systems describe different methods for slowing or stopping a wind turbine in the event of malfunction, for repairs, or any other incident as needed.

- (a) *Braking* shall mean a method of overspeed control that utilizes a disc brake, which can be applied mechanically, electrically, or hydraulically to stop the rotor in emergencies.
- (b) *Feathering* shall mean a method of overspeed control that rotates the blade axis, or rotors, at an angle to maintain the torque at rate wind speeds.
- (c) *Furling* shall mean the method of overspeed control by which the blades are turned away from the direction of the wind.

*Passive solar system* means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

*Photovoltaic system* means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

*Private garage* means an accessory building for storage only of automobiles.

*Private stable* means an accessory building for the keeping of horses, ponies or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

*Rear lot line* means the boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty, the Community Development Director shall determine the rear line.

*Rear yard* means a yard between the rear lot line, the rear line of the main building and the side lot lines.

*Renewable energy easement, solar energy easement* means an easement that limits the height or location, or both, of permissible development on the burdened land of structures or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

*Renewable energy system* means a solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

*Residential floor area* means that area of living space surround by permanent walls and covered by a permanent roof, excluding garages or carports and unfinished rooms below grade.

*Riding stable* means a structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded or kept for hire, including riding tracks.

*Roof pitch* means the final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

*Side lot line* means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or a side street line.

*Side yard* means a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard thereof.

*Sign* means any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building structure or object, or designate or mention an individual, profession, firm, business or commodity.

*Small wind turbine* means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than ten Kilowatts (kW), but less than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

*Solar access* means a view of the sun, from any point on the collector surface, that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 a.m. and 3:00 p.m. Standard time on any day of the year.

*Solar collector* means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

*Solar collector surface* means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

*Solar daylighting* means a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

*Solar energy* means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

*Solar energy device* means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting, or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

*Solar energy system* means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

*Solar heat exchanger* means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

*Solar hot water system* means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

*Solar mounting device* means devices that allow the mounting of a solar collector onto a roof surface or the ground.

*Solar storage unit* means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

*Storage garage* means a building or portion thereof, except those defined as a private, commercial or community garage, providing storage for motor vehicles, with facilities for washing, but no other service.

*Story* means that part of a building included between the surface of one floor and the surface of the floor next above or, if there is not floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top story attic is a half story, when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half story when between 50 and 75 percent of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air.

*Street* means a right-of-way which affords principal means of vehicular access to property abutting thereon.

*Street line* means the dividing line between the street and the abutting property.

*Structural alteration* means any change in the supporting members of a building, such as foundation, bearing walls, columns, beams or girders.

*Structure* means anything constructed or erected which requires locating on the ground, or attached to something having a location on the ground, including, but not limited to, advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls.

*Through lot* means an interior lot, having frontage on two streets.

*Tourist court or motel* means a tract or parcel of land upon which one or more tourist sleeping units and required parking areas are located.

*Total extended height* means the height above grade to a blade tip at its highest point of travel.

*Tower* shall mean the monopole, freestanding, or guyed structure that supports a wind generator. Towers are made from tubular steel, concrete, or steel lattice. The vertical component of a wind energy conversion system that elevates and supports the wind turbine generator and attached blades above the ground up out of the turbulent wind.

*Tower height* means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

*Townhouse* means a building containing two or more dwelling units, which dwelling units are separated by a party wall and are designed and intended to be separately owned in fee under the condominium statutes of the state.

*Two-family dwelling* means a building arranged, intended or designed for occupancy by two families.

*Turbine* shall mean the parts of a wind system including the blades and nacelle.

*Variance* means relief from one of the provisions of this title, as applied to a specific piece of property, as distinct from rezoning.

*Wind energy conversion system (WECS)* shall mean any machine designed for the purpose of converting wind energy into electrical energy. The WECS includes all parts of the system.

*Words and phrases.* Words used in the present tense include the future, words used in the singular number include the plural, and words used in the plural include the singular. The word "building" includes the word "structure", the word "shall" or the word "must" is mandatory; the term "used for" includes the words "designed for" or intended for."

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the least horizontal distance between the lot line and the nearest vertical wall of the main building shall be used. Where lots abut a street that is designated a thoroughfare on the thoroughfare plan of the city, all yards abutting such street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On the other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback.

**Cross reference—** Definitions generally, § 1.100.020.

Sec. 7.100.020. - Districts designated.

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration or use of buildings, structures or land, the city is hereby divided into the following districts:

District R-1	Single-family dwelling district
District RCH-1	Cluster housing district
District R-2	Two-family dwelling district
District R-3	Garden-apartment district
District R-4	Apartment house district
District C-O	Nonretail business district
District C-1	Local business district
District C-2	General business district
District C-3	Commercial district
District C-4	Small warehouse and storage district
District M-1	Light industrial district



District P	Planned district
District MXD	Planned mixed use district

Sec. 7.100.030. - District map adopted.

- (a) Boundaries of the districts, as enumerated in section 7.100.020, are hereby established as shown by the zoning district map and legal descriptions as set forth herein. It shall be the duty of the Community Development Director to keep on file in the Community Development Director's office an authentic copy of such map and legal descriptions, and all changes, amendments or additions thereto.
- (b) Whenever any street or other right-of-way is vacated, the particular zoning district in which the adjacent property lies shall be automatically extended to the centerline of any such street. Whenever a street or any other right-of-way is dedicated, the zoning district within the street or right-of-way shall be void.

Sec. 7.100.040. - Compliance with title.

Except as hereinafter provided:

- (1) No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the district in which such building, structure or land is situated.
- (2) No building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limit herein established for the district in which such building or structure is located.
- (3) No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this title, nor shall the density of population be increased in any manner, except in conformity with the area regulations established herein.
- (4) Every building hereafter erected or altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot, except as provided herein.
- (e) Every building, structure or other use shall meet all requirements set out by that section of this title specifically relating thereto, regardless of whether it may be located in a district zoned for higher uses.

Sec. 7.100.050. - Interpretation; conflicting provisions.

The provisions of this title shall be held to be the minimum requirements for the promotion of health, safety, morals or general welfare. Whenever this title requires a greater width or size of yards, courts or other open spaces, or requires a lower height of buildings or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes higher standards than are required in any other statute or local ordinance, restriction or regulation, the regulations of this title shall govern.

Sec. 7.100.060. - Procedure for amending title and district maps.

- (a) Application for amendment, revision or change of the zoning district map of the city may be made by any person, or such person's agent, who owns the land sought to be rezoned. Such application shall be made to the Community Development Director upon forms prescribed and furnished by the

Community Development Director. In addition, the following information shall be submitted with each application:

- (1) An existing conditions map showing:
  - a. A correct legal description of the tract being considered.
  - b. The existing topography, zoning and improvements of all property adjacent to and within 185 feet.
  - c. All existing streets adjacent to the tract, including pavement and right-of-way widths.
  - d. All existing drainage channels and structures.
- (2) A proposed site development plan showing:
  - a. The size and location of proposed improvements.
  - b. Proposed versus required parking ratio.
  - c. Proposed driveway locations and widths.
  - d. Any proposed drainage improvements.
  - e. Any proposed landscaping, fencing, screening, etc.
- (b) A fee as established from time to time by the city council shall accompany each application for an amendment. Such fee shall be set out in the schedule of fees and charges on file in the office of the city clerk. Immediately upon receipt of such application, the Community Development Director shall note thereon the date of filing and make a permanent record thereof. The planning commission shall conduct a public hearing on all such applications; the Community Development Director shall note thereon the date of filing and make a permanent record thereof. The planning commission shall conduct a public hearing on all such applications no later than 40 days from the date of the filing of the application. Any such hearing may, for good cause and at the request of the applicant, or in the discretion of the commission, be continued. Notice of such hearing shall be published in one issue of a newspaper of general circulation legally authorized to publish such notices, such notice to be published at least 15 days prior to date of such hearing before the commission.
- (c) Upon final hearing of such application, the commission shall approve or deny the same. A report of such action, together with a recommendation for final approval or denial, shall be made by the commission to the city council.
- (d) Before acting upon an application for amendment, the council shall set a time and place for a hearing thereon, notice of which hearing shall be published at least once in a newspaper of general circulation legally authorized to publish such notices at least 15 days prior to the date of such hearing.
- (e) Recommendations for revision or amendment of this title, including the zoning district map, may also be initiated by the planning commission, upon its own motion, for final determination by the city council; likewise, the city council may initiate, revise, modify or amend this title, including the zoning district map, upon its own motion; provided that such proposed changes shall first be submitted to the planning commission for recommendation and report. In either case, final action thereon shall be taken only upon notice and hearing as provided herein.
- (f) In case a protest against such revision or amendment is presented, duly signed and acknowledged (properly notarized) by the owners of 30 percent or more, either of the areas of land (exclusive of streets and alleys) included in such proposed change, or within an area determined by lines drawn parallel to, and 185 feet distant from, the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the city council present and voting at the meeting.

- (g) No application for rezoning with respect to, or that includes, any tract or portion of land, for which rezoning was previously denied, shall be accepted by the planning commission or council within 60 days of the date of the final denial by the council of such previous request; provided that the council may waive this provision, in the event of substantially changed conditions, on application to the council by sworn affidavits setting forth in detail why a waiver is requested and the grounds therefor.

Sec. 7.100.070. - Enforcement, violations and penalties.

- (a) In case any building or structure is erected, constructed, reconstructed, moved, altered or converted, or any building, structure or land is used in violation of this title, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the Community Development Director, who is empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat, in violation of any provision of the regulations enumerated herein.
- (b) The owner or general agent of a building or premises in or upon which a violation of any provision of this title has been committed, or shall exist, or the lessees or tenants of an entire building or entire premises in or upon which such violation has been committed, or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in or upon which such violation has been committed, or shall exist, or the general agent, architect, building contractor or any other person who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than \$10.00 and not more than \$100.00, for each and every day that such violation continues. If the offense is willful, on conviction thereof, the punishment shall be a fine of not less than \$100.00 for each and every day that such violation shall continue, or both such fine and imprisonment.

CHAPTER 105. - R-1 SINGLE-FAMILY DWELLING DISTRICT

Sec. 7.105.010. - Use regulations.

- (a) No building, structure, land or premises in an R-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
- (1) R-1A: Agriculture.
  - (2) R-1B: Dwellings, single-family.
  - (3) R-1C: Places of worship.
  - (4) R-1D: Publicly owned and operated buildings, including museums and libraries.
  - (5) R-1E: Public schools.
  - (6) R-1F: Buildings, structures, parks, playgrounds and related appurtenances owned or operated by the city.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses customarily incident to the uses listed including automobile parking areas, private stables, and the keeping of livestock and fowl in accordance with section 2.105.140 and not involving the conduct of a business or an industry.

Sec. 7.105.020. - Performance standards.

- (a) For any dwelling house, there shall be permitted one private garage with space for not more than one motor vehicle for each 2,000 square feet of lot area, or servants' quarters; provided that such

garage or servants' quarters shall be located not less than 60 feet from the front lot line, nor less than eight feet from any side or rear lot line; and, in the case of corner lots, not less than the distance required for residences from side streets; and further provided that such servants' quarters shall be occupied only by servants employed on the premises. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building; provided that on a corner lot, a private garage attached to the main building and not exceeding the height of the main building may extend into the required rear yard to a point not less than 18 feet from the rear lot line, and shall not occupy more than 30 percent of the required rear yard. No part of a detached accessory building shall be closer than ten feet to the main building.

- (b) Home occupations are permitted in residential districts provided such use meets the following requirements:
  - (1) No outdoor storage of materials.
  - (2) No parking of commercial vehicles or commercial deliveries.
  - (3) No patrons or any other evidence of the occupation will be discernible at the perimeter of the property.
  - (4) The occupation will not produce any obnoxious or offensive vibration, noise, odor, dust, smoke or fumes.
  - (5) No signs advertising the occupation may be erected on the property.
  - (6) The residential appearance of the dwelling shall not be changed by alterations or additions for business or commercial uses and the business shall not occupy more than 25 percent of the total floor area.
  - (7) Such home occupation shall be carried on exclusively by members of the family actually residing in the dwelling, and no persons not residing in such dwelling shall be employed in or assist in such home occupation.
  - (8) The person proposing to conduct a home occupation has obtained an occupation license as required for the business to be conducted and has submitted to the director of community development an application form agreeing to compliance with these standards.
- (c) A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed are not sold either on or off the premises; and provided that such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

Sec. 7.105.030. - Height and area regulations.

- (a) The height of buildings, the minimum dimension of lots and yards, and the minimum lot and floor area per family permitted on any lot, except as provided in chapter 175 of this title, shall be as follows:
  - (1) *Height.* Buildings or structures shall not exceed 35 feet, and 2½ stories in height. At least 75 percent of the roof surface shall be higher than eight feet from grade.
  - (2) *Front yards.* Any building hereafter constructed shall provide for a front yard setback 60 feet from the center of the roadway, with a minimum of 35 feet from the property line.
  - (3) *Side yards.* There shall be a side yard on each side of a building not less than nine feet in width. Buildings on corner lots, where interior lots have been platted fronting on the side street, may project not more than ten feet in front of the building line established for the interior lots on the side street. The setback, in such cases, shall be not less than 25 feet, however, this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate

ownership or platted at the time of the passage of the ordinance from which this title is derived to less than 35 feet.

- (4) *Rear yards.* Depth of rear yards shall not be less than 35 feet. On corner lots, both interior lot lines may be regarded as side lot lines, in which case the minimum side yard shall not be less than 18 feet.
- (5) *Size of lot.* The minimum width of a lot for single-family development shall be 70 feet for a lot which has parallel side lines, and not less than 70 feet at the front building line for lots whose side lines are not parallel. In no case shall a lot in a single-family district contain less than 8,400 square feet.
- (6) *Minimum floor area.* One thousand two hundred square feet of finished floor area is the minimum.
- (7) *Lot coverage.* All buildings, including accessory buildings, shall cover no more than 30 percent of the area of the lot.

- (b) All exterior walls shall be finished within one year following the start of foundation.

#### CHAPTER 110. - RCH-1 CLUSTER HOUSING DISTRICT

##### Sec. 7.110.010. - Use regulations.

- (a) No building, structure, land or premises in an RCH-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
  - (1) RCH-1A: Any use permitted in district R-1.
  - (2) RCH-1B: Cluster dwelling units and groupings as defined herein.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

##### Sec. 7.110.020. - Height and area regulations.

The height of buildings and the minimum lot area per cluster dwelling unit shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 35 feet or 2½ stories in height. Cluster groupings shall be arranged so that no portion of one cluster dwelling unit is located on top of and above any portion of another cluster dwelling unit in the same cluster grouping; provided that cluster dwelling units may be constructed on varying elevations and the height of each unit need not be identical.
- (2) *Lot area per cluster dwelling unit.* The minimum lot area for each cluster dwelling unit for property zoned prior to February 10, 1975, shall be 10,000 square feet but for property zoned RCH-1 on or after February 10, 1975, the minimum lot area for each cluster dwelling unit shall be 8,400 square feet. In no instance shall the number of cluster dwelling units in any one grouping exceed eight.
- (3) *Buffer zone.* Every tract zoned RCH-1 which in any way adjoins, abuts, or is adjacent to a district other than an RCH-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts, or, if such boundary line is in the center of a street, along the edge of the street right-of-way abutting the RCH-1 district.
- (4) *Open space.* For each cluster housing development there shall be provided at least 40 percent of the land area as open space excluding street rights-of-way. The entire area designated as open space shall be contiguous and shall be adjacent to each individual dwelling unit. This area

shall be held in common and maintained by the individual property owners within the development. This area shall be held in common and maintained by the individual property owners within the development.

- (5) *Parking.* See chapter 180 of this title.
- (6) *Utilities and services.* Each cluster dwelling unit shall be independently served by separate heating, air conditioning, sewer, water, electric power, gas and other facility and utility services, wherever such utilities and services are provided, and no cluster dwelling unit shall in any way be dependent upon such services or utility lines located within another cluster dwelling unit or cluster grouping except as may be installed in public easements. All cluster dwelling units must be connected to public water and sewer lines and all electrical and telephone lines in a cluster housing development site shall be placed underground. Proper and adequate access for firefighting purposes, to service areas to provide garbage and waste collection, and for other necessary services shall be provided.
- (7) *Approval of site development plan.* The city council shall approve a preliminary site development plan before rezoning. This plan shall comply with applicable codes and meet reasonable standards of safety, health, welfare and morals.

#### CHAPTER 115. - R-2 TWO-FAMILY DWELLING DISTRICT

##### Sec. 7.115.010. - Use regulations.

- (a) No building, structure, land or premises in an R-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
  - (1) R-2A: Any use permitted in district R-1.
  - (2) R-2B: Dwellings, two-family.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses customarily incident to the uses listed, including automobile parking areas, private stables and the keeping of livestock and fowl in accordance with section 2.105.140, and not involving the conduct of a business or an industry.

##### Sec. 7.115.020. - Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Same as district R-1.
- (2) *Front yards.* Same as district R-1.
- (3) *Side yards.* Same as district R-1.
- (4) *Rear yards.* Same as district R-1.
- (5) *Width of lot.* Same as district R-1.
- (6) *Lot area.* Every dwelling hereafter erected, moved or altered shall provide a lot area of not less than 8,000 square feet for one-family dwellings and 10,000 square feet for two-family dwellings.
- (7) *Percentage of lot coverage.* All buildings, including accessory buildings, shall cover no more than 30 percent of the area of the lot.

## CHAPTER 120. - R-3 GARDEN-APARTMENT RESIDENTIAL DISTRICT

### Sec. 7.120.010. - Use regulations.

- (a) No building, structure, land or premises in an R-3 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
  - (1) R-3A: Any use permitted in district R-2.
  - (2) R-3B: Garden apartment buildings as defined herein.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed and not involving the conduct of a business or industry, including automobile parking areas, garages, or carports.

### Sec. 7.120.020. - Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 35 feet or 2½ stories in height.
- (2) *Front yards.* Same as district R-1.
- (3) *Side yards.* Same as district R-1.
- (4) *Rear yards.* Rear yards shall be not less than 25 feet.
- (5) *Yard between buildings.* There shall be not less than 20 feet between individual buildings constructed on a lot or tract.
- (6) *Lot area per family apartment unit.* Every building or portion of a building hereafter erected, moved or altered shall provide a lot area for one- and two-family dwellings, the same as in district R-2. The minimum lot area for garden apartments shall be 8,000 square feet for the first family apartment unit and an additional 3,000 square feet for each additional family apartment unit in each building; provided that in no instance shall the number of family apartment units within any one building exceed 24. Where a lot or tract of record contains less area than required, at the time of the passage of the ordinance from which this title is derived, this regulation shall not prohibit the erection of a one-family dwelling.
- (7) *Play area.* A play area or areas for recreational use shall be provided in each apartment project and shall be designated as such on the site development plan. The size of such area or areas shall be not less than 20 percent of the total land area in the tract and no area shall be less than ten feet wide at its narrowest dimension. No play area shall be located on any parking lot or driveway. The land devoted to a buffer zone may be included in the calculation of the play area but no area within ten feet of a street, parking lot or driveway may be used in computing the size of the play area unless a barrier is provided which meets reasonable standards of safety, health and appearance, to separate the play area from the street, parking lot or driveway. Provided that nothing contained herein shall authorize the construction or erection of any barrier along the edge of a buffer zone which abuts a street.
- (8) *Buffer zone.* Every tract zoned R-3 which in any way adjoins, abuts or is adjacent to an R-1 or R-P-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts, or if such boundary line is the center of a street, along the edge of the street right-of-way abutting the R-3 district.
- (9) *Lot width.* Same as district R-1. The front of one garden apartment building shall not face the rear of another building.

## CHAPTER 125. - R-4 APARTMENT HOUSE DISTRICT

### Sec. 7.125.010. - Use regulations.

- (a) No building, structure, land or premises in an R-4 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except in compliance with one or more of the following subdistrict uses:
- (1) R-4A: Any use permitted in district R-3.
  - (2) R-4B: Apartment houses, or multiple dwellings.
  - (3) R-4C: Boardinghouses and lodginghouses.
  - (4) R-4D: Fraternity or sorority houses and dormitories.
  - (5) R-4E: Hospitals, sanitariums or homes for convalescents or the aged, other than for the insane or feeble-minded, or alcoholics or drug addicts.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed and not involving the conduct of a business or industry, including automobile parking areas, garages or carports.

### Sec. 7.125.020. - Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 120 feet and shall not exceed ten stories in height and shall be set back from all property lines and street right-of-way lines a distance equal to or greater than the height of the building.
- (2) *Yards.* The distance between buildings and between building and side and rear property lines shall not be less than ten feet, plus five feet for each story of each building over two stories, and a front yard of not less than 35 feet shall be provided.
- (3) *Width of lot.* Same as district R-1.
- (4) *Lot area per family apartment unit.* Every building, or portion of a building, hereafter erected or altered shall provide a lot area for one and two-family dwellings, the same as in district R-2. The minimum lot area for multiple-family dwellings shall be 8,000 square feet for the first family apartment unit and an additional 2,000 square feet for each additional family apartment unit in each building.
- (5) *Play area.* Same as district R-3.
- (6) *Buffer zone.* Every tract zoned R-4 which in any way adjoins, abuts or is adjacent to an R-1 or R-P-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the R-4 district.
- (7) *Parking regulations.* See chapter 180 of this title for parking and loading regulations.



## CHAPTER 130. - C-O NONRETAIL BUSINESS DISTRICT<sup>[2]</sup>

Footnotes:

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**Cross reference**— Business and occupations, title V.

Sec. 7.130.010. - Use regulations.

- (a) No building, structure, land or premises in a C-O nonretail business district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
  - (1) C-OA: Office buildings to be used only for the administrative functions of companies, corporations, or social or philanthropic organizations or societies.
  - (2) C-OB: Other office, limited to the following:
    - a. Accountants.
    - b. Architects.
    - c. Artist studios.
    - d. Brokers.
    - e. Engineers.
  - (3) C-OC:
    - a. Dentists.
    - b. Insurance.
    - c. Lawyers.
    - d. Physicians, osteopaths, chiropractors.
    - e. Real estate.
  - (4) C-OD: Support facilities for the uses permitted in C-OC, including drug dispensing pharmacies and optical shops.
  - (5) C-OE: Mortuaries.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

Sec. 7.130.020. - Performance standards.

- (a) No merchandise shall be handled or displayed, except at mortuaries.
- (b) No equipment, material or vehicle, other than motor passenger cars, shall be stored outside a building in this district.

Sec. 7.130.030. - Height and area regulations.

The height of buildings and the minimum dimensions of yards shall be, except as provided in chapter 175 of this title, as follows:

- (1) *Height.* Same as district R-1.

- (2) *Front yards.* Same as district R-1.
- (3) *Side yards.* Same as district R-1.
- (4) *Rear yards.* Same as district R-1.
- (5) *Bufferyards.* Every tract zoned C-O which in any way adjoins, abuts or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-O district.

#### CHAPTER 135. - C-1 LOCAL BUSINESS DISTRICT<sup>[3]</sup>

##### Footnotes:

--- (3) ---

**Cross reference—** Business and occupations, title V.

##### Sec. 7.135.010. - Use regulations.

- (a) No building, structure, land or premises in a C-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
  - (1) C-1A: Any use permitted in C-O.
  - (2) C-1B: All other professional offices not included in C-O, banks, savings and loan associations, barbershops and beauty shops, optical shops, seamstress and tailoring, interior decorator, photographer and shoe repair shops.
  - (3) C-1C: Post offices, public and privately owned utility offices and schools.
  - (4) C-1D: Shops and stores for retail sale of notions, automotive supplies (excluding wholesale automotive supplies and automotive services), gifts, novelties, jewelry, printed materials, flowers, tobacco products, photographic equipment, artist and hobby supplies and music supplies.
  - (5) C-1E: Shops and stores for the retail sale of foods and beverages for human consumption, soft goods such as clothing and shoes, drugs and cosmetics, furniture and appliances, hardware and paint, kitchenware, toys and sporting goods and antiques.
  - (6) C-1F: Eating establishments, dry cleaning and laundry (pickup or coin-operated) and businesses providing drive-up window service.
  - (7) C-1G: Bakeries and doughnut shops (including wholesale sales) employing less than five persons. The number of persons employed shall mean the number of regular employees working or on duty at any given time at any such bakery or doughnut shop.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

##### Sec. 7.135.020. - Performance standards.

- (a) No wholesale sales shall be conducted except as provided in section 7.135.010.
- (b) All products shall be sold and all services rendered inside a building.
- (c) Coin-operated vending machines shall be limited to those which are accessory to a permitted main use of the premises.

- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (e) Sales and consumption of alcoholic beverages and nonintoxicating beer shall be allowed in zone C-1, subject to all applicable regulations and such permits as may be required by law or ordinance.

[The following subsections (f)—(j) apply to nonchartered payday and title loan businesses:]

(f) *Definitions.*

*Payday loan business* means the business of making loans for a period of 30 days or less in duration, intended to coincide with the period from one payday of the borrower to the next, and in principle amounts of \$500.00 or less.

*Title loan business* means the business of lending money with the pledge of personal property as collateral, evidenced by a certificate of title issued by the state, and regulated under RSMo 367.500—367.533, as from time-to-time amended.

- (g) *Nonconforming use.* A nonconforming use of land existing lawfully at the time of the enactment of this section may be continued, but shall not be extended, expanded or enlarged. Those businesses that were in legal operation at the same location as of the effective date of this ordinance shall be considered as legal nonconforming uses. An existing business shall be one that has been in continuous operation under the same business name and ownership from and after the date of enactment of this section.
- (h) *Separation requirements.* No permit shall be issued for any payday or title loan business that is located within 5,280 feet of any other payday or title loan business, or within 200 feet of any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances shall be measured from or to the outer wall of the payday or title loan business, and from or to the property line of the property containing the residential use. The minimum separation distances shall be measured from any payday or title loan business or residence, located within the city limits of Gladstone or outside and immediately adjacent to the city limits. This separation provision shall not apply to an existing business that has been in continuous operation at the same location and under the same business name and ownership from and after the date of enactment of this section.
- (i) *Buildings where located.* Each payday and title loan business shall be located within a multi-tenant commercial building, housing not less than four separate occupancies.
- (j) *Penalty.* Any violation of any provision of subsections (f) through (j) of this section by a person or business shall be subject to the penalties, fines and enforcement provisions set forth in section 7.100.070 of this Code.

Sec. 7.135.030. - Height and area regulations.

The height of the buildings and the minimum dimensions of the yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 2½ stories and shall not exceed 35 feet.
- (2) *Front yard.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-1 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined

herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-1 district.

- (6) *Parking regulations.* See chapter 180 of this title for off-street parking and loading regulations.

#### CHAPTER 140. - C-2 GENERAL BUSINESS DISTRICT<sup>[4]</sup>

##### Footnotes:

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**Cross reference—** Business and occupations, title V. Sec. 7.140.010. - Use regulations.

##### Sec. 7.140.010. - Use regulations.

- (a) No building, structure, land or premises in a C-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, or altered, except for one or more of the following subdistrict uses:
- (1) C-2A: Any use permitted in district C-1.
  - (2) C-2B: Shops and stores for the sale, at retail or wholesale, of department store merchandise, newspapers, books and stationery supplies.
  - (3) C-2C: Shops and stores for the sale, at retail or wholesale, of automotive supplies and dispensed petroleum products.
  - (4) C-2D: Services such as clubs, radio and television broadcasting studios, indoor public or private entertainment and recreational places, hotels and motels, and places where alcoholic beverages are served.
  - (5) C-2E: Dry cleaning, laundries, appliance and small equipment repair, printing, and publishing.
  - (6) C-2F: Places of public assembly, public parking lots and transportation terminals.
  - (7) C-2G: Pet shops and small animal hospitals.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses incident to the uses listed.

##### Sec. 7.140.020. - Performance standards.

- (a) Sales and consumption of liquor and nonintoxicating beer shall be allowed in zone C-2, subject to all applicable regulations and such permits as may be required by law or ordinance.
- (b) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (c) No bulk storage of combustible liquids with a flashpoint less than 200 degrees Fahrenheit shall be permitted.
- (d) Pet shops and small animal hospitals shall be enclosed in a soundproofed and air conditioned building without outside pens. There shall be no smoke or odor caused by the operation of this facility that shall be perceptible at the boundaries of the premises. Performance of activities of the pet shops and small animal hospitals shall not create noise outside the soundproofed building, in excess of that normal daily traffic measured at the lot line.

- (e) With the exception of retail sales of petroleum products at the pump, all products shall be displayed and sold inside a building and all services shall be rendered inside a building.

Sec. 7.140.030. - Height and area regulations.

The height of buildings and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* There shall be no limit on the height of buildings if they are set back from all property lines and street or highway lines a distance equal to or greater than the maximum height of the surrounding buildings.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet required.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-2 which in any way adjoins, abuts or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-2 district.

CHAPTER 145. - C-3 COMMERCIAL DISTRICT<sup>[5]</sup>

Footnotes:

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**Cross reference**— Business and occupations, title V.

Sec. 7.145.010. - Use regulations.

- (a) No building, structure, land or premises in a C-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except in compliance with one or more of the following subdistrict uses:
- (1) C-3A: Any use permitted in district C-2.
  - (2) C-3B: Shops, stores, and yards for the sale at retail or the rental of automobiles, trucks, boats, trailers, building supplies, and lawn accessories. Shops and stores for the retail or wholesale sale of automotive equipment, construction equipment and farm equipment.
  - (3) C-3C: Services such as automobile repair and washing, farm machinery repair, general repair and fix-it shops, frozen foods, including lockers.
  - (4) C-3D: Drive-in theaters, swimming pools, and businesses where outside waitress (carhop) service is provided.
  - (5) C-3E: Nurseries and greenhouses.
  - (6) C-3F: Bakeries and pop bottling.
  - (7) C-3G: Manufacture or assembly of products to be sold only at retail on the premises.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses incident to the uses listed.

Sec. 7.145.020. - Performance standards.

- (a) Sales and consumption of alcoholic beverages and nonintoxicating beer shall be allowed in zone C-3, subject to all applicable regulations and such permits as may be required by law or ordinance.
- (b) Any manufacturing or assembly of products as permitted above shall be entirely within a totally enclosed building.
- (c) Coin-operated vending establishments of all products and services shall be permitted provided all lights are shielded from or directed away from adjoining residential property.
- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (e) All uses providing goods for display or sale outside of the primary building shall:
  - (1) Comply with required setback lines for all goods being displayed or sold in accordance with section 7.145.030;
  - (2) Provide customer and handicap parking in accordance with chapter 180 of this title;
  - (3) Provide customer parking for all outdoor display at a ratio of one space per every 1,000 square feet of display area;
  - (4) Provide internal traffic flow patterns and unobstructed fire lanes in accordance with chapter 180 of this title and the adopted fire code;
  - (5) Ensure that all vehicular entrances are entirely unobstructed or permanently closed in accordance with city specifications; and
  - (6) Not display any banners, balloons, flags, streamers or other attention-getting devices.
- (f) In planned districts, a site plan revision application shall be submitted for situations which propose to change a use from being conducted primarily within an enclosed building to a use which contains a yard or other outdoor display. In standard zoning districts, a variance application must be submitted for any change of use from business being conducted primarily within an enclosed building to a business use which contains a yard or other outdoor display as a part of the regular and ongoing business conducted on the premises unless the business use complies with all of the performance standards set forth in this section. A use on the property shall be considered to be conducted primarily outside an enclosed building when the square foot area occupied by items offered for sale on the premises outside of the enclosed building exceeds the square foot area of indoor display or if the proceeds from the sale of goods and services displayed or performed outside the enclosed building exceed 50 percent of the gross income generated from the sale of goods and services on the premises.

Sec. 7.145.030. - Height and area regulations.

The height of buildings and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* There shall be no limit on the height of buildings if they are set back from all property lines and street or highway lines a distance equal to or greater than the maximum height of the buildings.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.

- (5) *Buffer zone.* Every tract zoned C-3 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-3 district.

#### CHAPTER 150. - C-4 SMALL WAREHOUSE AND STORAGE DISTRICT<sup>[6]</sup>

##### Footnotes:

--- (6) ---

**Cross reference**— Business and occupations, title V.

##### Sec. 7.150.010. - Use regulations.

No building, structure, land or premises in a C-4 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following use:

C-4A: Businesses commonly known as "miniwarehouses," for the storage of items of personal property in individual storage units.

##### Sec. 7.150.020. - Performance standards.

- (a) No retail or wholesale sales shall be conducted.
- (b) No manufacturing of any kind shall be permitted in this district.
- (c) The storage area shall be entirely enclosed by a protective fence or other permanent structure at least eight feet in height, and such protective enclosure shall be maintained by locked gates, or entrances, when the storage area is not tended by a qualified and responsible person. Gates will be locked when the attendant retires each evening and when the attendant is absent from the premises.
- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside the building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- (e) Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
- (f) All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
- (g) All lights shall be shielded to direct light onto the uses established and away from adjacent property, but it may be of sufficient intensity to discourage vandalism and theft.
- (h) All storage on the property shall be kept within an enclosed building.
- (i) No activities such as miscellaneous or garage sales shall be conducted on the premises.
- (j) The servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall not be conducted on the premises.
- (k) All areas not paved as required by subsection (f) of this section shall be landscaped with deciduous and coniferous plant materials. The landscaping plan shall be approved by the Community Development Department. Maintenance of the landscaping shall be sufficient to maintain it in good condition.
- (l) The area shall be properly policed by the owner or operator for removal of trash and debris.

- (m) The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles are part of such business.
- (n) A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
- (o) Such other conditions shall be required as the city council shall deem necessary to provide for orderly development.

Sec. 7.150.030. - Height and area regulations.

The height of the buildings, the minimum dimensions of the lots and yards, and the minimum lot area permitted on any lot shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed one story and shall not exceed 18 feet.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required, except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yard.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-4 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-4 district.

CHAPTER 155. - M-1 LIGHT INDUSTRIAL DISTRICT<sup>[7]</sup>

Footnotes:

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**Cross reference**— Business and occupations, title V.

Sec. 7.155.010. - Use regulations.

- (a) No building, structure, land or premises in an M-1 light industrial district shall be used, and no building or structure shall be hereafter erected, constructed, moved or altered except in compliance with one or more of the following subdistrict uses:
  - (1) M-1A: Distribution centers, warehouses, packaging and shipping enters, storage buildings and motor freight depots.
  - (2) M-1B: Laboratories and testing centers.
  - (3) M-1C: Manufacture, processing or assembly of office equipment, leather and plastic products, toys, household appliances, paper products and mobile homes.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the use listed.

Sec. 7.155.020. - Performance standards.

- (a) No use shall be permitted or operated that produces or emits noise, concussion, vibration, heat, glare, odor, noxious gas, dust or fly ash that is perceptible at the property line. All uses must comply with the Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area as set forth by the state air conservation commission.



- (b) Any use located in district M-1 shall be completely enclosed within a building, and any open lots for storage shall be so screened that the operation shall not be visible from any point off the property, at eye level.

Sec. 7.155.030. - Height and area regulations.

In district M-1, the height of structures and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed two stories or 40 feet in height.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned M-1 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the M-1 district.

CHAPTER 160. - P PLANNED DISTRICTS

Sec. 7.160.010. - Generally.

- (a) A planned district shall be for the purpose of permitting and regulating the uses previously cited in this title, and shall provide latitude and flexibility in location of buildings, structures, open spaces, play areas, parking, roads, and drives, and variations in setback and yard requirements. The planning commission shall consider each plan and make its recommendations to the city council, which shall then make a determination as to approval of the plan.
- (b) The site development plan must present a unified and organized arrangement of buildings and service facilities which shall have a functional relationship to the property comprising the planned development and the development shall not materially injure the property and the uses of the properties immediately adjacent to the proposed development.
- (c) Where zoning is changed based upon a preliminary plan, the final plan must be in substantial conformity with the preliminary plan. Substantial compliance shall permit slight variations in setbacks, yard and parking requirements, location and size of buildings, and ratios of building coverage to land area where conditions justify such changes. In the event there is more than a slight change in the plan, the plan must be resubmitted to the planning commission and reapproved by the city council.
- (d) Land may be zoned as district P (planned districts) by the city council on its own motion, without a site development plan, whenever it is felt that such land would be better developed or fulfill the intent of the city's land use and comprehensive plan development. The owner or developer of such land designated as district "P" (planned district) by the council shall submit a site development plan to the planning commission which must be approved by the city council before the land may be developed.

Sec. 7.160.020. - Use regulations, requirements and standards.

The uses permitted in any planned district shall be the same as in the corresponding regular district. The requirements and standards found in corresponding regular districts shall apply to planned districts and subject to the variances provided for in section 7.160.010.

## CHAPTER 161. - MXD PLANNED MIXED USE DISTRICT

### Sec. 7.161.010. - General purpose and description.

The zoning of property to MXD planned mixed use district is intended to encourage sustainable neighborhoods with a mixture of land uses, independently or when combined with adjacent mixed use zoned areas, which create a distinctive and unique sense of place. This district is expected to have a pedestrian orientation with a mixture of residential, office and retail uses in closer proximity to one another than would be possible in conventional zoning districts. The district may be appropriate in locations the comprehensive plan recommends higher densities in mixed-use developments and to implement policies for reuse and development of vacant or underutilized commercial parcels and corridors. Proposals for MXD may be eligible for rezoning if they incorporate design principles, including an interconnected street network to disperse traffic and provide convenient routes for pedestrians and bicycles, high-quality civic spaces, compact development resulting in a walkable urban environment and diversity in building types and land uses.

### Sec. 7.161.020. - Use of this district.

The MXD differs from other districts within the city in that it is a development district intended to guide the physical form of buildings, provide a mix of uses in close proximity to each other in a higher density urban environment. To accomplish the purpose and objectives of this district the following components shall be provided by an applicant seeking this zoning classification or development within this district which will supplement the standards and guidelines provided in this chapter.

- (a) *Regulating plan.* A tract of land may be zoned MXD only upon approval of a regulating plan, which shall be included as part of the zoning application. The plan shall identify various zones, mix of uses, and the character of each zone typically specific to each block or lot in the district. This may include an illustrative plan showing buildings and preliminary designs for streets and civic spaces for each block or lot. The regulating plan dictates where additional standards may apply as part of the next two sections.
- (b) *Development standards and guidelines.* The MXD provides common development standards and guidelines applicable to all areas zoned MXD. In addition, the MXD regulating plan may include additional requirements and guidelines specific to a particular area and/or use. The development standards and guidelines may include but shall not be limited to: building design and character, thoroughfare standards, open space and civic space, parking, lighting, signage, landscaping, among others.
- (c) *Building envelope standards.* The building envelope standards establish parameters for the desired building envelope within each zone. The standards address the relationship of buildings to streets, public spaces, and adjacent development by establishing building heights, setbacks, required transitions, and other requirements based on the character area.

### Sec. 7.161.030. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings associated to them:

*Accessory dwelling* means an apartment not greater than 600 square feet sharing ownership and utility connections with the principal building. The dwelling may or may not be within an outbuilding.

*Building envelope* means the three-dimensional area enclosed by the front, side and rear building lines and the maximum height and bulk regulations.

*Civic space* means an outdoor area dedicated for public use.

*Liner building* means a building specifically designed to mask a parking lot or a parking garage from a frontage.

*Live-work* means a dwelling unit that contains, to a limited extent, a commercial component. A live-work unit is a unit on its own lot with the commercial component limited to the ground level.

Sec. 7.161.040. - Permitted/prohibited uses and intensity of use.

Mixed use districts are expected to include a mix of residential, office and commercial uses, either within an individual property zoned MXD or as part of a larger area of similarly zoned properties. A mix of uses is encouraged within each zone of the regulating plan and may be required in some locations, as specified in this section. Allowed uses are subject to the standards in section 7.161.050, general development standards and guidelines, and other standards established with zoning approval.

The size, location, appearance and method of operation may be specified to the extent necessary to insure compliance with the purpose of this district. After approval of the MXD, uses may be added, changed or deleted by amendment. The procedure for considering an amendment shall be the same as for the original adoption. Permitted uses include the following, unless otherwise modified or prohibited by the ordinance granting an MXD planned mixed use district:

- (a) *Permitted uses.*
  - (1) Any use permitted in district C-2.
  - (2) Live-work spaces.
  - (3) Multiple-family dwellings.
  - (4) Two-family dwellings.
  - (5) Single-family dwellings.
  - (6) Accessory dwelling unit.
  - (7) Any other use established by the ordinance granting an MXD planned mixed use district.
- (b) *Special uses.* The following uses shall be prohibited unless specifically granted in the ordinance approving the MXD, or upon amendment to the ordinance approving the MXD, including findings with a preponderance of evidence indicating the proposed use is consistent and compatible with the character and intent of the MXD and can be incorporated as part of a broader mix of uses supporting an active pedestrian urban environment.
  - (1) Automotive supplies and dispensed petroleum products.
  - (2) Parking structures as a primary site use.
  - (3) Drive-up and drive-thru services. When permitted, such facilities shall be integrally designed into the development. The drive-thru lane and drive-thru window shall not be located where visible from the public street or private drive network; or as specifically granted in the ordinance approving the MXD.
- (c) *Outdoor eating and drinking.* Outdoor areas for eating and drinking shall be permitted and are encouraged as part of the development design. Any such outdoor areas shall be designated on a final development plan. When located on public right-of-way such areas may be subject to a right-of-way maintenance agreement.

Sec. 7.161.050. - General development standards and guidelines.

Unless otherwise approved by the city council, development within the MXD zoning district shall comply with the following common development standards and guidelines provided in this section. Additional regulations for each separate MXD shall be set forth in the ordinance granting the MXD. The regulating plan may include other requirements as the city council may deem appropriate. The MXD shall conform to all other sections of this title unless specifically exempted in the ordinance granting the MXD.

- (a) *Sustainable design and construction.* The design and construction of new buildings and site improvements are expected to incorporate low impact development practices that increase pedestrian and bicycle accommodations, reduce storm water runoff and pollution, reduce wastewater and increase water reuse, reduce light pollution, increase building water and energy efficiency, and similar sustainable best practices. The design approach to achieve such practices shall be detailed with plans and components submitted with the MXD zoning application and site plan approvals.
- (b) *Building height.* No maximum height, provided that the height of buildings shall be as established by the MXD building envelope standards. At least 50 percent of the total floor area (excluding structured parking) shall be located above the ground floor, with the exception of auditoriums, conference facilities, theaters, and other similar uses.
- (c) *Setbacks.* The requirements regulating setbacks shall conform to the following, unless otherwise approved by the city council as a part of the building envelope standards. Additionally, during the rezoning approval process the city council may require additional setbacks if it is determined that such setback is necessary to provide adequate open space, access to light and air, a healthful living environment, prevent visual obstruction of adjoining properties, or to ensure compatibility with existing adjacent development.
  - (1) *Front yard setback.* No minimum requirement. The front yard setback shall be established as shown on the approved MXD plans.
  - (2) *Side yard setback.* No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD abuts.
  - (3) *Rear yard setback.* No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD abuts.
- (d) *Public open space/civic space.* Formal and informal areas of usable outdoor open spaces are required. These serve as areas for community gatherings, landmarks, and as organizing elements for the neighborhood. Usable open space includes squares, plazas, greens, preserves, parks, and greenbelts.
- (e) *Vehicular and pedestrian network.* An interconnected network of pedestrian and bicycle facilities shall be integrated into the overall development and street design. The design of streets shall include adequate right-of-way to create safe and well-furnished pedestrian and bicycle corridors in the public streetscape. The following shall also apply:
  - (1) An interconnected network of streets shall be required. Dead-end streets, including cul-de-sac streets, are prohibited unless determined with the MXD plan approval that the most desirable plan requires laying out a dead-end street.
  - (2) The roadway designs used within the different areas of an MXD may vary depending on the proposed function of the roadway, the anticipated adjacent land uses, the anticipated traffic load, and appropriate accommodations for pedestrian and bicycle facilities as directed by the Community Development Director. Streets in an MXD may be narrower than in conventional development, as well as more varied in size and form to control automobile traffic and give character to the district or neighborhood. A variety of unique and innovative roadway designs that lend character to the neighborhood and provide safe pedestrian and bicycle facilities are required.
  - (3) The streetscape design shall be consistent with city standards for mixed-use districts, and include sidewalks, landscaping and street trees, pedestrian lighting, and other pedestrian amenities and furnishings such as benches, trash receptacles, bicycle racks, and similar elements contributing to the character of the area.
  - (4) Residential driveway access from a lot to an alley or lane in an MXD is permitted and preferred. Driveway access from a lot to a street is permitted, subject to architectural

design and setback requirements detailed with development plan approvals. Where garage access is from the street, special architectural and setbacks are required to ensure the garage is not the dominant building feature.

(f) *Reserved.*

(g) *Vehicular and bicycle parking.* Off-street parking and loading requirements for each separate MXD planned mixed use district shall be as set forth in chapter 180 and chapter 195 unless otherwise modified by the ordinance granting the MXD.

- (1) *Required parking—Reductions.* The city council may reduce the parking and loading requirements set forth by chapter 180 after considering documentation and/or study provided by the applicant, staff's recommendation, and giving decisive weight to all relevant facts including, but not limited to the following factors: availability and accessibility of alternative parking; the availability of existing or planned transit services; the availability of bicycle parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.
- (2) *Shared parking.* Shared or community parking areas shall be required. Off-street parking areas shall be small in scale and divided into surface parking lots not to exceed 50 parking spaces, unless otherwise approved by the city council.
- (3) *On-street parking.* On-street parking spaces on public and private streets may be counted towards the required off-street parking, provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. Such on-street parking spaces must be identified on plans at the time of submittal to the city.
- (4) *Maximum parking.* Grade level parking allowed per use or per project shall not exceed the minimum parking required for such use. Any new parking facility with a capacity exceeding 200 spaces shall accommodate no more than 50 percent of the total parking at grade level.
- (5) *Parking location.* Surface parking shall be located behind and/or to the side of buildings. No parking areas shall be located between the front of a building and the street toward which the building faces. Unless otherwise approved by the city council, no open parking areas shall be located closer than 15 feet to a street right-of-way, or no closer than ten feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six feet above the finished grade, shall comply with the setback regulations of the main building.
- (6) *Parking lot screening.* All surface parking areas visible from the street right-of-way shall be screened with landscaping in combination with a low masonry wall or ornamental fence, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood. Landscaping shall be located between the wall or fence and the public right-of-way, sidewalk, or boundary. Walls, fences, and landscaping shall not exceed 3.5 feet in height to adequately screen most vehicle headlights while maintaining clear visibility into and out of the parking area.
- (7) *Parking structures.* No parking structures shall have any façade on any public street, unless providing a liner building of retail, office, or residential use at the street level along the entire street frontage. All visible sides of parking structures shall be constructed with similar materials as the main building.
- (8) *Bicycle parking.* In order to encourage the use of bicycles, safe and convenient bicycle parking shall be required for development in the MXD. At least one bicycle parking space shall be required for each ten automobile parking spaces required in chapter 180. Bicycle parking must be provided by bicycle racks or lockers that are anchored so that they cannot be easily removed. Unless otherwise approved by city council, bicycle parking must be located within 50 feet of an entrance to the building.

- (h) *Service and loading areas.* All service and loading areas shall be entirely screened from view. Loading docks and overhead doors shall be incorporated into the building design and screened or located in a manner to not be visible from public streets.
- (i) *Signage.* Sign standards including the location, height, size, materials and design of all proposed signage shall be established by the MXD plans and set forth in the ordinance granting the MXD.

#### Sec. 7.161.060. - Procedures.

The procedure for establishing an MXD shall follow the procedure for zoning amendments as set forth in section 7.100.060. In addition, the following information shall be submitted with each application:

- (a) Regulating plan (as described in subsection 7.161.020(a)).
- (b) Development standards and guidelines (as described in subsection 7.161.020(b)).
- (c) Building envelope standards (as described in subsection 7.161.020(c)).
- (d) Preliminary development plan. A tract of land may be zoned MXD only upon approval of a preliminary development plan. In addition, an approved final development plan shall be required for development in the MXD. The preliminary plan process shall be consistent with chapter 160 of this title.
- (e) Final development plan. Upon approval of the MXD preliminary development plan and the rezoning of the property by the city council, a final development plan for the project shall be prepared and submitted for recommendation by the planning commission. Permits for construction shall not be issued until final development plans have been reviewed and approved. It is the intent of this chapter that building permits and the development project, as constructed, shall conform to the approved final development plan. The final plan process shall be consistent with chapter 160 of this title.

#### CHAPTER 165. - SPECIAL USE PERMITS

##### Sec. 7.165.010. - Specific uses requiring permits; compliance generally with regulations.

Any of the following uses may be located in any district, if after public hearing and after consideration and recommendation by the planning commission, such use is approved by the city council and a special use permit issued by it, under such conditions as to operation, site development, parking, signs and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of neighboring property, and will conform to the general intent and purpose of this title. Procedure and fees shall be as established by section 7.100.060. Such uses shall comply with the height and area regulations of the district in which they may be located, except that radio, television and microwave towers and drive-in theater screens may exceed such height regulation:

- (1) Cemeteries, mausoleums and crematoriums for disposal of the human dead.
- (2) Private clubs, including fraternal orders, golf courses and country clubs.
- (3) Dancehalls, nightclubs and taverns.
- (4) Boarding operations for animals.
- (5) Golf driving ranges.
- (6) Motels and motor hotels.
- (7) Raising of livestock and poultry not complying with section 2.105.140.
- (8) Reservoirs, wells, towers, filter beds or water supply plants.

- (9) Private and riding stables and tracks.
- (10) Sewage, refuse and garbage disposal landfills.
- (11) Swimming pools, other than those used only in connection with a single-family dwelling or multifamily development.
- (12) Buildings, structures and premises for public utility services, or public service corporations, which buildings or uses the council, after report to the planning commission, deems reasonably necessary for public convenience or welfare.
- (13) Golf courses, baseball fields and other privately owned recreation areas.
- (14) Nursery schools or preschools.
- (15) Special driving instructional schools and training centers.
- (16) Any other use whether or not specifically assigned to a particular district and generally required to be located in a district higher than that which is deemed appropriate by the city council may be located in a lower use district under the same guidelines, restrictions and procedures as the above uses.

## CHAPTER 166. - COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES

### Sec. 7.166.010. - Purpose.

The general purpose of this chapter is to regulate the placement, construction and modification of telecommunications towers, support structures, and antennae in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace within the corporate boundaries of Gladstone. Specifically, this chapter is intended to:

- (1) Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of Gladstone;
- (2) Minimize adverse visual impacts of communications antennae and support structures through the use of careful design, siting, landscape screening and innovative camouflaging techniques;
- (3) Maximize the use of existing and new support structures so as to minimize the need to construct new or additional facilities;
- (4) Maximize the co-location of facilities on any new support structures and facilitate the fewest and least visible new structures capable of achieving these objectives;
- (5) Ensure that any new telecommunications tower or structure is located in an area compatible with the neighborhood or surrounding community to the extent possible;
- (6) Ensuring that regulation of telecommunications towers and structures does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service.

### Sec. 7.166.020. - General requirements.

The requirements set forth in this section shall be applicable to all telecommunications towers, antennae and other support structures installed, built or modified after the effective date of ordinance from which this chapter is derived to the full extent permitted by law.

- (1) *Principal or incidental use.* Antennae and support structures may be either a principal use in all zoning districts or an incidental use to institutional or nonresidential uses, subject to any applicable district requirement relating to yard or setback. An incidental use subject to a

leasehold interest of a person other than the lot owner may be approved for a tower only if the leasehold area separately meets all requirements of access, parking, and lot size applicable to the primary use in the district in which the use is proposed.

- (2) *Building codes, safety standards, and zoning compliance.* To ensure the structural integrity of antenna support structures, the owner shall assure that it is constructed and maintained in compliance with all standards contained in applicable state and local building codes and the applicable standards published by the current Electronics Industries Association, as amended from time to time. In addition to any other approvals required by this section, no antenna, tower, or support structure shall be erected prior to receipt of a certificate of zoning compliance and the issuance of a building permit.
- (3) *Regulatory compliance.* All antennae and support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures. Should such standards or regulations be amended, then the owner shall bring such devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction or modification of any antenna or structure permitted by this section shall be granted for any applicant having an uncured violation of this section, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory requirement applicable to such antenna or structures within the city.
- (4) *Security.* All antennae and support structures shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build or modify antennae or support structures. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the director and city council in the case of a special use permit.
- (5) *Lighting.* Antennae and support structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the antennae or support structure. Equipment cabinets and shelters may have lighting only as approved by the director or city council on the approved site development plan.
- (6) *Advertising.* Except for a disguised antenna support structure in the form of an otherwise lawfully permitted sign, the placement of advertising on structures regulated by this section is prohibited.
- (7) *Design.*
  - a. Subject to the requirements of the FAA or any applicable state or federal agency, towers shall be galvanized steel, or if painted, a neutral color consistent with the natural or built environment of the site.
  - b. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All equipment shall be either placed underground, contained in a single shelter or cabinet, or wholly concealed within a building.
  - c. Support structures shall not exceed the height limitation of any airport overlay zone as may be adopted by the city or other regulatory agency, but may exceed underlying district height restrictions for buildings and structures, where shown to be necessary, provided that such height restrictions shall be considered by the city in determining the appropriateness of the design and location of the proposed structure under the standards for approval.
  - d. Antennae attached to a building or part of a disguised antenna support structure shall be of a color identical to or closely compatible with the surface to which they are mounted. All other antennae shall be designed to be disguised, or if otherwise permitted, maximally



concealed on or within the support structure. Exposed antennae on "crow's nest" or other visible platforms are prohibited.

- e. All towers shall be surrounded by a minimum six-foot high decorative wall constructed of brick, stone or comparable masonry materials and a landscape strip of not less than ten feet in width and planted with materials, which will provide a visual barrier to a minimum height of six feet. The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the director, or by the city council in the case of a special use permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping shall be required for disguised support structures if needed to implement an approved disguise.
- f. All towers, disguised support structures, and related structures, fences and walls shall be separated from the property line of any adjacent property zoned for a residential use at least a distance equal to the height of the tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half of the height of the tower or structure.
- g. Vehicle or outdoor storage on any support structure site is prohibited, unless otherwise permitted by the zoning.
- h. On-site parking for periodic maintenance and service shall be provided at all antenna or tower locations consistent with the underlying zoning district and the type of antenna or support structure approval granted.

(8) *Shared use.*

- a. *Existing support structures* . Prior to the issuance of any permit to alter or modify any tower existing on the effective date of this Chapter, the owner shall provide to the city a written agreement committing to make said tower available for use by others subject to reasonable technical limitations and reasonable financial terms. Technical limitations regarding disguised support structures shall include limitations as are necessary to maintain the requirements of a disguised support structure. The willful and knowing failure of a structure owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and shall, among other remedies of the city, be cause for the withholding of future permits to the same owner to install, build, or modify antennae or support structures within the city.
- b. *Support structure inventories* . Prior to the issuance of any permit to install, build or modify any support structure, such applicant shall furnish the director an inventory of (1) all of that applicant's and the proposed antenna user's (if the proposed antenna user is different from the applicant) support structures, and (2) all towers owned by any person, located within 1½ miles of the proposed structure. The inventory shall include the structure or antenna reference name or number, the street location, latitude and longitude, structure type, height, type and mounting height of existing antennas and an assessment of available ground space for the placement of additional equipment shelters. Upon being modified, any disguised support structure designed for additional antennas and any tower, shall be placed on the multi-use interest area map for required collocation.
- c. *Shared use required—New support structures*. Any new support structure approved at a height of 60 feet AGL (above ground level) or higher shall be designed and constructed to accommodate at least one additional user unless a larger number is indicated by the response to the notification provisions herein. A written agreement committing to shared use as required by subsection one shall be submitted by the structure applicant. The willful and knowing failure of the owner of a structure built for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this chapter and, among other remedies of the city, shall be cause for the withholding of future permits to the same owner or applicant to install, build or modify antennae or support structures within the

city. The director may waive this requirement for disguised support structures if the applicant submits a written request demonstrating that compliance cannot be achieved without violating one or more of the definitional requirements of a disguised support structure.

- d. *Communications tower multi-use area map* . Any new tower approved within a communication tower multi-use interest area as designated by the map of the same title, shall be designed and constructed to accommodate the number of users indicated by the plan to the extent feasible. The willful and knowing failure of the owner of a tower built for shared use to negotiate in good faith with potential users shall be a violation of this chapter and, among other remedies of the city, shall be cause for the withholding of future permits to the same owner to install, build or modify antennae or towers within the city.
- e. *Notice of tower applications*. Prior to any application for the construction of a new tower or disguised support structure, a copy of the application or a summary containing the height, design, location and type and frequency of antennae shall be delivered by certified mail to all known potential tower users within the city, including but not limited to all companies providing mobile wireless service in the city, and such other persons as may be identified on a schedule prepared and maintained by the director. Proof of such delivery shall be documented with the application to the city. The director may establish a form required to be used for such notifications and establish other procedures consistent with and as may facilitate compliance with this chapter. The director shall, before deciding on the application or forwarding it to the planning commission or council for review, allow all persons receiving notice at least 15 calendar days to respond to the city and the applicant that the party receiving notice be permitted to share the proposed tower or locate within one mile of such area. Where two or more parties seek to locate within one mile of each other, or such other distance as is demonstrated to the director to be reasonable pursuant to the objectives of this chapter, the director shall designate such area as a multi-use interest area on the map. The failure of the receiving party to use this process or respond to any such notice shall be considered cause for denying requests by such party for new towers or structures.
- f. *Appeal of shared use violations*. Any party seeking shared use of a support structure subject to this provision shall after responding to notice of an application, negotiate with the applicant for such use. The applicant may on a legitimate and reasonable business basis choose between multiple requests for shared use on the same tower or structure, and may reject any request where legitimate technical obstacles cannot be reasonably overcome or where the party requesting shared use will not agree to reasonable financial terms. Any party believing that the applicant has breached its duty to negotiate in good faith for shared use shall immediately notify the applicant and the director in writing. The director may reject the application upon a finding that shared use has been improperly denied. A notice of breach of duty shall explain the precise basis for the claim and shall be accompanied by payment of an administrative review fee deposit of \$1,000.00 to the city to be used to offset the cost of review. After the applicant's receipt of the notice, the applicant shall have ten calendar days to provide a written submission to the director responding to the alleged violation of the shared use requirement. If deemed necessary by the director, he/she may engage, at the cost of the party alleging the violation, a neutral, qualified technical consultant to provide an opinion on feasibility or costs of the shared use request. If the director receives a notice alleging a violation of the shared use requirement, the time for a decision on an administrative permit is automatically extended for up to 30 days until the director has determined that the applicant has complied. An application for a new support structure shall not be deemed complete for acceptance until all information necessary for a decision on compliance has been provided by the applicant.

Sec. 7.166.030. - Permitted uses.

The placement of antenna and towers are permitted in all zoning districts only as follows:

- (1) The attachment of additional or replacement complying antennae to any fully conforming support structure or tower provided that (1) additional equipment is located within the existing shelter, (2) no expansion of the compound area or increase in height occurs, and (3) all requirements of this chapter and the underlying zoning ordinance are met.
- (2) The mounting of antennae on any existing building or structure, such as a water tower, provided that the presence of the antennas is concealed by architectural elements or fully camouflaged and concealed by painting a color identical to the surface to which they are attached.
- (3) The mounting of antennae on or within any existing high-voltage electric transmission tower, but not exceeding the height of such tower by more than ten feet.
- (4) The installation of antennae or the construction of a tower or support structure on buildings or land owned by the city following the approval of a lease agreement by the city council.

Applications for uses authorized under this section shall be on forms as may be established by the director with such information as necessary to determine applicability of the specific permitted use and shall be accompanied by a building permit application and such application fees as may be established to reimburse the city its inspection and review costs.

Sec. 7.166.040. - Authorization by administrative permit.

- (a) The placement of antenna and support structures are permitted in all zoning districts by administrative permit approved by the director only as follows:
  - (1) The attachment of additional or replacement antennae, cabinets or shelters to any nonconforming support structure existing on the effective date of this chapter or subsequently approved in accordance with these regulations and not satisfying the requirements for such attachment pursuant to section 7.166.030(1) as long the applicant provides documentation from which the director can reasonably determine that the application will bring the support structure (including ground equipment, and site) into conformance with this chapter to the maximum extent feasible. A "nonconforming support structure" shall be any support structure that does not comply with all of the requirements of this chapter, including but not limited to the general requirements herein and the requirements of the underlying zoning district.
  - (2) The one-time replacement of any tower existing on the effective date of the ordinance from which this chapter is derived or subsequently approved in accordance with these regulations so long as the purpose of the replacement is to accommodate shared use of the site or to eliminate a safety hazard and the new structure otherwise complies with this chapter. The new tower shall be of the same type as the original except that a guyed or self-supporting (lattice) tower shall be replaced by a monopole. The height of the new tower may exceed that of the original by not more than 20 feet. Subsequent replacements shall require the approval of a special use permit.
  - (3) The construction of a disguised support structure provided that all related equipment shall be placed underground or concealed within the structure when the structure is located in any district other than a district authorizing industrial uses as a permitted use.
  - (4) The placement of dual polar panel antennae on wooden or steel functioning utility poles not to exceed 40 feet in height in any residentially zoned district and on any such poles (or functional replacement poles of no greater height) existing in any other district on the date of adoption of this chapter. All related equipment for antennae permitted by this subsection shall be wholly contained in an underground cabinet or vault.

- (5) Towers erected and maintained for a period not to exceed 45 days for the purpose of replacing an existing tower, testing an existing or proposed network, or special events requiring mobile towers.
- (b) Application procedures. Applications for administrative permits shall be made on the appropriate forms to the director and accompanied by a deposit of \$2,500.00, or such other deposit amounts as may be established by the city council. The deposit shall be used to cover administrative costs and any telecommunications or other consulting fees or costs that the city may incur in review of the application. Any amount not used by the city shall be refunded to the applicant upon written request after a final decision. Applicant shall submit along with its completed application form:
  - (1) A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating all existing and proposed improvements including buildings, drives, walkways, parking areas and other structures, public rights-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the existing or proposed tower.
  - (2) The application shall be reviewed by the director to determine compliance with the above standards and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.
  - (3) In reviewing an application, the director may require the applicant to provide additional information, including technical studies, and/or may require applicant to pay in addition to the cost of such studies if to be performed by the city, if reasonably necessary to assess whether the standards for approval are satisfied. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.
  - (4) The director shall issue a decision on the permit within 45 days of the date a complete application has been received or the application shall be deemed approved unless the time period for review and action is extended in writing by the director or council for reasonable cause. The director may deny the application or approve the application as submitted or with such modifications as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with and to effect the purposes of this section. The director may consider the purposes of this section and the factors established herein for granting a special use permit as well as any other considerations consistent with the chapter. A decision to deny an application shall be made in writing and state the specific reasons for the denial.
  - (5) Appeals resulting from the decision of the director shall be made to the board of zoning adjustment in writing not later than ten days after such decision.

Sec. 7.166.050. - Special use permit required.

All proposals to install, build or modify an antenna or support structure not permitted by section 7.166.030 (permitted uses) or section 7.166.040 (administrative permit), shall require the approval of special use permit following a duly advertised public hearing by the planning commission and city council, subject to the following limitations.

- (1) *Applications.* Applications for special use permits shall be filed and processed subject to the requirements of and in the manner and time frame as otherwise established in the zoning code. A decision shall be accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter presented during the public hearing by the applicant or others.
- (2) *Additional minimum requirements.* No special use permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of an antenna or support structure pursuant to section 7.166.030 (permitted uses) or section 7.166.040 (administrative

permits) is not technologically or economically feasible. The city may consider current or emerging industry standards and practices, among other information, in determining feasibility.

(3) *Findings required.* In addition to the determinations or limitations specified herein and by section 7.165.010 of the zoning code for the consideration of special use permits, no special use shall be approved by the city council unless findings in the affirmative are made that the following conditions exist:

- a. That the proposed tower is not and cannot be located within a communications tower multi-use interest area as designated by such map, or if so located, meets the co-location requirements of this section.
- b. No existing towers, structures or buildings within the necessary geographic area for the applicant's tower meet the applicant's necessary engineering requirements considering (1) height, (2) structural strength, (3) resulting signal interference, (4) feasibility of retrofitting, (5) feasibility of redesigning the applicant's tower network, or (6) other limiting conditions that render towers, structures or buildings within the applicant's required geographic area unsuitable.
- c. That the design of the tower or structure, including the antennae, shelter and ground layout maximally reduces visual degradation and otherwise complies with the provisions and intent of this section. New towers shall be of a monopole design, unless it is shown that an alternative design would equally or better satisfy this provision.
- d. That the proposal minimizes the number and/or size of towers or structures that will be required in the area. Where alternate technology or design exists or is reasonably available that would satisfy the general need for the proposal, this factor is ordinarily not satisfied.
- e. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this chapter or otherwise.
- f. That no land owned by any agency of the federal or state government, or by any political subdivision of the state, is available for locating the structure or tower.
- g. The city may require, at the expense of the petitioner, any additional studies or the hiring of an external consultant, including technical and legal services, to review exhibits and/or other requirements in accordance with this section.

Provided, that if one, but not more than one, of the first six determinations is not satisfied, approval may be granted only on a finding of unique circumstances otherwise necessitating approval to satisfy the purposes of this section.

(4) *RF engineer certification required.* Applications for a new tower structure shall be considered only after a letter, certified by a radio frequency engineer under oath, stating that the planned telecommunication equipment cannot be accommodated on an existing or already approved transmission tower and providing facts (including (1) all alternatives considered and (2) precise cost estimates where cost is a basis for the determination) clearly demonstrating one or more of the following conditions:

- a. Planned telecommunications equipment would exceed the structural capacity of an existing or approved transmission tower, and the transmission tower cannot be reinforced to accommodate planned telecommunication equipment at a reasonable cost;
- b. Planned telecommunications equipment will cause radio frequency interference with other existing or planned telecommunications equipment for that transmission tower and the interference cannot be prevented at a reasonable cost;
- c. Existing or approved towers do not have space on which the planned telecommunications equipment can be placed so it can function effectively and at least in parity with other similar telecommunications equipment in place or approved by the City and Kansas City, Missouri or other area jurisdictions; or

- d. Other reasons that make it impractical and not feasible to place the telecommunications equipment planned by the applicant on an existing and approved transmission tower.
- (5) *Additional height limitations.* No tower shall be approved at a height exceeding 150 feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the tower. Such showing must also be supported by the opinion of a telecommunications consultant hired by the city at the expense of the applicant. The opinion of the consultant shall include a statement that no available alternatives exist to exceeding the height limit or the reason why such alternatives are not viable.

Sec. 7.166.060. - Obsolete noncomplying tower structures.

Any upper portion of a tower which is not occupied by active antennae for a period of 12 months, and any entire tower which is not so occupied for a period of six months, shall be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single unit shall not be required. Failure to comply with this provision shall constitute a nuisance that may be remedied by the city at the tower or property owner's expense. Any applicant for a new tower or disguised structure not built as disguised part of another existing or permitted structure shall place a bond or other security with the city prior to any final approval for the purpose of removing any tower or disguised structure as required herein and to compensate the city for performing proper maintenance of such towers or disguised structures to ensure such structures do not become unsafe or otherwise fail to be maintained in compliance with this chapter. The bond or security shall be in the form approved by the community development department, and in the amount of \$15,000.00, or such other amount as is determined by the director to satisfy the requirements hereof with regard to the specific tower or structure to which it would apply.

Sec. 7.166.070. - Commercial operation of unlawful tower or antennae.

Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any antenna, tower or disguised support structure in violation of any provision of this chapter, regardless of whether such antenna or structure is located on land owned by a governmental entity.

Sec. 7.166.080. - Penalty.

Any person violating this provision shall be subject to a fine of not more than \$500.00 or 90 days in jail or both. Each day the violation continues shall constitute a separate offense.

Sec. 7.166.090. - Definitions.

As used in this Section, the following terms shall have the meanings and usages indicated:

*Antenna* means any device that transmits and/or receives radio waves for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications. The term shall exclude satellite earth station antennae less than two meters in diameter (mounted within 12 feet of the ground or building-mounted) and any receive-only home television antennae.

*AGL* means above ground level. Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

*Cabinet* means a structure for the protection and security of communications equipment associated with one or more antennae where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet by six feet, and vertical height that does not exceed six feet.

*Communication tower multi-use interest area* means an area as designated by the map of the same title indicating general locations in which more than one wireless service provider may potentially seek to

locate an antenna facility and in which the construction of co-locatable towers will be required. The map may be periodically revised in response to new information received regarding tower sites sought by wireless providers. A multi-use interest area shall be designated as appropriate for towers within one mile of each other, unless the applicant demonstrates to the contrary. The multi-use interest area map shall include the area within the city limits and within 1½ miles of its corporate boundaries.

*Director* means the Community Development Director of the City or his/her designee.

*Disguised support structure* means any free-standing, man-made structure designed for the support of antennae, the presence of which is camouflaged or concealed as an appropriately-placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles and artificial trees. For purposes of this definition, a structure "camouflaged or concealed as an appropriately-placed and designed architectural or natural feature" shall meet the following additional criteria means (1) it is consistent with, contributes to, and does not detract from the character and property values and use of the area and neighborhood in which it is located, (2) it does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate, (3) it cannot be identified as an antenna support structure by a person with reasonable sensibilities and knowledge, (4) its equipment, accessory buildings, or other aspects or attachments relating to the disguised support structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated, and (5) it is of a height, design and type that would ordinarily occur at the location and neighborhood selected.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Height* means the vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

*Incidental use* means any use authorized herein that exists in addition to the principal use of the property.

*Modification* means any addition, deletion, or change, including the addition or replacement of antennae, or any change to a structure requiring a building permit or other governmental approval.

*Shelter* means a building for the protection and security of communications equipment associated with one or more antennae and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antennas is prohibited.

*Support structure* means a tower or disguised support structure.

*Tower* means a structure designed for the support of one or more antennae and including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings. The term shall also not include any support structure including attachments of 65 feet or less in height owned and operated solely for use by an amateur radio operator licensed by the Federal Communication Commission.

## CHAPTER 167. - ALTERNATIVE ENERGY SYSTEMS

### Sec. 7.167.010. - Small wind energy conversion system—Allowed use.

- (a) *Generally.* The small wind energy conversion system (SWECS) shall not be considered an accessory use under Title IX, Building and Construction Ordinance (BACO), Chapter 2300, Detached Accessory Structures and shall comply with all requirements under section 7.167.020. Small wind energy conversion systems not meeting the performance standards of section 7.167.020 may be allowed by a special use permit following a duly noticed and published public hearing. The

Community Development Director, for a small wind energy conversion system, may waive the fees for a special use permit application. Publicly owned property, such as city parks, buildings, and school institutions are excluded from the performance standards in section 7.167.020.

- (b) *Administrative process.* The following items shall be submitted in support of an application for building permit for either (a) micro or (b) small wind turbine(s):

- (1) A plot plan, utilizing a standard engineering scale not to exceed 1:100, indicating the placement of the wind turbine(s) and distances from the proposed turbine location and the nearest built structure, any above ground utilities, the nearest trees, and all property lines. A fall zone shall be indicated on the plan to approximate the area around the base of the turbine that would likely receive the tower and turbine if it were to fall and shall be approved by the city building official.
- (2) Turbine information: specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
- (3) Data in sufficient detail to allow for a determination that the proposed WECS shall meet all the standards of this chapter.
- (4) Drawings of the wind turbine structure, including the tower, base, and footings. In addition, an engineering analysis of the tower showing compliance with the International Building Code certified by a licensed professional engineer.
- (5) Building permit applications for micro or small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the adopted National Electrical Code (NEC). All building permits require installations to be designed and sealed by an engineer licensed in the State of Missouri, designs shall include structural analysis.
- (6) For compliant SWECS, permit fees may be waived.

- (c) *Special use permit process.* The following items shall be submitted in support of a special use permit application for (a) large/utility scale wind turbine(s):

- (1) All plan submission requirements of Title VII, Zoning and Planning Ordinance (ZAPO).
- (2) The site plan shall include the distance from the proposed turbine location and the nearest built structure, any above ground utilities, the nearest tree(s), and all property lines.
- (3) The proposed location and design of the wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
- (4) Turbine information: specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower, and electrical transmission equipment.
- (5) A noise study, prepared by a qualified professional, shall demonstrate that except for short-term events such as utility outages and severe windstorms, the large/utility scale wind turbine shall not produce noise in excess of 55 dbA at the property lines. The noise study shall include:
  - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis for such expectations.
  - b. A description and map of the noise sensitive environment, including any sensitive noise receptors (e.g. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance) within 1,000 feet.
  - c. A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise (including seasonal variation) and the affected sensitive receptors located within 1,000 feet.
  - d. A description and map of the cumulative noise impacts.



- e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.
- (6) Soil. A geotechnical report shall be furnished along with the certification which shall, at a minimum, include the following:
  - a. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing.
  - b. Foundation design criteria for all proposed structures.
  - c. Slope stability analysis.
  - d. Grading criteria for ground preparation, cuts and fills, and soil compaction.
- (7) Shadow/flicker. A shadow/flicker model shall demonstrate that shadow/flicker shall not fall on, or in any existing residential structure. The shadow/flicker model shall:
  - a. Map and describe within a 1,000-foot radius of the proposed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
  - b. Calculate the locations of shadow/flicker caused by the proposed project and the expected durations of the shadow/flicker at these locations, calculate the total number of hours per year of shadow/flicker at all locations;
  - c. Identify problem areas where shadow/flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.
- (8) Use of MET (meteorological) towers. Met towers may be utilized for large or utility scale wind turbines only as approved by the city council. The location, height, and length of time such structures are to be erected shall be provided as part of the application for preliminary development plan and special use permit.
- (9) Impact on wildlife. A study shall be provided by a professional that demonstrates that the development and operation of the wind turbine(s) in question shall not have an adverse impact on endangered or threatened avian or bat species and their critical habitats.
- (10) Additional information. The director, commission, or city council may require additional technical studies deemed necessary to fully evaluate the application. Should the services of an outside consultant be needed to evaluate any such technical studies, the cost of such services shall be borne by the applicant.

Sec. 7.167.020. - Same—Requirements.

Small wind energy conversion systems (SWECS) may be permitted in all zoning districts subject to the following requirements:

- (1) *Setback*. The base of the tower shall be set back from all property lines, structures, public right-of-ways, and public utility lines a distance equal to the total extended height, not to exceed two times the maximum allowable height restrictions in all zoning districts. Only one wind turbine structure shall be allowed per lot in either a residential or commercially zoned property.
- (2) *Micro and small WECS*.
  - a. Location. All micro and small wind turbines shall be located in the rear yard only. Exceptions to this standard for small wind turbines may only be reviewed as part of the special use permit application.

- b. Utility notification. No building permit for a micro or small WECS shall be issued until a copy of the utility company's approval for interconnection of a customer-owned (SWECS) generator has been provided. Off-grid systems shall not be permitted, unless by special use permit approval.
  - c. Due to public health and safety concerns, facilities that use alternative energy systems exclusively for all power needs, and are not connected to a public power source or "grid" for any purpose, (known as "off-grid" systems), shall not be permitted, unless a special use permit is approved in accordance with this chapter.
- (3) Roof-mounted wind turbines. Maximum height shall be equal to half the height of the building being utilized for support. The minimum setback for all roof top turbines shall be equal to the height of the tower from all property lines and any buildings.
  - (4) Minimum blade clearance. The blade tip clearance for micro wind turbines shall, at its lowest point, have a ground clearance of not less than 15 feet. The minimum blade clearance for any other wind turbine shall be 30 feet.
  - (5) Color/finish. Wind turbines, exclusive of the towers, shall be painted a nonreflective, nonobtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise.
  - (6) Sound. Sound produced by the turbine under normal operating conditions, as measured at the property line, shall not exceed the definition of nuisance noise. Sound levels, however, may be exceeded during short-term events such as utility outages, severe wind storms, or other causes outside the control of the property owner.
  - (7) Wind turbine equipment. Small wind turbines must have been approved under the state public benefits program or any other small wind certification program recognized by the American Wind Energy Association.
  - (8) Wind turbine maintenance. The owner of a wind turbine shall complete all necessary maintenance and improvements to the structure if it is determined to be inoperable or hazardous to neighboring properties.
  - (9) Requirement for engineered drawings. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.

Wet stamps shall not be required.

- (10) Soil studies. For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for turbine installations of 20 kW or less and will not require project-specific soils studies or an engineer's wet stamp.
- (11) Compliance with FAA regulations. No SWECS shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
- (12) Compliance with National Electric Code. Building permit applications for SWECS shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- (13) Utility notification. No SWECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected (SWECS) customer-owned generator.
- (14) Electrical wires. All electrical wires associated with a wind energy system shall be located underground.

- (15) Self-supporting structures. All tower structures shall be of monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice structures or towers requiring a guy wire supports shall be permitted.
- (16) Safety shutdown. Each wind turbine shall be equipped with both manual and automatic overspeed controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, and turbine components.
- (17) Abandonment. If a wind turbine is determined to be inoperable the current property owner shall be notified that they must, within six months of receiving the notice, restore their system to operating condition or the property owner shall, at his/her expense, remove the wind turbine and tower for safety reasons. If the owner(s) fails to restore their system to operating condition within the six-month period, the tower then would be subject to the public nuisance provisions of the zoning code.
- (18) Signage. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- (19) Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA.
- (20) Access. Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.

Sec. 7.167.030. - Requirements for active solar energy systems.

Active solar energy systems shall not be considered an accessory use under Title IX, Building and Construction Ordinance (BACO), Chapter 2300, Detached Accessory Structures, and shall comply with all requirements as set forth below.

- (1) *Height*. Solar systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.
- (2) *Setback*. Active solar systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.
  - a. *Roof-mounted solar systems*. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - b. *Ground-mounted solar systems*. Ground-mounted solar energy systems may extend into the side-yard or rear setback provided that no exposed electrical components, wires, or devices other than the solar collector are at any time within nine feet of the property line. No ground-mounted solar system shall be allowed in an approved easement. In all cases the entire system must maintain a one-foot setback from the property line.
- (3) *Visibility*. Active solar systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys. The color of the solar collector is not required to be consistent with other roofing materials except in those instances when a special use permit is required consistent with the provisions of this chapter. all active solar systems shall be consistent with any approved deed restrictions and covenants.
  - a. *Building integrated photovoltaic systems*. Building integrated photovoltaic solar systems shall be allowed regardless of visibility, provided the building component in which the

system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

- b. *Solar systems with mounting devices.* Solar systems using roof mounting devices or ground-mount solar systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch more than 20 percent steeper than the roof pitch on which the system is mounted. Systems with a pitch more than 20 percent greater than the finished roof pitch must acquire a special use permit.
- (4) *Approved solar components.* Electric solar system components must have a UL listing.
- (5) *Plan approval required.* All solar systems shall require administrative plan approval by the community development department.
- (6) *Plan applications.* At the discretion of the building official, plan applications for solar systems may be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
  - a. *Pitched roof mounted solar systems.* For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
  - b. *Flat roof mounted solar systems.* For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
- (7) *Plan approvals.* Applications that meet the design requirements of this chapter, and do not require a special use permit, shall be granted administrative approval by the community development department. Plan approval does not indicate compliance with building code and electric code or approval by the building official.
- (8) *Compliance with building code.* All active solar systems shall meet approval of local construction codes.
- (9) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been presented to the community development department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall not be permitted, unless by special use permit approval.
  - a. Due to public health and safety concerns, facilities that use alternative energy systems exclusively for all power needs, and are not connected to a public power source or "grid" for any purpose, (known as "off-grid" systems), shall not be permitted, unless a special use permit is approved in accordance with this chapter.
- (10) *Special use permit.* Where the standards in section 7.167.030 are not met, active solar energy systems shall be considered by a special use permit request. The following conditions shall govern approval of a special use permit application for an active solar energy system. The Community Development Director, for active solar energy systems, may waive the fees for a special use permit application.
- (11) *Standards for solar system special use permits.* When a special use permit is required, the permit may be granted if the applicant demonstrates that the following safety and aesthetic conditions are met:
  - a. *Aesthetic conditions.* The solar system must blend into the building on which the system is mounted by being sufficiently set back from public right-of-ways or screened from view

from the right-of-way, or by using a surface collector color that blends into the roof or wall of the building as seen from the public right-of-way.

- b. *Safety conditions.* The solar system must be anchored in such a manner as to withstand windspeeds up to 90 mph, and must be set back from adjoining properties far enough to not present a threat to accidental contact with electrical components, but in any case no farther than the building setback.
- (12) *Pole-mounted systems restricted.* Pole-mounted or ground-mounted active solar systems shall not be allowed in residential districts between the front of the building and the front public right-of-way.

## CHAPTER 170. - NONCONFORMING USES

### Sec. 7.170.010. - Continuation—Preexisting land uses.

A nonconforming use of land existing lawfully at the time of the passage of the ordinance from which this title is derived may be continued, but shall not be extended, expanded or enlarged.

### Sec. 7.170.020. - Same—Lots containing no permanent building designated for nonconforming use.

A nonconforming use of a lot containing no permanent building designated for a nonconforming use shall not be continued beyond the period ending two years from the adoption of the ordinance from which this title is derived.

### Sec. 7.170.030. - Same—Buildings.

The lawful use of a building existing at the time of the passage of the ordinance from which this title is derived may be continued, although such use does not conform to the provisions hereof, and such use may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations, except those required by law or ordinance, are made therein. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. If such nonconforming building is removed, the future use of such premises shall be in conformity with the provisions of this title.

### Sec. 7.170.040. - Reestablishment of discontinued uses; changes to less restricted uses; transfers to more restricted districts.

- (a) When a nonconforming use has been discontinued for six months or more, it shall not be reestablished.
- (b) A nonconforming use, if changed to a conforming use, or more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. If, by amendment to this title, any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive, or of a higher classification, the provisions of this title relating to the nonconforming use of buildings or premises existing at the time of the passage of the ordinance from which this title is derived shall apply to buildings or premises occupied or used at the time of the passage of such amendment.

### Sec. 7.170.050. - Buildings—Repairs and alterations permitted; exception.

Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extension shall be made, except those required by law or ordinance, unless the building is changed to a conforming use; provided that the board of zoning adjustment, in the case of evident

hardship, may grant an extension of a nonconforming use not exceeding 25 percent of the ground area of the building.

Sec. 7.170.060. - Same—Completion and restoration generally; effect of provisions on plans filed in accordance with earlier laws.

- (a) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, or for which plans have been filed with the Community Development Director no more than one year prior to the passage of the ordinance from which this title is derived, and the construction of which in either case shall have been diligently prosecuted within one year of the date of passage of the ordinance from which this title is derived.
- (b) Nothing in this title shall be taken to prevent the restoration, within 12 months, of a nonconforming building destroyed to the extent of not more than 75 percent of its value (exclusive of foundations), by fire, explosion or other casualty, act of God or the public enemy; provided that, when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the 12 months allowed for reconstruction; and nothing in this title shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction, but any building so damaged more than 75 percent of its value may not be rebuilt, repaired or used unless it is made to conform to all regulations for buildings in the district in which it is located.

#### CHAPTER 175. - HEIGHT, YARD AND AREA EXCEPTIONS AND ADDITIONAL REQUIREMENTS

Sec. 7.175.010. - Generally.

The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards and rear yards, and other regulations and requirements in the foregoing sections of this title, shall be subject to the exceptions and additional regulations set forth in this chapter.

Sec. 7.175.020. - Height.

- (a) In any district, public or semipublic buildings, such as hospitals, hotels, places of worship, sanitariums or schools, either public or private, where permitted, may be erected to a height not exceeding 75 feet; provided that such buildings shall have yards, the depth or width of which shall be increased one foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- (b) Dwellings in district R-1 or R-2 may be increased in height not exceeding ten feet in addition to the limitations of 2½ stories, or 35 feet, as prescribed in such districts, provided that two side yards of not less than 15 feet in width, each, are provided. However, in no case shall such dwelling exceed three stories in height.
- (c) Parapet walls and false mansards shall not extend more than six feet above the height limit. Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, penthouses, finials, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances may be erected as to height, in accordance with existing or hereafter adopted ordinances of the city council; provided that written approval for such construction is given by the Federal Aviation Administration, if required.

Sec. 7.175.030. - Yards.

- (a) The minimum front and rear yard requirements on all residential lots abutting streets which are designated as thoroughfares on the thoroughfare plan of the city, which streets contain the right-of-way required by such plan, shall be reduced to the following:
  - (1) Front yards abutting a 70- or 80-foot right-of-way shall be 30 feet. Those abutting a 60-foot right-of-way shall be 35 feet.
  - (2) Rear yards on lots abutting a 70-foot or 80-foot right-of-way shall be 25 feet. Those abutting a 60-foot right-of-way shall be 30 feet.
- (b) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided that none of the above projections shall extend into a court more than six inches, nor into a minimum yard more than 36 inches; and provided further that in districts R-1—R-4, inclusive, canopies or open porches having a roof area not exceeding 60 square feet may project a maximum of six feet into the required front or rear yard. Additionally, unenclosed porches or decks may extend up to 10 feet into the required front yard setback (exclusive of stairs) and 15 feet into the required rear yard setback (exclusive of stairs).
- (c) An open fire escape may project into a required side yard not more than half the width of such yard, but not more than four feet from the building. Fire escapes, solid-floored balconies, and enclosed outside stairways may project not more than four feet into the rear yard.
- (d) On any lot, no topographical grade, wall, fence, sign, or other structure, nor plant growth of any type, which would interfere with visibility shall be permitted or maintained higher than three feet above the adjacent curb level, within 15 feet of the street right-of-way lines.
- (e) In any district where lots comprising 40 percent or more of the frontage on the same side of the street between two intersecting streets are developed with buildings having varying distance of setback, the average of such existing setback shall determine the minimum setback for the remainder of the frontage.
- (f) Yard lines of subdivisions platted in compliance or ordinances prior to August 23, 1965, shall be as then stipulated.
- (g) No parking shall be permitted in the required front yards except in driveways of single-family and two-family dwellings and relating to the garage or carport. Parking shall be located entirely on private property with no portion except the necessary drives extending into any yard, street, or other public way unless specifically allowed.

CHAPTER 180. - OFF-STREET PARKING AND LOADING REGULATIONS

Sec. 7.180.010. - Districts R-1, R-P-1, RCH-1, R-2 and R-P-2.

For all dwellings hereafter erected, constructed, reconstructed or altered in districts R-1, R-P-1, RCH-1, R-2, and R-P-2, provision in the form of garages, carports or open parking areas shall be made for the parking of motor passenger vehicles for the use of occupants. Such parking areas shall be surfaced with at least three inches of Portland cement concrete or equivalent. Such parking shall provide space for two vehicles for each dwelling unit. Each parking space shall contain at least 8.5- by 20-foot dimensions and necessary maneuvering space shall be provided. Parking areas within a required side yard setback shall direct the flow of water away from the side lot line.

Sec. 7.180.020. - Districts R-3, R-P-3, R-4 and R-P-4.

For all apartment houses, multiple dwellings or apartment hotels hereafter erected, constructed, reconstructed or altered, provision in the form of garages, carports or open parking areas shall be made for parking of motor vehicles for the use of occupants and visitors. Such parking space shall provide two spaces for each dwelling unit.

Sec. 7.180.030. - Hotels, motels, fraternity and sorority houses, dormitories, lodginghouses or clubs.

For all hotels, motels, fraternity or sorority houses, dormitories, lodginghouses and clubs hereafter erected, constructed, reconstructed or altered, provision in the form of garages or open parking areas shall be made for the parking of automobiles for the use of occupants, patrons or members. One parking space shall be provided for each individual guest room or suite; provided that any restaurant connected therewith shall require one additional parking space for each three patron seats.

Sec. 7.180.040. - Hospitals or institutions.

For all hospitals and institutions hereafter erected, constructed, reconstructed or altered, provision in the form of open parking of motor passenger vehicles shall be made as follows: One parking space shall be provided for each three beds, plus one space for each staff member and employee on duty at any time. Such parking shall be either on the premises or within 300 feet on land zoned for business or industry, or on a site approved by the board after a public hearing.

Sec. 7.180.050. - Places of assembly.

For every structure or part thereof hereafter erected, constructed, reconstructed or altered, to be used as a theater, auditorium, place of worship, stadium or other place of public assembly, there shall be provided and maintained accessible off-street parking spaces for motor passenger vehicles on the basis of one vehicle for each three seats of the total audience seating capacity of the building, structure or part thereof; such parking shall be located on the same lot with such building, structure or part thereof, or within 300 feet thereof, on land zoned for business or industry, or on a site approved by the board after a public hearing.

Sec. 7.180.060. - Business or industrial buildings.

Any business buildings hereafter erected, constructed, reconstructed, moved or altered shall provide accessible off-street parking at a rate of one parking space for each 240 square feet of service floor area in the building up to a maximum rate of one parking space for each 200 square feet of service floor area in the building. For all industrial buildings, hereafter erected, converted or extended in district M-1, provision shall be made for off-street parking at the rate of one parking space for each employee, such parking space to be on the same lot with the main building, or within 300 feet therefrom, on land zoned for business or industry. Any parking exceeding the minimum prescribed rate stipulated herein shall be constructed with permeable materials as approved by the Community Development Director.

Sec. 7.180.070. - Improvement of parking areas.

All open parking areas as provided in sections 7.180.010—7.180.060, inclusive, shall be curbed and surfaced with at least three inches of Portland cement concrete or equivalent. Ingress and egress shall be only by way of paved driveways or openings not exceeding 40 feet in width. Each parking space shall be not less than 8½ feet by 20 feet in size plus the necessary maneuvering space. Any lights used to illuminate such parking areas shall be so arranged as to direct light away from any adjoining premises located in districts R-1—R-4, inclusive, and no signs of any kind shall be erected, except for those necessary for the orderly parking thereon. All required improvements shall be completed within six months of completion of the building.



A landscape plan shall also accompany any site plan that includes parking improvements. Inverted landscaping islands of similar size as a standard parking space shall be constructed at the rate of one island per 10 parking spaces. Such islands shall be planted with native vegetation, at least one approved tree as stipulated by the City Tree List, and shall have curb inlets that allow for the collection of stormwater runoff. Additional Low-Impact Design considerations are encouraged.

Sec. 7.180.080. - Loading spaces required for business, industries, etc.

Any business or industrial building, hospital, institution or hotel hereafter erected, constructed, reconstructed or altered in any district shall provide adequate off-street facilities for the loading and unloading of merchandise and goods within or adjacent to the building, in such a manner as not to obstruct freedom of traffic movement on the public streets, alleys or sidewalks.

Sec. 7.180.090. - Parking of trucks prohibited; exceptions; penalty.

The word "truck," as used in this section, shall mean a motor vehicle designed or regularly used for carrying freight or merchandise. Subject to the exceptions herein noted, no trucks larger than three-quarter ton shall be parked on any premises which are zoned R-1 to C-O inclusive. This section shall not prohibit the making of bona fide deliveries to premises zoned as indicated, but such trucks shall be identified by a placard or sign clearly visible and reading "Delivery in progress." Neither shall this provision apply to trucks which are parked within an enclosed garage, to construction trucks when construction work is actually in progress in connection with the premises where such truck is parked, nor to trucks on the premises in connection with any emergency. This section shall not apply to any truck the use of which is necessary in connection with an existing valid and legal nonconforming use so long as such use continues to be lawful. Any truck parked within an enclosed structure or more than 100 feet from the nearest property line of a person other than the owner of such truck shall not be considered in violation of this section. A violation of this section shall carry a fine of not less than \$5.00 and not more than \$100.00. Each day that any violation continues shall be considered a separate offense.

## CHAPTER 181. - OUTDOOR LIGHTING

Sec. 7.181.010. - Purpose.

The purpose of this chapter is to regulate outdoor lighting in order to reduce or prevent light pollution. This means to the extent reasonably possible the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

Sec. 7.181.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Area light* means light that produces over 2,050 lumens. Area lights include, but are not limited to, street lights, parking lot lights and yard lights.

*Automatic timing device* means a device that automatically controls the operation of a light fixture or fixtures, circuit or circuits. Photocells and light and or motion sensors shall be considered automatic-timing devices.

*Average foot-candle* means the level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

*Bulb* means the source of electric light. To be distinguished from the whole assembly (see luminaire).

*Candela (cd)* means unit of luminous intensity.

*Eighty-five degree full cut-off type fixtures* means fixtures that do not allow light to escape above an 85-degree angle measured from a vertical line from the center of the lamp extended to the ground.

*Exterior lighting* means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this chapter.

*Fixture* means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

*Flood light* means light that produces up to 1,800 lumens (See Addendum 1 for Light Output of Various Lamps) and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1,000 to 1,800 lumens.

*Foot-candle* means illuminance produced on a surface one foot from a uniform point source of one candela; measured by a light meter.

*Full cutoff fixture* means a fixture which, as installed, gives no emission of light above a horizontal plane.

*Glare* means intense light that results in discomfort and/or a reduction of visual performance and visibility.

*Holiday lighting* means festoon type lights, limited to small individual bulbs on a string, where the output per bulb is no greater than 15 lumens.

*IESNA, Illuminating Engineering Society of North America (IES or IESNA)* means the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

*Illuminance* means density of luminous flux incident on a surface. Unit is foot-candle or lux.

*Illuminating devices* means:

(1) *Light fixture types.*

- a. *Full cutoff fixture types.* A fixture which, as installed, gives no emission of light above a horizontal plane.
- b. *Floodlights and spotlights.* Fixtures defined as having a full beam width or beam spread of less than 110 degrees.

(2) *Lamp types.*

- a. *Incandescent lamps.* Lamps which produce light via an electrically heated metallic filament.
- b. *Fluorescent lamps.* Lamps that use fluorescence of a phosphor to produce visible light.
- c. *High intensity discharge lamps.* Lamps, which produce visible light directly by the electrical heating or excitation of a gas. Examples of such lighting include, but are not limited to, metal halide, high pressure sodium, low pressure sodium and mercury vapor. For purposes of this chapter, fluorescent lights are not considered HID lighting.
- d. *Light-emitting diode (LED).* An electronic light source used instead of light bulbs, for greater illumination and longevity.
- e. *Induction lighting.* Light generation that is similar to fluorescent light energy and requires less maintenance than conventional fluorescent lamps.

*Lamp or bulb* means the light-producing source installed in the socket portion of a luminaire.

*Light pollution* means any adverse effect of manmade light including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

*Light trespass* means light emitted by a luminaire falls where it is not wanted or needed or shines beyond the property on which the luminaire is installed.

*Lighting* means any or all parts of a luminaire that function to produce light.

*Lumen* means unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One foot-candle is one lumen per square foot. One lux is one lumen per square meter.

*Luminaire* means the complete lighting unit, including the lamp, the fixture, and other parts.

*Luminance* means At a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units means candelas per unit area. The luminance is the perceived brightness that we see, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

*Measurement* means:

(1) Lamp output.

a. *Total output.* Measurement of total output is in lumens. This should be understood to be the initial lumen value for the lamp.

b. *Illuminance.* Measurements of illuminance are expressed in initial lumens per square foot. (A desktop illuminance of 20 initial lumens per square foot is adequate for most purposes.)

In measuring illuminance, the light detector should be pointed directly at the light source or sources. The intervening light path should be free of obstruction.

*Outdoor light fixture* means an outdoor illuminating device, outdoor lighting or reflective surface, luminous tube, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for:

- (a) Parking lot lighting;
- (b) Roadway lighting;
- (c) Buildings and structures;
- (d) Recreational areas;
- (e) Landscape lighting;
- (f) Billboards and other signs (advertising or other);
- (g) Product display area lighting;
- (h) Building or structure decoration;
- (i) Building overhangs and open canopies.

*Partially shielded* means the bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

*Recessed* means when a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

*Shielded* means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

*Spotlight or floodlight* means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction (see definition for floodlight).

*Temporary lighting* means lighting that is intended to be used for a special event for seven days or less.

*Uplighting* means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Sec. 7.181.030. - Scope and applicability.

- (a) New lighting. All exterior outdoor lighting for new development and redevelopment projects installed after the effective date of the ordinance from which this chapter is derived in any and all zones in the City shall conform with the requirements established by this chapter and other applicable ordinances unless otherwise exempted. This chapter does not apply to indoor lighting.
- (b) Nonconforming uses or structures. If a nonconforming use or structure has been abandoned or is vacant for more than 12 months all lighting on the property must be brought into full compliance before reoccupation or reuse.
- (c) Conformity shall occur prior to issuance of certificate of occupancy.
- (d) Induction or LED lighting lamps are the preferred illumination source throughout the city and their use is required.
- (e) All governmental agencies, federal, state or county, which operate within the city limits of Gladstone should experience no difficulty meeting the requirements of this chapter and are encouraged by the city to comply with its provisions.
- (f) In the event of a conflict with any other chapter of this Code, the more stringent requirement shall apply.

Sec. 7.181.040. - Exemptions and exceptions.

- (a) Residential fixtures consisting of lamp types of 2,050 lumens and below (the acceptability of a particular light is decided by its lumen output, not wattage. Check manufacturer's specifications). Examples include:
  - (1) One hundred watt standard incandescent and less.
  - (2) One hundred watt midbreak tungsten-halogen (quartz) and less.
  - (3) Twenty-five watt T-12 cool white fluorescent and less.
  - (4) Eighteen watt low pressure sodium and less.
- (b) Federally funded and state funded roadway construction projects, are exempted from the requirements of this division only to the extent it is necessary to comply with federal and state requirements.
- (c) Fossil fuel light. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels is exempt from the provisions of this article.
- (d) Full cutoff street lighting, which is part of a federal, state, or municipal installation.
- (e) Holiday lighting.
- (f) Specialized lighting necessary for safety, such as navigated or runway lighting of airports, or temporary lighting associated with emergency operations, road hazard warnings, etc.

Sec. 7.181.050. - Approved materials and methods of installation.

The provisions of this chapter are not intended to prevent the use of any design, material or method of installation or operation not specifically prohibited by this chapter, provided such alternative design,

material or method conforms with the intent of this division and has been approved by the building official. The building official administrator may approve an alternative design provided he finds that:

- (a) It complies with the applicable specific requirements of this division; or
- (b) It has been designed or approved by a registered professional engineer and complies with the purpose of this division.

Sec. 7.181.060. - Submittals.

All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this chapter. The planning director and/or building official shall have the authority to request additional information in order to achieve the purposes of this chapter.

- (a) The submittal shall contain the following information and submitted as part of the site plan to the planning and building department for approval.
  - (1) Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;
  - (2) A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
  - (3) Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground; and
  - (4) Additional information as may be required by the city in order to determine compliance with this chapter.
- (b) Applications for single/multi-family residential or other projects where any single outdoor light fixture exceeds (2,050 lumens output) shall be required to comply with subsection (a) above.

Sec. 7.181.070. - General standards.

The following general standards shall apply to all outdoor lighting for new development or redevelopment projects, replacement of outdoor city owned lights, and if purchased, leased KCP&L lights installed after the effective date of the ordinance from which this chapter is derived, which is not exempted above:

- (a) Area lights. All area lights, including street lights and parking area lighting, shall be full cutoff fixtures and are encouraged to be 85 degree full cut-off type fixtures. Street lights shall be induction lighting and/or LED lighting, unless otherwise determined by the city that another type is more efficient. Street lights along residential streets shall be limited to 85W induction lighting and/or 90W LED. Street lights along nonresidential streets or at intersections shall be limited to 200W induction and/or 180W LED, except that lights at major intersections on state highways shall be limited to 250W induction and/or 180W LED. If the city permits a light type other than induction or LED, then the equivalent output shall be the limit for the other light type.
- (b) Canopy lights. All lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.
- (c) Illumination levels. Illumination levels and uniformity shall be in accordance with current recommended practices of the Illuminating Engineering Society. Recommended standards of the illuminating engineering society shall not be exceeded.
- (d) All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than 0.25 of a foot-candle of light from the premises lighting system.

- (e) Temporary lighting. Temporary lighting that conforms to the requirements of this chapter shall be allowed. Nonconforming temporary exterior lighting may be permitted by the building official only after considering 1) the public and/or private benefits which will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and, 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the building official.
- (f) Residential and commercial lighting fixtures. All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property.

Sec. 7.181.080. - Nonpermitted lighting.

- (a) Newly installed fixtures, which are not full-cutoff fixtures.
- (b) Lighting which presents a clear hazard to motorists, cyclists, or pedestrians.
- (c) Laser source light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.
- (d) Lighting resembling emergency vehicles for the purpose of public safety service calls.

Sec. 7.181.090. - Appeals.

If an application is denied, an individual shall have the right of appeal to the board of zoning adjustments. The fee for an appeal shall be the same as a variance request application.

Sec. 7.181.100. - Violations.

This chapter may be enforced on the basis of a formal complaint filed in writing with the city.

Sec. 7.181.110. - Penalties.

See Title 1, section 1.100.140 of this Code.

CHAPTER 185. - PERMITS

Sec. 7.185.010. - Application for permit.

The Community Development Director, or the Community Development Director's duly authorized representative, shall have the power to enforce the provisions of this chapter. No building or other structure, including footings and foundations, shall be erected, constructed, reconstructed, moved, altered without first obtaining a building permit from the building inspector to be issued in accordance with the terms of this chapter. No permit shall be issued unless there shall first be filed in the office of the Community Development Director, by the applicant therefor, information satisfactory to the Community Development Director, which shall include a plot plan, certified by a land surveyor registered in the state, drawn to scale, correctly showing the location and actual dimensions of the lot or tract to be occupied, and the dimensions and locations on the lot of the building to be erected, constructed, reconstructed, enlarged or altered, with measurements from all lot lines to foundation lines of the building, together with a true statement in writing, signed by the applicant, showing the use for which the building or land is arranged, intended or designed; and no permit shall be issued by the Community Development Director unless such plan or information shall show that such building or land is to conform in all particulars with the provisions of this title. A record of such applications and plans shall be kept in the office of the Community Development Director. Plans and specifications shall be identified by the signature and seal (if required) of the author.

Sec. 7.185.020. - Council approval required.

- (a) No permit shall be issued for erection, exterior construction, conversion, establishment alterations or enlargement of any building, structure or improvement without the approval by written resolution of the city council, with the exception of the following: a one- or two-family dwelling or an accessory use customarily incidental thereto, or a commercial building where the value of the construction project is less than \$5,000.00.
- (b) In the event that the approval of the council is required under subsection (a) of this section, the Community Development Director shall, no more than 30 days after the filing of the application for the building permit, certify such application together with all attached plans, specifications, plats, diagrams and other instruments required by law to the council by delivering same to the city clerk with the Community Development Director's recommendation.
- (c) The council shall approve the application if it finds that same shall be in the interest of the public health, welfare, safety and morals, such as to conserve the values of buildings in the vicinity and reasonably consistent with the surrounding area, all with reasonable regard for the following factors:
  - (1) Design.
    - a. Plans and elevations.
    - b. Color, material and texture.
    - c. Relation to the site and to adjoining properties.
    - d. Advertising signs as related to proposed structures and adjoining properties.
    - e. Landscaping, fences, walls and entrances.
    - f. Location and elevation of the building upon the site in relation to the topography of the site and in relation to the contiguous property.
    - g. Other factors pertaining to overall design and appearance.
  - (2) Future development.
    - a. Proposed highways and streets.
    - b. Widening of existing streets.
    - c. Public buildings, schools and places of worship.
    - d. Parks, parkways and other proposed or contemplated development in the city.
  - (3) Generally.
    - a. Fire hazards.
    - b. Traffic hazards.

Sec. 7.185.030. - Separate permit required for each building or structure; exceptions.

There shall be a separate permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the main building when construction is simultaneous. A building permit shall not be required for construction not exceeding 18 inches in height, which is located in the side or rear yard.

Sec. 7.185.040. - Plan certification.

All plans for buildings covered by section 7.185.010 shall be prepared by, or under the supervision of, a person licensed to practice as a registered architect or a registered professional engineer in accordance with the architectural and engineering laws of the state.

Sec. 7.185.050. - Revocation; failure to obtain; stop order.

- (a) A permit may be revoked by the Community Development Director at any time prior to the completion of the building or structure for which the same was issued, when it shall appear that there is departure from the plans, specifications or conditions as required under the terms of the permit, that the same was procured by false representation or was issued by mistake, or that any of the provisions of the zoning ordinance (this title) are being violated.
- (b) Upon the failure, refusal or neglect of any owner, the owner's agent, contractor or duly authorized representative to secure such permit and pay the prescribed fee therefor, as herein provided, the Community Development Director may issue a stop order, provided that 24 hours' written notice of such revocation or order to stop shall be served upon the owner, the owner's agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, or shall be posted in a conspicuous place on the premises. Thereafter, no such construction shall proceed.

Sec. 7.185.060. - Appeals.

- (a) The Community Development Director shall be empowered to act within the provisions of this chapter upon all applications for building permits. In the event of refusal by the Community Development Director to issue a permit upon application, as herein provided, the applicant may perfect an appeal to the board of zoning adjustment as provided in chapter 190 of this title.
- (b) An appeal from the approval or denial of a building permit by the city council pursuant to the provisions of this chapter shall be to the circuit court of the county.

CHAPTER 190. - BOARD OF ZONING ADJUSTMENT<sup>[8]</sup>

Footnotes:

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**Cross reference—** Boards, commissions and committees, § 1.110.010 et seq.

Sec. 7.190.010. - Continued; composition; appointment of members; terms; vacancies; chairman and other officers.

- (a) The board of zoning adjustment is hereby continued and is also herein referred to as the "board." The board shall consist of five regular members and three alternative members, who may serve in the absence of or disqualification of regular members. All board members shall be appointed by the mayor with the approval of the city council. Each member shall serve for five years, commencing on January 1 of the year that begins each member's term. Members are removable by the city council for cause, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- (b) The board members shall elect a chair, vice-chair and secretary to terms of one year. The chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.



Sec. 7.190.020. - Adoption of rules; conduct of meetings generally; minutes and records; notice of appeal.

The board shall adopt rules in accordance with the provisions of this title and RSMo 89.010 et seq. Meetings of the board shall be held at the call of the chairperson, and at such other times as the board may determine. Such chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of such member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk, and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the board for that purpose. The presence of four members shall be necessary to constitute a quorum. Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of the administrative officer relating to this title. Such appeal shall be taken within 15 days' time as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board, a notice of appeal specifying the grounds thereof. Such notice shall be accompanied by a fee of \$200.00. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Sec. 7.190.030. - Appeal stays all proceedings on actions appealed from; exception.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of zoning adjustment after the notice of appeal shall have been filed with such officer that, by reason of the facts stated in the certificate, a stay would, in such officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record on application or notice to the officer from whom the appeal is taken, and on due cause shown.

Sec. 7.190.040. - Fixing of time for hearing; public notice of hearing; time limit for decision; any person may appear at hearing.

The board of zoning adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof and decide the same within a reasonable time, all within 30 days after notice of appeal has been filed, unless a majority of the board shall deem additional time to be necessary. Upon the hearing any party may appear in person or by agent, or by attorney.

Sec. 7.190.050. - Powers generally.

The board shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this title.
- (2) To hear and decide all matters referred to it or upon which it is required to pass under the provisions of this title or other ordinances of the city.
- (3) In all instances where the board may grant a variation to the provision of this title, the spirit and intent of the code shall be observed, public safety and welfare secured. An application for a variance may be granted upon a finding of the board that the applicant has shown by clear and convincing evidence that all of the following conditions have been met:
  - a. That the variation is relatively insubstantial in relation to the requirement;
  - b. That if the variance is allowed, the effect of increased population density, if any, on available public facilities and services is minimal;

- c. That impacts to the character of the neighborhood or detriment to adjoining properties is insubstantial;
- d. That no other remedy is feasible for the applicant to pursue other than a variance;
- e. Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interest of justice will be served by allowing the variance;
- f. Conditions of the land in question, and not conditions personal to the landowner – such as the applicant's personal financial hardship unrelated to any impact upon the land – be used as justification for allowing a variance; and
- g. That the variance requested arises from a condition that is unique to the property in question and is not ordinarily found in the same zoning district.

Sec. 7.190.060. - Authority on appeals.

The board of zoning adjustment shall render decisions on appeals from an action of the Community Development Director. The board shall take action only when it has determined that a permit has been incorrectly issued or denied, or when it has determined that this title has been incorrectly interpreted or when the appellant proves undue and unnecessary hardship due to a provision or provisions herein contained as applied to a specific lot or tract. In case an unnecessary or undue hardship due to peculiar characteristics of a specific lot or tract is proven, the board may issue a variance signed by the chairperson, and setting out any conditions to be met. A copy of the variance shall be sent to the Community Development Director, who shall issue a permit setting out the terms of the variance, or a copy shall be sent to the appropriate board if other action is involved. In no case shall the board of zoning adjustment issue a variance or an order permitting a use to be placed in a district in which it is not permitted in this title. In no case shall the board decide an appeal from an action of the city council. All voting members shall have attended the hearings preliminary to such vote or have familiarized themselves therewith. In all cases, the spirit and intent of this title shall be observed, public safety and welfare secured, and substantial justice done.

- (b) In exercising the above-mentioned powers, such board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

Sec. 7.190.070. - Votes necessary for taking action; appeal to circuit court.

The concurring vote of four members of the board will be necessary to reverse the order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation in this title. Appeal from an action of the board may be made to the Circuit Court of Clay County pursuant to RSMo 89.110. No similar variance request concerning the same property may be heard by the board for a period of six months after its decision.

An approved variance shall become effective 30 days from the date the decision is filed by the board. However, a release of liability may be signed to expedite this time period.